

Preventing and Remedyng Human Rights Violations through the International Framework

Advocacy before the Inter-American System

Manual for Attorneys and Advocates



**Preventing and Remedyng Human Rights Violations through the International Framework:
Advocacy before the Inter-American System – Manual for Attorneys and Advocates**

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INTRODUCTION

Human rights are the fundamental liberties, freedoms and entitlements that every person deserves to enjoy, but making these rights a reality largely depends on government policies and practices. In several regions around the world, governments have agreed to uphold specific rights and to create independent, international bodies to monitor and promote those rights. In the case of three regions, these bodies also adjudicate complaints of alleged violations. Countries belonging to the inter-governmental organization, the Organization of American States (OAS) are held accountable for human rights conditions in their territories by the Inter-American System for the protection of human rights.

Region	Body	IGO	1 st Year	Complaints	States
Africa	African Commission on Human and Peoples' Rights	African Union	1987	Yes	53
	African Court of Human and Peoples' Rights		2006	Yes	26
Americas	Inter-American Commission on Human Rights	OAS	1960	Yes	35
	Inter-American Court of Human Rights		1979	Yes	21
Europe	European Court of Human Rights	Council of Europe	1959	Yes	47
	European Committee of Social Rights		1998	Yes	43
Middle East	Arab Human Rights Committee	Arab League	2009	No	10
Southeast Asia	Intergovernmental Commission on Human Rights	ASEAN	2009	No	10

About this Manual

This manual is intended to guide social justice advocates and attorneys throughout the Americas in understanding and effectively engaging with the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. These two bodies are responsible for promoting and protecting human rights throughout the Americas, and are collectively known as the Inter-American System for the protection of human rights.

This manual's purpose is to identify and explain the significant opportunities that the Inter-American System provides for achieving greater recognition, protection, and enforcement of human rights. It is designed to give advocates access to a new set of tools and advocacy strategies to use in pursuit of accountability and redress for injustices and inequalities. This manual may also be of use to individuals and communities who have suffered, or fear, violations of their human rights, and to those studying regional mechanisms for human rights protection.

Understanding the human rights obligations of a particular country, or "State;" being able to identify the judicial decisions and other statements that interpret those obligations; and, using recognized best practices in compiling documentation and other evidence of abuses are all vital to successful use of an international human rights mechanism like the Inter-American System.

The subsequent chapters provide a basic understanding of how human rights defenders who represent or advocate on behalf of victims of human rights abuses can use the Inter-American mechanisms as a complementary advocacy tool where local efforts to change government policies

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or practices have proven ineffective or insufficient, or where domestic law is less protective of rights than the Inter-American norms.

Questions Addressed

- What is the Inter-American System?
- How does it protect and promote human rights?
- How does one file a complaint, and how long will it take?
- How does one identify the relevant law and decisions?
- What evidence should be used and how should it be collected?

- ***The Inter-American System for the Protection of Human Rights***

Chapter 1 provides an overview of the Inter-American System, its history, components, and responsibilities. This chapter explains how individuals and groups can: submit complaints of human rights violations, seek protection in emergency situations, and engage with the Commission's reporting and monitoring activities. This chapter also explains the conventions and other regional instruments applied by the Inter-American bodies and includes a chart identifying which States have ratified which instruments. The annexes to this manual contain the full text of the human rights instruments, charters, rules of procedure and statutes that govern the work of the Inter-American Commission and Court.

- ***The Decisions and Judgments of the Inter-American System***

Chapter 2 provides a summary of the body of decisions interpreting the Inter-American norms, and highlights a few significant cases. This chapter lists all the judgments on the merits emitted by the Inter-American Court of Human Rights, categorized by topic, and also includes a list of all the merits reports published by the Inter-American Commission on Human Rights since 2001.

- ***Guide to Researching International Human Rights Law***

Chapter 3 explains how to research international human rights law, by explaining the sources of States' international legal obligations and identifying resources for locating decisions, articles, and books that may be useful to understanding a particular topic.

- ***Documenting Human Rights Abuses or Complaints***

Chapter 4 explains the types of evidence or documentation that can be submitted with a petition or used to demonstrate that a human rights violation has occurred, and identifies the ways in which such materials may be collected.

Ensuring Effective Engagement

By presenting an individual complaint, requesting thematic hearings before the Commission, meeting with or submitting information to a rapporteur,¹ and using the Commission’s reports to educate the public, advocates can raise awareness of a human rights problem and increase pressure for governmental action. Engagement with the Inter-American System can also help create spaces for dialogue, negotiation, and reform.

However, while all social justice advocates should be aware of the avenues for raising awareness and promoting accountability and redress that are available at the regional level, readers of this manual

Practice Tip

Engagement with the Inter-American System is generally part of a broader advocacy strategy that includes local efforts to monitor compliance, negotiate with the government, and make the affected community aware of the outcomes.

should be aware that simply engaging with the Inter-American System is frequently insufficient to bring about meaningful change. Rather, ensuring that interaction with the Inter-American System has a positive and lasting impact on local enjoyment of human rights often requires continued, coordinated

efforts to ensure awareness of the issue and maintain public and government support for reform or accountability.

Minimizing Risk

In many countries, individuals and groups engaged in human rights advocacy, reporting, or education face significant risks. Their lives, livelihoods, and safety may be threatened by private individuals or by government actors. Their colleagues and families may also face such threats. As discussed in Chapter 1, individuals in immediate risk of irreparable harm can appeal to the Inter-American Commission on Human Rights, which can request that the State take “precautionary measures” for their protection. In cases before the Inter-American Court of Human Rights, individuals can seek “provisional measures.”

However, having a plan in place to minimize risks from before an advocacy strategy is put in place may be advisable. Such a plan could involve partnering with organizations that are based outside the country or that have an international profile and can help deflect or attract attention. The people or entity posing a threat to the advocate may be less likely to act violently or illegally if they know the world is watching. In other situations, increased attention may not be advisable, and measures may

¹A rapporteur is an individual appointed by the Inter-American Commission on Human Rights to monitor country conditions relating to a specific thematic area. With the exception of the Special Rapporteur on Freedom of Expression, who is an independent expert, the seven commissioners themselves serve as rapporteurs. For more information on the Commission’s rapporteurships, see page 23 of this manual or visit the Thematic Rapporteurships and Units page of the Commission’s website, <http://www.oas.org/en/iachr/mandate/rapporteurships.asp>.

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be taken to conceal the involvement or identity of a particular organization or advocate, such as partnering with another organization that can make the relevant public statements or appearances.

A number of organizations and networks exist to provide support and protection to human rights defenders at risk. Their services include: advocacy and awareness-raising; implementing security measures; and, relocating the advocate. Some programs and organizations offering support to human rights defenders who face prosecution, retaliation or threats against their personal safety include: Amnesty International,² Center for Justice and International Law (CEJIL),³ Freedom House,⁴ Front Line Defenders,⁵ Human Rights First,⁶ Peace Brigades International,⁷ and the American Bar Association's Justice Defenders Program.⁸

² <http://amnesty.org/>

³ <http://cejil.org/>

⁴ <http://www.freedomhouse.org/>

⁵ <http://www.frontlinedefenders.org/>

⁶ <http://www.humanrightsfirst.org/>

⁷ <http://www.peacebrigades.org/>

⁸ http://www.americanbar.org/groups/human_rights/justice_defenders.html

CHAPTER ONE

Structure and Components

The Inter-American System is made up of two bodies: the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (IACtHR), created under the auspices of the Organization of American States (OAS). Each has different functions, although both decide individual complaints against States, hold public hearings, and can recommend immediate action by States when an individual or the subject matter of a pending complaint is in risk of irreparable harm.

The Organization of American States

The **Organization of American States** is an inter-governmental body created in 1948 with the signing of the Charter of the Organization of American States,⁹ although its roots date back to 1889.¹⁰ The Member States' purpose in creating a new international body in which governments in the Americas could collaborate and communicate was “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.”¹¹ The OAS today focuses on four key themes, or pillars: democracy, human rights, security, and development.

The principal decision-making body of the OAS is the **General Assembly**, which holds regular meetings annually, and in which all Member States have a vote. Other OAS organs include the Inter-American Juridical Committee¹² and specialized organizations, such as the Pan American Health Organization,¹³ Inter-American Children’s Institute,¹⁴ and the Inter-American Commission on Women,¹⁵ which work with civil society and governments to monitor and promote these issues.

All **thirty-five independent States** of the Americas belong to the OAS. They are: Antigua and Barbuda, Argentina, The Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba,¹⁶ Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras,¹⁷ Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States of America,

⁹ For the text of the Charter of the Organization of American States, see Annex II of this manual.

¹⁰ Organization of American States, Our History, http://www.oas.org/en/about/our_history.asp.

¹¹ Charter of the Organization of American States, art. 1.

¹² http://www.oas.org/cji/eng/inter_american_juridical_committee.htm

¹³ <http://new.paho.org/index.php>

¹⁴ http://www.iin.oea.org/default_ingles.htm

¹⁵ <http://www.oas.org/en/cim/>

¹⁶ Cuba was excluded from participation in the OAS from 1962 to 2009. See Resolution AG/RES. 2438 (XXXIX-O/09). It has not resumed an active role in the organization.

¹⁷ Honduras was temporarily suspended from July 2009 to June 2011. Resolution AG/RES. 2 (XXXVII-E/09); Resolution AG/RES. 1 (XLI-E/11). These suspensions did not impact the States’ international legal obligations or the competence of the Inter-American Commission on Human Rights to monitor human rights conditions in their territories.

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Uruguay, and Venezuela. The OAS is headquartered in Washington, D.C., in the United States of America and has offices in most of the Member States.¹⁸

The origins of the **Inter-American System** for the protection of human rights date to the adoption of the American Declaration of the Rights and Duties of Man,¹⁹ in 1948, by the Ninth International Conference of American States, at which time it also adopted the OAS Charter.

The Inter-American Commission on Human Rights

The **Inter-American Commission on Human Rights**²⁰ is one of the main, independent organs of the OAS and is headquartered in Washington, D.C. In 1959, the OAS created the Inter-American Commission on Human Rights through a resolution adopted by the Fifth Meeting of Consultation of Ministers of Foreign Affairs; the Commission came into being when its Statute was approved by the

<i>Governing Documents</i>
Statute¹
Rules of Procedure¹
American Convention on Human Rights¹

OAS Permanent Council in 1960.²¹ That same year, the Commission held its first session.

The Commission is responsible for promoting “the observance and protection of human rights” in all OAS Member States, and serves as an advisory body of the OAS on human rights issues.²² The Commission interprets its mandate progressively and in line with

the *pro homine* principle, which requires that legal obligations be interpreted in the manner most beneficial to human beings.²³

The Commission’s work is focused in **three main areas**: the individual complaints system, monitoring human rights conditions, and identifying and attending to priority thematic areas, such as the rights of indigenous peoples. The Commissioners, either individually or in groups, carry out on-site visits to observe human rights conditions in the OAS Member States or to investigate particular issues of concern; these visits are often followed by a published report on the country or topic.

Beginning in 1965, with an amendment to its Statute, the Commission gained the authority to examine **individual complaints** of human rights violations by OAS Member States.²⁴ The Commission

¹⁸ Antigua and Barbuda, Argentina, The Bahamas, Barbados, Belize, Bolivia, Brazil, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago, Uruguay, and Venezuela.

¹⁹ For the text of the American Declaration on the Rights and Duties of Man and other regional human rights instruments applied by the Inter-American Commission and Court, see Annex I of this manual.

²⁰ <http://www.oas.org/en/iachr/default.asp>

²¹ OAS, About the OAS, Our Structure, Inter-American Commission on Human Rights, http://www.oas.org/en/about/commission_human_rights.asp.

²² OAS Charter, art. 106.

²³ IACtHR, What is the IACtHR?, <http://www.oas.org/en/iachr/mmandate/what.asp>.

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evaluates these complaints, called “**petitions**”, to determine if a State has violated an individual or group’s human rights and to identify how the State should compensate the victim and avoid similar injustices in the future. As part of this process, the Commission holds public hearings to hear evidence and arguments and issues decisions on the admissibility and merits of petitions.

The Commission is composed of **seven human rights experts** who serve in their individual capacities for four-year terms, which may be renewed once. The Commissioners are nominated by States and elected by the OAS General Assembly. They generally live outside Washington, D.C. and meet at least three times per year to hold hearings and working meetings and to make decisions on petitions and cases. **Public hearings** on cases and issues of concern are held during the March and October sessions.

The Commission’s **Executive Secretariat** is headed by an Executive Secretary and Assistant Executive Secretary and composed of professional and administrative staff members who help the commissioners carry out many aspects of their work. Throughout the year, the staff of the Executive Secretariat manages correspondence with petitioners and States and prepares cases and petitions for decision by the Commissioners.

The Inter-American Court of Human Rights

The **Inter-American Court of Human Rights**²⁵ is the judicial organ of the Inter-American System for the protection of human rights. The Court sits in San Jose, Costa Rica and is an autonomous body of the OAS.

The Inter-American Court was created by the **American Convention on Human Rights**,²⁶ which was adopted in 1969 but only entered into force in 1978. Twenty-four States are parties to the American Convention.²⁷ In 1979, the States Parties elected the first judges to the Court, and the OAS General Assembly approved the Court’s Statute in 1980.

The Court interprets and applies the American Convention on Human Rights, and may issue judgments only against those States that have accepted its jurisdiction, and only in certain

²⁴ See Padilla, David J. "The Inter-American Commission on Human Rights of the Organization of American States: A Case Study." *American University International Law Review* 9, no. 1 (1993): 95-115, 95, available at <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1455&context=auilr>.

²⁵ <http://www.corteidh.or.cr>

²⁶ For the text of the American Convention on Human Rights, see Annex I of this manual.

²⁷ Argentina, Barbados, Bolivia, Brazil, Colombia, Costa Rica, Chile, Dominica, Ecuador, El Salvador, Granada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Suriname, Uruguay and Venezuela.

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circumstances when the State has failed to comply with the Commission's recommendations. **Twenty-one States** have recognized the Court's contentious jurisdiction.²⁸

The Court can also issue **advisory opinions**, in which it provides a detailed interpretation of a specific human rights obligation or treaty provision when so requested by a State or an organ of the OAS. For example, the Court has published advisory opinions on the topics of: habeas corpus in emergency situations,²⁹ restrictions to the death penalty,³⁰ and journalistic freedom,³¹ among others.

The Court is composed of **seven jurists**, elected by the OAS General Assembly in their personal capacities, to six-year terms which may be renewed once. Like the Commission, the Court is not in session year-round. Rather, the judges convene for hearings and deliberations approximately five times per year; at least once per year, the Court meets outside Costa Rica in another OAS Member State, as a way of increasing access to and familiarity with the Court's work.

Limitations on the System's Mandate

The Inter-American System, like other international human rights bodies, is meant to be supplementary and complementary to national judicial systems, which have the primary responsibility for protecting and enforcing the rights of individuals and communities in the national territory. As such, petitioners must generally exhaust domestic remedies by trying to resolve the issue using regular legal proceedings in their own country first.

The Inter-American System is not meant as a “fourth instance” of judicial review, and cannot take the place of national courts. Provided that due process and fair trial rights are respected, and that the laws being applied conform to human rights standards, the Inter-American bodies do not second-guess local judges’ evaluation of the facts or law. The Commission and Court cannot decide individual guilt or innocence.

Rights Protected by the Inter-American Instruments

At the regional level, the human rights obligations of States in the hemisphere arise from two principal instruments: the **American Declaration of the Rights and Duties of Man** (“American Declaration”) and the **American Convention on Human Rights** (“American Convention”). All countries, or States, in the Americas have agreed to respect the human rights identified in the

²⁸ As of June 2012, these are: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Uruguay and Venezuela.

²⁹ I/A Court H.R., Habeas corpus in Emergency Situations (Arts. 27(2), 25(1) and 7(6) American Convention on Human Rights). Advisory Opinion OC-8/87 of January 30, 1987. Series A No. 8

³⁰ I/A Court H.R., Restrictions to the Death Penalty (Arts. 4(2) and 4(4) American Convention on Human Rights). Advisory Opinion OC-3/83 of September 8, 1983. Series A No. 3

³¹ I/A Court H.R., Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism (Arts. 13 and 29 American Convention on Human Rights). Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5.

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American Declaration of the Rights and Duties of Man. The Inter-American Commission and Court consider the Declaration to be binding upon States because the principles it contains have been interpreted by the OAS and its Member States as commitments and obligations, even though it was adopted in 1948 as a declaration of principles, rather than as a legal agreement, or treaty.³²

American Declaration of the Rights and Duties of Man

- 35 Member States
- world's 1st general international human rights instrument
- covers civil, political, economic, social and cultural rights
- includes duties of the individual towards others, the State, and society

Additionally, twenty-four States are parties to the **American Convention on Human Rights**, which is the principal source of those States' human rights obligations within the Inter-American System.³³

Pursuant to the Declaration and Convention, States must guarantee the rights to: life, liberty, personal integrity, equality, freedom of religion, freedom of thought and expression, freedom of association and assembly, privacy, family life, movement, due process and fair trial, property, judicial protection, honor and dignity, a name, protection of children, nationality, participation in government, and property.

The American Declaration includes additional rights related to work, social security, leisure time, education, and the benefits of culture. Within the Inter-American System and society generally, the meaning of these rights is continually evolving.

American Convention on Human Rights

- 24 Member States
- principally covers civil and political rights
- Article 26 enshrines a commitment to progressive realization of economic, social and cultural rights
- contains provisions on the composition, powers, and procedures of the Inter-American Commission and Court

OAS Member States have also adopted a number of specialized treaties dealing with specific prohibited practices (such as torture) or the rights of particular groups (such as persons with disabilities).³⁴ These specialized conventions, protocols, and statements of principles are:

- Inter-American Convention to Prevent and Punish Torture
- Additional Protocol to the American Convention on Human Rights in the Area of **Economic, Social and Cultural Rights** (“Protocol of San Salvador”)

³² 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. Advisory Opinion OC-10/89 of July 14, 1989. Series A No. 10; para. 24.

³³ Trinidad and Tobago withdrew from the American Convention, through a denunciation effectuated in 1998. <http://www.oas.org/juridico/english/sigs/b-32.html#Trinidad and Tobago>

³⁴ For the full text of these instruments, see Annex I of this manual.

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- Protocol to the American Convention on Human Rights to Abolish the **Death Penalty**
- Inter-American Convention on the Prevention, Punishment and Eradication of **Violence against Women** (“Convention of Belem do Pará”)
- Inter-American Convention on **Forced Disappearance** of Persons
- Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with **Disabilities**
- Declaration of Principles on **Freedom of Expression**
- Principles and Best Practices on the Protection of **Persons Deprived of Liberty** in the Americas

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Treaty Ratification by Country

COUNTRY	American Convention	Death Penalty	Torture	Forced Disappearance	Violence against Women	Persons with Disabilities	Economic, Social, Cultural
Antigua and Barbuda	-	-	-	-	-	-	-
Argentina	1984	2008	1989	1995	1996	2000	2003
Bahamas	-	-	-	-	1995	-	-
Barbados	1981	-	-	-	1995	-	-
Belize	-	-	-	-	1996	-	-
Bolivia	1979	-	2006	1996	1994	2003	2006
Brazil	1992	1996	1989	-	1995	2001	1996
Canada	-	-	-	-	-	-	-
Chile	1990	-	1988	-	1996	2001	-
Colombia	1973	-	1998	2005	-	2003	1997
Costa Rica	1970	1998	1999	1996	1995	1999	1999
Dominica	1993	-	-	-	-	-	-
Dominican Republic	1978	-	1987	-	1996	2006	-
Ecuador	1977	1998	1999	2006	1995	2004	1993
El Salvador	1978	-	1994	-	1996	2002	1995
Grenada	1978	-	-	-	-	-	-
Guatemala	1978	-	1986	1999	1995	2002	2000
Guyana	-	-	-	-	1996	-	-
Haiti	1977	-	-	-	1997	-	-
Honduras	1977	-	-	2005	1995	-	-
Jamaica	1978	-	-	-	2005	-	-
Mexico	1981	2007	1987	2002	1998	2000	1996
Nicaragua	1979	1999	-	-	1995	2002	-
Panama	1978	1991	1991	1995	1995	2001	1993
Paraguay	1989	2000	1990	1996	1995	2002	1997
Peru	1978	-	1990	2002	1996	2001	1995
St. Kitts & Nevis	-	-	-	-	1995	-	-
St. Lucia	-	-	-	-	1995	-	-
St. Vincent & Grenadines	-	-	-	-	1995	-	-
Suriname	1987	-	1987	-	2002	-	1990
Trinidad & Tobago	1991 - 1998	-	-	-	1996	-	-
United States	-	-	-	-	-	-	-
Uruguay	1985	1994	1992	1994	1996	2001	1995
Venezuela	1977	1992	1991	1998	1995	2006	-

Individual Petition System

The petition system is one of the three pillars of the Commission's work, and is designed to allow individuals to receive a fair and neutral assessment of the State's compliance with its human rights obligations in specific instances of alleged violations, where the State has been unable or unwilling to repair the violation domestically. The Commission plays a quasi-judicial role, receiving evidence and arguments from both the alleged victim and the State before reaching a determination as to whether the State violated his or her rights and, if so, what the State must do to repair the damage and prevent a similar reoccurrence.

Key Terms

- **Petitioner:** the individual, group or organization presenting the petition. The petitioner may be represented by an attorney or organization, and is not necessarily the same person as the victim.
- **Admissibility:** whether the petition falls within the Commission's mandate and meets basic requirements, as discussed below
- **Merits:** whether the State is responsible for a specific violation of its Inter-American human rights obligations
- **Friendly Settlement:** an agreement reached between the State and petitioner/victim as to the State's responsibility and any reparations to be made, thereby foregoing a decision by the Commission.
- **Exhaustion of domestic remedies:** lodging the complaint with domestic courts or agencies and attempting to resolve the problem or obtain redress through appropriate administrative and legal proceedings, before turning to the Inter-American System. Exhaustion generally requires appealing to the highest court with jurisdiction.
- **Six-month rule:** the petition must be submitted to the Inter-American Commission within six months of notification of a final decision in the legal proceeding that exhausted the victim's domestic remedies. If exhaustion is not required, the petition must be submitted within a reasonable time.
- **Non-duplication:** the same complaint cannot be submitted twice, or also submitted to another international human rights dispute settlement mechanism. While the understanding of what kinds of mechanisms are duplicative of one another varies between systems, the Inter-American Commission would likely reject a complaint that has also been submitted to a United Nations treaty body complaint procedure, for example. See, e.g., IACtHR, Report No. 1/92, Case 10.235, *Orlando García Villamizar and others v. Colombia*, February 6, 1992.

Since it was first authorized to examine individual petitions in 1965, the Commission's caseload has grown significantly in number and diversity. It receives approximately 1,500 petitions each year, which has led to the development of a backlog in the processing of petitions by the Executive Secretariat.³⁵

³⁵ See the section of this chapter on "Caseloads and Processing Times" for detailed information. See also Address by the Chair of the Inter-American Commission on Human Rights, Felipe Gonzalez, to the OAS General Assembly during its 40th Period of Sessions (2010), <http://www.cidh.org/Disursos/06.08.10eng.htm>.

In addition to petitions involving extrajudicial executions and criminal due process violations, the Commission has recently considered the rights of sexual minorities, indigenous communities and migrants, and such issues as environmental justice and workplace safety.³⁶

Overview of the Minimum Requirements

In order to be considered, a petition must contain the following information and statements:

- the identity and contact information of the petitioner;
- whether the petitioner's identity should be withheld from the State;
- the date, place and details of the alleged violation of a right protected by an Inter-American instrument;
- if possible, the victim's name and the name of any public authority with knowledge of the situation;
- the State responsible for the alleged violation, due to its action, acquiescence or omission;
- the steps taken to exhaust domestic remedies, or an indication that exhaustion was impossible;
- that the petition has been submitted within 6 months of notification of the decision that exhausted domestic remedies, or otherwise within a reasonable time;
- whether the petition has been submitted to the Commission or another international settlement proceeding.³⁷

If the petition does not meet these minimum information requirements for the initial examination, the Commission will not examine the petition's admissibility or merits.

In order for the petition to survive the admissibility phase and proceed to the merits phase, the petitioner must demonstrate that:

- the facts alleged, if true, constitute a possible violation of the American Declaration or Convention;
- the victim did in fact exhaust domestic remedies, or that such remedies were unavailable, ineffective, or insufficient; and,
- the petition complies with the six-month time limit, or reasonable time limit.³⁸

³⁶ See Chapter II for a discussion of the Inter-American jurisprudence.

³⁷ See Article 28 of the Commission's Rules of Procedure.

³⁸ See Articles 27, 31, 32, 34 of the Commission's Rules of Procedure.

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The petitioner should provide a full explanation to show these requirements have been met, and keep the Commission informed, in writing, of significant developments after submitting the petition. A petitioner should also always keep the Executive Secretariat informed of changes in his or her contact information or representation.

Preparing a Petition

Petitions may be presented using the standard form³⁹ or the petitioner can write his or her own brief or letter, so long as it includes the necessary information. Petitions may be submitted online, by postal mail, by email or by fax. Additional information to support the petition can be submitted via email, fax or postal mail. If requesting emergency protection measures see the emergency protections section below for more details. The attorneys and support staff that comprise the Commission's Executive Secretariat manage the processing of petitions. The Executive Secretariat staff can provide information on the status of a petition and may meet with the parties to receive or impart information.

Inter-American Commission on Human Rights

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A Note on Language

Whenever possible, petitions should be written in an official language of the State allegedly responsible for the violation.

authorization of the petitioner anytime someone other than the petitioner wishes to obtain information about the case or communicate with the Commission on the victim or petitioner's behalf.

IMPORTANT! The Commission must always have the petitioner's current contact information.

³⁹ A copy of the petition form is included in the Commission's *Petition and Case System Informational Brochure*, available at https://www.cidh.oas.org/cidh_apps/manual_pdf/MANUAL2010_E.pdf.

⁴⁰ See American Convention on Human Rights, art. 44.

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The petition must provide specific information about the alleged violation and the victim.

- ✓ **Who** is the victim?
- ✓ **What** harm occurred that violated a protected right?
- ✓ **Where** did the violation take place?
- ✓ **How** is the harm attributable to the State?
- ✓ **When** did the violation occur?

Who: Identify the victim(s), who may include family members if they also suffered harm. Individually name the victims or identify the specific group or community to which they belong.

What: Describe the alleged harm in detail. How did a situation, occurrence or series of events keep an individual or group from enjoying certain human rights?

If the State has not ratified the American Convention, the petition must allege violations of rights protected by the American Declaration. Indicate which article or articles of the American Declaration, American Convention or other regional instrument the State has allegedly violated.

Where: Identify the State where the violation occurred and the State responsible its occurrence. These are usually the same country, but may be different or multiple countries. Generally, the complaint is made against the State where the victim suffered harm, but a petitioner may allege that more than one State is responsible for related violations or that one State is responsible for harm that occurred in another State's territory.

How: Explain why the government is responsible for the harm, through the actions, acquiescence or omissions of the State itself or its representatives. A State can be held responsible for effects of its laws and for the conduct of its agents, including their actions or omissions, when acting in their official capacity. Whenever possible, identify the specific officers, agencies, law or policies that caused or allowed the violation to occur.

When: Identify the date or timeframe of the alleged violation, which must be *after* the State joined the OAS or became a party to the American Convention. The timing of an alleged violation is related to the petitioner's ability to meet the procedural requirements of exhaustion of domestic remedies and timeliness.

Exhaustion of Domestic Remedies

The victim must exhaust domestic remedies, which means going to the local courts and pursuing civil or criminal proceedings to pursue whatever legal action that would enable a domestic court to directly repair the harm, hold the State accountable, or require the State to provide reparation. Victims are generally required to appeal to the highest court of appeals that has jurisdiction if a successful outcome is not reached in the lower courts.

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A petitioner will be excused from exhausting domestic remedies if they are unavailable, ineffective or insufficient. This may mean, for example, that domestic law provides no remedy capable of leading to the relief sought, that the domestic judicial system has been unreasonably slow in resolving the matter, or that the domestic courts have consistently refused to recognize the right asserted by the petitioner.

Six-Month Rule

The petition should be submitted within six months of when the victim or petitioner exhausted domestic remedies. If domestic remedies are unavailable, ineffective or insufficient, the petition must be submitted within a “reasonable time”, or as soon as it is clear that the State is unlikely to remedy the violation on its own. The length of time considered “reasonable” depends on the particular circumstances and may be many years, depending on the conduct of the alleged victim and the State and the surrounding context.⁴¹ A petitioner should not wait beyond the point when it becomes apparent that the State likely will not remedy the violation on its own.

Seeking Financial or Legal Support

Once the petition is admitted or the Commission indicates it will consider the admissibility jointly with the merits, the petitioner can request financial assistance from the Commission for the costs of pursuing the case, including gathering and submitting evidence and attending the Commission’s hearings in the case. This assistance is provided through the Legal Assistance Fund of the Inter-American Human Rights System.⁴²

In cases before the Court, if the victims are not represented by an attorney, the Court may appoint an “Inter-American defender,”⁴³ an independent attorney who agrees to represent the victim in proceedings before the Inter-American Court at no cost to the victim.⁴⁴ The Court may also provide financial assistance to help defray the costs of the litigation, through the Legal Assistance Fund. As part of its reparations, the Court may order the State to repay the costs to the Fund.⁴⁵

⁴¹ Rules of Procedure of the Inter-American Commission on Human Rights, art. 32.

⁴² See Rules of the Inter-American Commission on Human Rights on the Legal Assistance Fund of the Inter-American Human Rights System; Rules of Procedure for the Operation of the ‘Legal Assistance Fund of the Inter-American Human Rights System.’

⁴³ See Rules of Procedure of the Inter-American Court of Human Rights, arts. 2(11), 37.

⁴⁴ See also Acuerdo de Entendimiento entre la Corte Interamericana de Derechos Humanos y la Asociación Interamericana de Defensorías Pùblicas.

⁴⁵ See Rules for the Operation of the Victims’ Legal Assistance Fund of the Inter-American Court of Human Rights.

The Decision Process

Petitions are processed in three sequential stages: initial evaluation, admissibility, and merits.

Stage	Parties Involved	Decision Maker	Outcome
Initial Evaluation	Petitioner	Secretariat	Opened for Processing or Closed
Admissibility	Petitioner & State	Commission	Decision on Admissibility
Merits	Petitioner & State	Commission	Decision & Recommendations
Referral to Court	Commission & Petitioner	Commission	Referral or Published Decision
Court	Petitioner & State	Court	Judgment & Reparations

A petition must meet the requirements of each stage in order to move on to the next. In certain circumstances after its own decision on the merits, the Commission may refer a case to the Court, which then issues a judgment on admissibility, merits and reparations.

Initial Evaluation

Within a few weeks of receiving a petition, the Registry section of the Commission's Executive Secretariat sends written acknowledgment and assigns the petition a number. The Registry staff will then evaluate the petition's compliance with the minimum information requirements set out in Article 28 of the Commission's Rules of Procedure. Further, the evaluation considers whether the petitioner has alleged facts that – if true – constitute a possible violation of the State's human rights obligations. For this reason, in particular, although the petition form only asks for minimal information, it is important to provide details on each of these requirements.

NOTE: The Executive Secretariat will only consider allegations and information submitted in writing.

Petitions are evaluated in order of receipt, unless there are particularly urgent reasons to evaluate a petition sooner– such as very young or old age or terminal illness of the victim or a widespread and very serious situation.⁴⁶ In this stage, the Commission relies only on information submitted by the petitioner. The State is not involved in this stage of the proceedings.

At the end of its initial evaluation, the Executive Secretariat decides to either: open the petition for

Information Considered in the Initial Evaluation

All alleged facts, legal arguments, and other information intended for the Registry's consideration must be submitted in writing. Although telephone conversations and meetings with the Registry staff can be useful, information shared orally will not become part of the file.

⁴⁶ See, e.g., Maria Silva Guillen, *Experiences and Emblematic Instances in the Access to Justice: the Inter-American Human Rights Commission*, 9 Envío 31, at p. 47; Federico Ramos, *The Need for an In-time Response: The Challenge for the Inter-American Commission on Human Rights for the Next Decade*, 18 SW J. Int'l L. 159-177 (2012), available at http://www.swlaw.edu/pdfs/lawjournal/18_1ramos.pdf; Inter-American Commission on Human Rights, Strategic Plan 2011-2015, <http://www.oas.org/en/iachr/docs/pdf/IACHRStrategicPlan20112015.pdf>.

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processing or close the petition with no further analysis. If the information provided is inadequate or insufficient, the Executive Secretariat may request additional information from the petitioner.

Admissibility

If the petition is opened for processing, the file is transferred to the section of the Executive Secretariat with responsibility for that country, and the petition and evidence are sent to the State for its response, or observations, which it must submit within two months.

The Commissioners consider the arguments and evidence of the State and petitioner, and may hold a hearing or working meeting to gather additional information from the parties. Based on both parties' arguments, the Commission decides if it has jurisdiction based on the time, place and nature of the alleged violation; whether the petition meets the exhaustion and timeliness requirements. If there is an indication that the matter has been submitted to another international settlement proceeding, the Commission will evaluate whether that proceeding is duplicative of its own process.⁴⁷ Finally, the Commission determines whether the petitioner has alleged facts that constitute a possible violation of the State's human rights obligations.

Following these determinations, the Commission publishes its decision on admissibility and sends it to the State and petitioner. If the petition is admissible, it is given a case number and enters the merits phase. Sometimes, the Commission will decide the merits at the same time as admissibility and issue only one report—such as when the victim alleges a violation of due process that also prevented him or her from exhausting domestic remedies.

The admissibility phase can generally last two or three years, depending on the number of times the petitioner and State submit written arguments and evidence, and on the caseload of the relevant section of the Executive Secretariat.

⁴⁷ Article 46.1(c) of the American Convention on Human Rights requires “that the subject matter of the petition or communication is not pending in another international proceeding for settlement”, while Article 47(d) requires that the Commission consider inadmissible any petition that “is substantially the same as one previously studied by the Commission or by another international organization”. However, Article 33 of the Commission’s Rules of Procedure states that “the Commission shall not refrain from considering petitions” where “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 will not lead to an effective settlement” or the other complaint was submitted without the authorization of the victim who is presenting a petition to the Commission. Accordingly, the Commission has determined there was not duplication when the matter has been studied by a United Nations rapporteur or through the 1503 proceeding of the former UN Human Rights Commission, among other mechanisms. See Report No. 30/99, Case 11.206, Cesar CHaparro Nivia and Vladimir Hincapie Galeano, Colombia, March 11, 1999; Report No. 54/07, Petition 4614-02, Wilmer Antonio Gonzalez Rojas, Nicaragua, July 24, 2007. However, the Commission has found duplication when the same complaint is being, or has been, decided by a UN treaty body, such as the Committee Against Torture or the Human Rights Committee. See Report No. 89/05, Case 12.103, Cecilia Rosana Nuñez Chipana, October 24, 2005; Report No. 96/98, Case 11.827, Peter Blaine, Jamaica, December 17, 1998. Nonetheless, the Commission maintains competence over a petition if the petitioner withdraws his or her complaint pending before a UN treaty body. See Report No. 47/08, Petition 864-05, Luis Gonzalo “Richard” Velez Restrepo and Family, Colombia, July 24, 2008.

Merits

After receiving the Commission's decision on admissibility, the petitioner and then the State each have three months to submit initial arguments on the merits, and may submit additional information in writing or in working meetings or a public hearing before the Commission. Based on all information received, the Commissioners decide whether the State is responsible for a violation of the victim's rights. If the Commission finds no violation, it prepares and publishes a report detailing its analysis and conclusions.

If the Commission finds the State is responsible for a violation of the American Declaration or American Convention, it prepares a preliminary report and list of recommendations for how the State can repair the violation and prevent its reoccurrence.

The Commission's preliminary report is transmitted to the petitioner and the State, and the State is given a specific deadline, generally around two months' time, to report on the measures it has taken to comply with the recommendations. The State may ask for extension(s) of this deadline.

The IACtHR Has Recommended that States:

- Adopt specific legislation and changes in policy
- Provide full reparation to victims, including monetary damages
- Conduct full, impartial and effective investigations of homicides and extrajudicial killings
- Apply public policies in a manner that do not perpetuate stereotypes or discrimination
- Train law enforcement and the judiciary
- Review domestic laws' compliance with the State's human rights obligations
- Allow the victim to have a new trial or hearing

If the State fails to show it has made substantial progress towards compliance with the recommendations before the deadline set by the Commission passes, the Commission may either: make its merits report public and continue to monitor compliance with the recommendations **OR** refer the case to the Inter-American Court of Human Rights.

The Commission can refer a case to the Court only if the State has accepted the Court's jurisdiction. The Commission also considers the opinion of the victim and petitioner, the seriousness of the violation, and the relevance of the case to the legal order. Although the number of cases referred to the Court is only a small fraction of the total petitions received by the Commission each year, roughly the same numbers of cases are referred to the Court each year as are resolved with published merits

reports or friendly settlements. The Court will issue judgments on the admissibility, merits and reparations, and may hold its own hearings.

If the matter has not been resolved or referred to the Court within three months of the transmission of the preliminary report to the parties, the Commission may prepare a final merits report, which will be communicated to the parties. The parties will be given a defined time period in which to submit information on the State's compliance. After evaluating this information, the Commission votes whether to publish the merits report. Published merits reports are generally made public on the Commission's website and included in the Commission's annual report to the General Assembly of the Organization of American States.

The Court

The Commission refers an individual complaint to the Inter-American Court of Human Rights by submitting the merits report and other pertinent information to the Court. The Commission also drafts a letter of submission, in which it details the status of the case, identifies the Commissioner(s) and Executive Secretariat staff members who will represent the Commission before the Court, specifying the reasons for referring the case to the Court, and identifying any expert witnesses or testimony the Commission is proposing. The letter of submission is published on the Commission's website along with the merits report.

Once the Secretary of the Court has received the case, he or she notifies the Court judges, State, and victim or victim's representative. Within thirty days of notification, the State and Commission must designate their representatives ("delegates") before the Court, and the victim's representative must confirm his or her contact information.⁴⁸ Before the Court, victims may be represented by an attorney. If the victim does not have legal representation, the Court may appoint an Inter-American defender to represent him or her.⁴⁹

Pursuant to article 55 of the American Convention on Human Rights, the State concerned may appoint an "ad hoc judge" to join the Court in deciding a specific case when none of the Court judges is a national of that State.

The victim's brief containing pleadings, motions and evidence must be submitted within two months.⁵⁰ This brief can, and should, include all allegations, supplementary evidence, and requests for reparations. Although the Commission participates in the litigation and is responsible for presenting the case to the Court, the victim has an independent and autonomous role before the Court. In his or her brief, the victim may wish to allege violations of the American Convention that were not included in the Commission's merits report and is also free to: present additional legal or factual grounds for violations alleged by the Commission, submit evidence and testimony, and request various forms of reparation.

⁴⁸ Rules of Procedure of the Inter-American Court of Human Rights, art. 39.

⁴⁹ *Id.*, art. 37.

⁵⁰ *Id.*, art. 40.

The State must answer the application and the alleged victim's brief, in writing, within four months and must also include any preliminary objections in its brief.⁵¹ The State may make preliminary objections regarding the Court's jurisdiction and the victim's compliance with the admissibility requirements. In its answer, the State must also expressly accept or deny the facts and claims made. After the State has submitted its answer, the President of the Court may allow additional written submissions. Amici curiae may submit briefs at any time during the proceedings.⁵²

Once the written phase is concluded, the President of the Inter-American Court opens the oral proceedings and convenes any hearings deemed necessary.⁵³ The Court maintains independent fact-finding powers, allowing it to request the provision of documentary and testimonial evidence, including through hearings. The victim(s), State and Commission participate in the Court's hearings.

After receiving the parties' written submissions and holding any hearings on preliminary objections, merits or reparations, the Court issues one or more judgments in which it: accepts or rejects the State's preliminary objections, describes the factual and legal arguments of the parties and decides whether the State is responsible for each of the alleged violations of the American Convention on Human Rights, and orders specific reparations to the victim and payment of the costs of litigating the case to the victim and/or victim's representative. In recent years, the Court has generally issued a single judgment which addresses the preliminary objections, merits, reparations and costs together. Any judge, including the ad hoc judge, who disagrees with the Court's reasoning or conclusions – or wishes to add his or her own analysis – may author a separate opinion.

The reparations ordered by the Court are usually more extensive and specific than the Commission's recommendations, although the Court's reparations generally include the many or all of the recommendations made in the Commission's merits report.

Reparations Ordered by the Court Have Included:

- Medical and psychological care for victims
- A public apology by the State
- Training of public officials
- Payment of pecuniary and non-pecuniary damages
- Legislative reform
- Annulment of criminal convictions
- Scholarships or stipends for the victim's education
- Construction of monuments and other forms of commemoration

⁵¹ *Id.*

⁵² See *id.*, art. 44.

⁵³ *Id.*, art 40.

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Preparing detailed reparations requests can ensure that the Court orders adequate monetary and other compensation for the victims, to help repair all aspects of the harm suffered by the victim, family members or community.

Compliance

After a decision on the merits, the parties report on compliance with the Commission's recommendations or the Court's judgment. These reports are made in writing to the Commission or Court. The Court may also hold private hearings to monitor compliance with its judgments. The Court's resolutions evaluating compliance are published on its website. The Commission reports on the status of compliance with its recommendations in its annual report. However, there is no enforcement mechanism that gives States additional incentive to comply with the Commission or Court's decisions. Although OAS Member States may raise issues of non-compliance within the General Assembly, they generally do not do so.

Therefore, it falls to the victim and petitioner to: inform the Commission or Court of the status of the State's compliance, use the merits report or judgment to keep the issue in the news and as a tool for public education and lobbying, and leverage engagement with the Inter-American System to open up spaces for dialogue with the government, as appropriate. Petitioners should maintain a relationship with the victim and with local organizations that can provide information and help negotiate and advocate for State compliance.

Friendly Settlement

The victim and State may negotiate a friendly settlement at any time after the case has been opened for processing by the Commission. The Commission, through the Executive Secretariat staff working in the friendly settlement group, can facilitate negotiation between the parties by creating spaces for dialogue. Friendly settlements approved by the Commission are reported⁵⁴ and published on its website.

Before the Court, the parties may also enter into a friendly settlement at any time. By reaching such an agreement, the parties eliminate the possibility of a decision on the merits by the Commission or Court, but have the opportunity to negotiate the terms of the State's acknowledgment of responsibility and/or reparations made to the victim.

⁵⁴ Rules of Procedure of the Inter-American Commission on Human Rights, art. 49.

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Caseloads and Processing Times

The Commission receives approximately 1,500 petitions each year, but has not had the capacity to process as many complaints as it receives for at least the past decade,⁵⁵ leading to the creation of a significant backlog.⁵⁶ The Registry section of the Commission’s Executive Secretariat is working to eliminate the backlog and reduce processing times for the completion of the initial evaluation. During the admissibility and merits phases, the Commission’s decisions are often delayed by the parties’ requests for deadline extensions.

Year	Petitions Received	Opened	Admissibility / Inadmissibility	Merits Approved	Friendly Settlement	Hearings	Submitted to Court
2011	1,658	262	67/11	25	8	91	23
2010	1,598	275	73/10	25	11	88	16
2009	1,431	122	62/15	20	4	89	12
2008	1,323	118	49/10	17	4	93	9
2007	1,456	126	51/14	13	5	105	14
2006	1,325	147	56/14	29	10	120	14
2005	1,330	150	53/16	19	8	98	10
2004	1,319	160	45/9	18	3	103	12
2003	1,050	115	37/10	30	11	103	15
2002	979	83	18/6	12	2	116	7
2001	885	96	36/22	17	8	102	5
2000	658	110	35/21	27	13	92	3
Total	15,012	1764	582 / 158	252	87	1,200	140

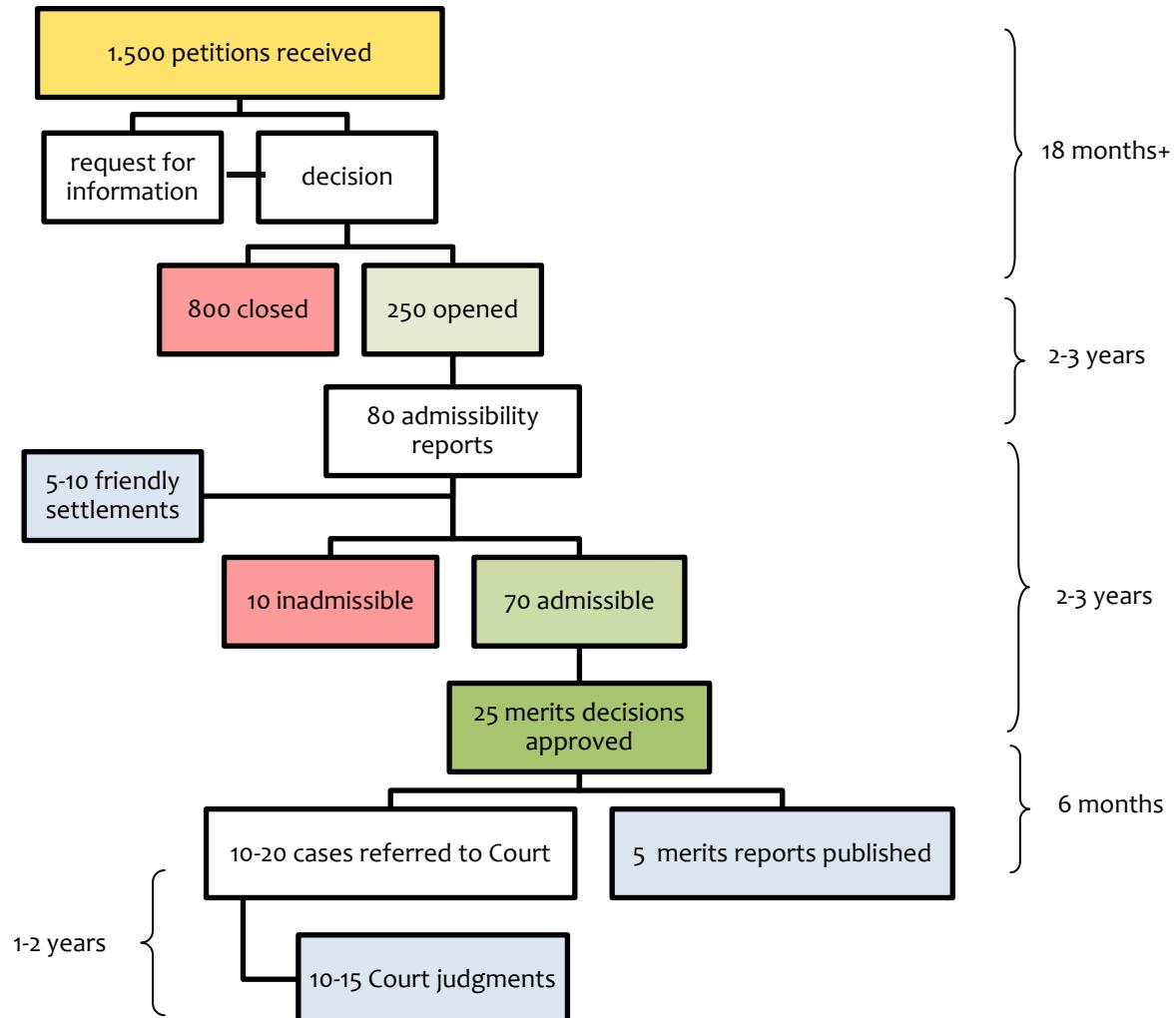
Of the approximately 1,500 petitions received each year, many are rejected during the initial evaluation and only a fraction will eventually be the subject of a merits report or Court judgment.

⁵⁵ See, e.g., Santiago A. Canton, Remarks by the IACHR Executive Secretary Santiago A. Canton at the reception organized by the staff of the IACHR Executive Secretariat to honor his leadership (May 17, 2012), <http://www.oas.org/en/iachr/activities/Speeches/05.17.12.asp>.

⁵⁶ Inter-American Commission on Human Rights, Annual Report of the Inter-American Commission on Human Rights 2011, Ch. III: The Petition and Case System, p. 59 (2012), available at <http://www.oas.org/en/iachr/docs/annual/2011/TOC.asp>. The 2011 annual report states that 6,134 petitions were pending initial evaluation at the end of that year, in addition to a total of 1,645 petitions and cases pending in the admissibility and merits phases.

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This chart illustrates the petition processing system, with approximate processing times and numbers of the petitions or cases that advance through each phase every year.



Emergency Protection: Provisional and Precautionary Measures

Both the Court and Commission can ask the State to take action to protect an individual or community in immediate danger of serious and irreversible harm, and to protect the subject of a petition pending before the Inter-American System. These orders are called “precautionary measures” when granted by the Commission, or “provisional measures” when ordered by the Court. Precautionary measures and provisional measures can be requested to protect any individual, group or community with identifiable members under the jurisdiction of an OAS Member State, whether or not the person is named as a victim in any pending petition. The Commission can also act on its own initiative without a request from the would-be beneficiary.⁵⁷

Requests for precautionary measures may be prepared using the standard form and can be submitted online, by postal mail, by email or by fax. The request should explain the risks faced, whether the State is informed of those risks and, if so, whether the government has undertaken any protective action or investigation.

When the applicant for precautionary measures is different from the beneficiary, the request must include the express consent of the beneficiary unless explained. In addition, as explained earlier, the request must give the contact information, description of facts, and indicate whether the situation of risk was reported to the relevant authorities and what steps those authorities took in response. If the situation was not reported, the request must explain why.

Precautionary and Provisional Measures

The Commission and Court have asked States to:

- Take the necessary measures to guarantee life and personal integrity
- Ensure adequate medical treatment
- Suspend the effects of a court judgment
- Refrain from implementing a death sentence
- Conduct medical examinations to evaluate health status
- Investigate the facts leading to the adoption of emergency measures
- Refrain from deporting an individual from the country
- Immediately investigate the whereabouts of suspected forced disappearance victims
- Ensure a company’s observance of environmental regulations
- Improve conditions of detention
- Protect the ancestral territory of indigenous communities

Requests for precautionary measures are processed differently from petitions. The timing of the Commission’s decision on a request for precautionary measures will depend on the circumstances and whether the Commission requests additional information from the applicant or from the State. In particularly urgent situations – such as imposition of the death penalty – the Commission may respond within one week. Otherwise, a decision more typically takes several months, depending on

⁵⁷ Rules of Procedure of the Inter-American Commission on Human Rights, art. 25.

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whether the initial request provides sufficient information and whether the State is also given an opportunity to present its views.

In cases of extreme seriousness and urgency, the Inter-American Court can order provisional measures. Provisional measures are relevant when the State will not comply with the Commission's order of precautionary measures, or where the case is pending before the Court.⁵⁸ Provisional measures can be requested by the victims in a case before the Court, or by the Commission when the case is still pending with the Commission.⁵⁹

The State will be required to update the Court or Commission on the steps taken to implement precautionary or provisional measures. The applicant or beneficiary should also provide relevant updates, and may request an amplification of the measures when necessary.

Rapporteurships and Other Thematic Monitoring

In keeping with the Inter-American Commission's mandate to monitor and promote human rights protection throughout the Americas, it engages in a variety of fact-finding and reporting activities and engages with civil society in the OAS Member States. Each Commissioner is assigned to be the rapporteur for a specific list of countries and one thematic priority area. The thematic rapporteurships are:

- Rapporteur on the Rights of Indigenous Peoples⁶⁰
- Rapporteur on the Rights of Migrant Workers and their Families⁶¹
- Rapporteur on the Rights of Women⁶²
- Rapporteur on Human Rights Defenders⁶³
- Rapporteur on the Rights of Persons Deprived of Liberty⁶⁴
- Rapporteur on the Rights of Children⁶⁵
- Rapporteur on the Rights of Afro-descendants and against Racial Discrimination⁶⁶
- Special Rapporteur on Freedom of Expression⁶⁷

⁵⁸ Rules of Procedure of the Inter-American Court of Human Rights, art. 27.

⁵⁹ *Id.*, art. 76.

⁶⁰ <http://www.oas.org/en/iachr/indigenous/default.asp>.

⁶¹ <http://www.cidh.org/Migrantes/defaultmigrants.htm>. The rapporteurship can be contacted by email at: cidhmigrantes@oas.org.

⁶² <http://www.oas.org/en/iachr/women/default.asp>. Rosa Celorio, the Executive Secretariat attorney supporting the rapportership, can be contacted at: rcelorio@oas.org.

⁶³ <http://www.oas.org/en/iachr/defenders/default.asp>. The rapporteurship can be contacted by email at: cidhdefensores@oas.org.

⁶⁴ <http://www.oas.org/en/iachr/pdl/default.asp>. Andrés Pizzaro, the Executive Secretariat attorney supporting the rapporteurship can be contacted at: apizarro@oas.org.

⁶⁵ <http://www.oas.org/en/iachr/children/>. The rapporteurship can be contacted by email at: relatorianinez@oas.org.

⁶⁶ <http://www.oas.org/en/iachr/afro-descendants/default.asp>. Hilaire Sobers, the Executive Secretariat attorney supporting the rapporteurship can be contacted at: OSobers@oas.org.

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The Special Rapporteur on Freedom of Expression is an independent expert, not a member of the Commission.

In addition, the Commission has recently created a **Unit on the Rights of Lesbian, Gay, Trans, Bisexual, and Intersex Persons**,⁶⁸ which is staffed by the Executive Secretariat. Information may be submitted to any of the rapporteurships using the Commission's mailing address or fax number.

The rapporteurs identify issues of concern and oversee the production of thematic or country-specific reports. They may also undertake on-site visits, hold meetings with civil society, and participate in seminars and other activities. Within the Commission, the rapporteurs provide guidance and input on cases that raise issues within their mandate.

The Commission will only conduct an on-site visit if it is invited by the State or if the State agrees to a visit proposed by the Commission. Due to limited resources, generally not all seven Commissioners will participate. Such visits, however, include engagement with civil society representatives and are an excellent opportunity to highlight issues of concern.

In addition, the Commission dedicates a significant portion of its public hearings to thematic issues not tied to a specific case. Thematic hearings may focus on a particular country or sub-region or on the Americas as a whole, and are an opportunity to raise awareness among the public and the Commissioners of structural or systemic human rights violations or the multi-dimensional threats faced by certain communities.

These hearings are held in response to requests made in advance by civil society and States. The Commission begins accepting requests for hearings several months before its March and October sessions and sends written notification of its decision to grant or deny each request. The dates of each session, as well as the call for hearing requests, are posted on the Commission's website.

⁶⁷ <http://www.oas.org/en/iachr/expression/index.asp>. The Special Rapporteur can be contacted by email at cidhexpresion@oas.org.

⁶⁸ <http://www.oas.org/en/iachr/lgtbi/>. The rapporteurship can be contacted by email at: cidh_lgtbi@oas.org.

CHAPTER TWO

Evolution of the Inter-American Doctrine

Familiarity with the decisions and judgments, or doctrine, of the Inter-American Commission and Court is important both for understanding the current state of interpretation of the Inter-American instruments' provisions and for identifying the ways in which those interpretations can be expanded or applied to other contexts, whether in advocacy or in litigation.

Although the Commission's caseload has increased exponentially since it was first empowered to receive individual petitions in 1965, the number of merits reports it publishes each year has not changed nearly as dramatically. However, the issues brought before the Commission are now more diverse, and the Commission's analysis of the facts and legal merit is more thorough and precise. The quality of the Commission's reports is related to the increased capacity and number of organizations representing victims before the Inter-American System, and to the professionalization of the Executive Secretariat's staff.

The Court began operating in 1979, and soon issued several advisory opinions, but did not exercise its contentious jurisdiction until 1986, when the Commission submitted the first contentious case: *Velasquez Rodriguez v. Honduras*, in which case the Court issued a judgment on the merits in 1988.⁶⁹ Over the Court's 30 years in operation, the number of judgments it produces annually has more than doubled as the Commission refers more and more cases to it each year.

Many more States have found themselves before the Inter-American System, and its bodies have decided cases involving a significant range of rights protected by the American Convention and other regional human rights instruments.

Some Notable Cases

Many of the most significant cases decided by the Commission and Court have addressed widespread, systemic human rights abuses arising from periods of conflict, dictatorship, or unrest in Latin America. Petitions dealing with forced disappearances, torture and extrajudicial killings carried out in the 1970s through 1990s in Argentina, Uruguay, Guatemala, Peru, El Salvador and other countries allowed the Commission and Court to play a role in the resolution and reparation of some of the hemisphere's most serious human rights crises and establish precedential jurisprudence in these areas; some of these petitions continue to make their way through the System.

Relatedly, the Commission and Court have developed an extensive body of jurisprudence on the subjects of impunity and judicial protection. When human rights abuses or other crimes are not properly investigated and the perpetrators go unpunished (or, benefit from amnesty), and victims cannot obtain redress in the national courts, the Commission and Court routinely hold States accountable for the resulting impunity and lack of access to judicial protection.

⁶⁹ I/A Court H.R., Case of Velásquez Rodríguez v. Honduras. Merits, Reparations and Costs. Judgment of July 29, 1989. Series C No. 4.

With increasing frequency, both the Court and Commission have interpreted the American Convention and American Declaration to provide specific, expansive protections in cases involving indigenous communities' rights; discrimination on the basis of race, gender and sexual orientation; freedom of expression; environmental justice; labor rights; property rights; and the rights of children, among others.

The following cases provide a glimpse of the breadth of issues addressed by the Inter-American System, its contributions to progressive development of international human rights doctrine, and some of the consequences of its involvement. More comprehensive lists of the judgments of the Inter-American Court and of the merits reports published by the Inter-American Commission begin on pages 31 and 42 of this manual, respectively.

The Inter-American Court's judgment in *Velasquez Rodríguez v. Honduras*⁷⁰ was its first published sentence, and a groundbreaking decision on the practice of forced disappearance. The practice of forced (or, enforced) disappearance became alarmingly prevalent in various countries in the hemisphere in the 1970s and 1980s and continues to this day, particularly in areas of conflict.⁷¹ State agents, or others acting with the State's knowledge or approval, abduct or detain individuals who are never again seen alive publicly. Often, victims of forced disappearance are subjected to torture, held clandestinely for varying periods of time, and/or killed and buried in secret. Because the State – uniquely positioned to actually know the victim's fate – refuses to provide information to the victim's loved ones in such cases, the Inter-American Court has considered forced disappearance to be a multiple and continuing violation that does not cease until a proper investigation is carried out.⁷²

The case of *Barrios Altos v. Peru*⁷³ compelled investigation of the gross human rights violations committed in the name of counter-terrorism, recognized victims' family members' right to information, rejected the validity of laws granting amnesty to human rights abusers,⁷⁴ and provided support for the eventual extradition and prosecution of Alberto Fujimori.⁷⁵

In the case known in as *Campo Algodonero*⁷⁶ or "Cotton Field," the Inter-American Court of Human Rights found the State of Mexico responsible for the deaths of three young women in Ciudad Juárez, within a context of high levels of violence against women and impunity for these crimes.⁷⁷ Though no

⁷⁰ *Id.*

⁷¹ See, e.g., Emilio Godoy, *Making Forced Disappearance 'Disappear'*, Inter Press Service (Oct. 8, 2010), available at <http://ipsnews.net/news.asp?idnews=53111>.

⁷² *Velásquez Rodríguez*, *supra* n. 67 at para. 155.

⁷³ I/A Court H.R., Case of Barrios Altos v. Peru. Merits. Judgment of March 14, 2001. Series C No. 75.

⁷⁴ *Id.*, para. 44.

⁷⁵ See, e.g., Clara Sandoval, *The Challenge of Impunity in Peru: The Significance of the Inter-American Court of Human Rights*, <http://projects.essex.ac.uk/ehrr/V5N1/Sandoval.pdf>; Jo-Marie Burt, *Guilty as Charged: The Trial of Former Peruvian President Alberto Fujimori for Human Rights Violations*, 3 Int'l J. Transitional Justice 384-405 (2009), available at <http://ijtj.oxfordjournals.org/content/3/3/384.full.pdf>.

⁷⁶ I/A Court H.R., Case of González et al. ("Cotton Field") v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 16, 2009. Series C No. 205.

⁷⁷ See *id.*, para. 114 et seq.

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State agents were accused of involvement in the murders, the Court held that the authorities' failure to take preventive measures and to adequately investigate the killings, together with discrimination and the use of stereotypes by officials and in domestic policies, gave rise to State responsibility.⁷⁸

The Commission's merits report in the *Maria Da Penha Maia Fernandes*⁷⁹ case paved the way for the law known as "Maria Da Penha" which now protects victims of domestic violence in Brazil.⁸⁰ In its decision, the Inter-American Commission applied the Convention of Belém do Pará for the first time, finding that the State had an obligation to prevent, investigate and prosecute domestic violence, so as to reduce or eliminate its occurrence.⁸¹

In *Gelman v. Uruguay*,⁸² the Inter-American Court of Human Rights found Uruguay's amnesty law incompatible with its human rights obligations and ordered it to ensure that the law would not impede the effective investigation of Ms. Gelman's forced disappearance during the country's civil-military dictatorship.⁸³ Eight months after the Court's ruling, the Uruguayan legislature adopted legislation to remove the impact of the amnesty law and allow the prosecution of offenders.⁸⁴

The Commission's admissibility report in *Mossville Environmental Action Now*⁸⁵ marked the System's first consideration of "environmental justice," the term used to refer to pollution and other environmental effects that disproportionately impact the health and wellbeing of some communities in a discriminatory manner. In admitting the petition against the United States, the Commission found that the petitioner's claims could constitute violations of the American Declaration, insofar as they alleged that the Louisiana state government's approval of permits for fourteen chemical factories within a mostly African American community violated the residents' rights to private life and equality.⁸⁶

The Inter-American System has contributed to important advances in **freedom of expression** in the Americas.⁸⁷ In its first freedom of expression case, the Inter-American Court ordered the Chilean

⁷⁸ *Id.*, p. 146-48.

⁷⁹ IACtHR. Report No. 54/01, Case 12.051, Maria Da Penha, Brazil.

⁸⁰ See, e.g., UN Women, *Maria da Penha Law: A Name that Changed Society*, Aug. 30, 2011, <http://www.unwomen.org/2011/08/espanol-ley-maria-da-penha/>; Spieler, Paula (2011) "The Maria da Penha Case and the Inter-American Commission on Human Rights: Contributions to the Debate on Domestic Violence Against Women in Brazil," *Indiana Journal of Global Legal Studies*: Vol. 18: Iss. 1, Article 6, available at <http://www.repository.law.indiana.edu/ijgls/vol18/iss1/6>.

⁸¹ IACtHR. Report No. 54/01, Case 12.051, Maria Da Penha, Brazil, para. 36-60.

⁸² I/A Court H.R., Case of *Gelman v. Uruguay*. Merits and Reparations. Judgment of February 24, 2011 Series C No. 221.

⁸³ *Id.*, para. 312.

⁸⁴ See, e.g., Lisl Brunner, *Uruguay: Moving Closer toward Accountability?* (Nov. 7, 2011), <http://ihrlaw.org/2011/11/07/uruguay-moving-closer-toward-accountability/>.

⁸⁵ IACtHR. Petition 242-05, Report No. 43/10, *Mossville Environmental Action Now*, United States.

⁸⁶ *Id.*, paras.41-44.

⁸⁷ See, e.g., Catalina Botero Marino and Michael J. Camilleri, *Freedom of Expression in Latin America*, ReVista (Spring/Summer 2011), available at <http://www.drclas.harvard.edu/publications/revistaonline/spring-summer-2011/freedom-expression-latin-america>.

government to lift its ban on screenings of the film “The Last Temptation of Christ” and to ensure that the domestic constitution did not allow such prior censorship.⁸⁸ Chile promptly complied.⁸⁹ In *Herrera Ulloa*,⁹⁰ the Court rejected Costa Rica’s defamation law, similar to others in the hemisphere, under which a journalist was criminally convicted for reporting on official corruption. In the years since the Court’s decision, Costa Rica instituted a new appeal in such cases⁹¹ and eliminated incarceration for defamation; other States have modified or eliminated their criminal defamation laws.⁹²

In *Claude Reyes et al. v. Chile*⁹³ and again in *Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil*,⁹⁴ the Court recognized the right of public access to official information in the remarkably different contexts of a major logging project and lethal suppression of political dissent through forced disappearance.

The Court recognized the property rights of indigenous communities in *Awas Tingni v. Nicaragua*⁹⁵, holding that the community had a right to prior consultation before the government negotiated a logging contract that would be carried out on its ancestral lands. The Court held Nicaragua responsible for violations of articles 21 (property) and 25 (judicial protection) of the American Convention, and ordered the State to resolve the land claims of the Awas Tingni “in accordance with their customary law, values, customs and mores” and in a manner that respected their right to carry out their traditional activities.⁹⁶

In *Atala Riffó and daughters v. Chile*,⁹⁷ the Inter-American Court held Chile internationally responsible for violating a lesbian mother’s rights to equality, non-discrimination, privacy and family life – among others – when the national courts denied Atala custody over her daughters because of her

⁸⁸ I/A Court H.R., Case of “The Last Temptation of Christ” (Olmedo-Bustos et al.) v. Chile. Merits, Reparations and Costs. Judgment of February 5, 2001. Series C No. 73.

⁸⁹ See *Freedom of Expression in Latin America*, *supra* n. 85.

⁹⁰ I/A Court H.R., Case of Herrera-Ulloa v. Costa Rica. Preliminary Objections, Merits, Reparations and Costs. Judgment of July 2, 2004. Series C No. 107.

⁹¹ Tania Lara, *Costa Rica Creates New Appeals Process Thanks to a Journalist’s Defamation Case* (Dec. 12, 2011), Journalism in the Americas Blog, <http://knightcenter.utexas.edu/blog/costa-rica-creates-new-appeals-process-thanks-journalists-defamation-case>.

⁹² See José Barbeito, *Latin America Takes Steps against Criminal Defamation* (Feb. 26, 2010), CPJ Blog, <http://cpj.org/blog/2010/02/latin-american-rulings-steps-against-criminal-defa.php>. See also I/A Court H.R., Case of Kimel v. Argentina. Merits, Reparations and Costs. Sentence of May 2, 2008. Series C No. 177.

⁹³ I/A Court H.R., Case of Claude-Reyes et al. v. Chile. Merits, Reparations and Costs. Judgment of September 19, 2006. Series C No. 151.

⁹⁴ I/A Court H.R., Case of Gomes-Lund et al. (Guerrilha do Araguaia) v. Brazil. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 24, 2010. Series C No. 219, para. 325.

⁹⁵ I/A Court H.R., Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua. Merits, Reparations and Costs. Judgment of August 31, 2001. Series C No. 79. See also I/A Court H.R., Case of the Indigenous Community Yakyé Axa v. Paraguay. Merits, Reparations and Costs. Judgment of June 17, 2005. Series C No. 125.

⁹⁶ *Id.*, para. 173.

⁹⁷ I/A Court H.R., Case of Atala Riffó and daughters v. Chile. Merits, Reparations and Costs. Judgment of February 24, 2012 Series C No. 239.

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homosexuality. The Court highlighted the obligation of domestic judges to ensure that their decisions complied with the American Convention, including its prohibition of discrimination on the basis of sexual orientation,⁹⁸ and ordered the Chilean government to ensure the proper training of public officials to eliminate such discrimination.⁹⁹

The case of the *Girls Yean and Bosico v. Dominican Republic*¹⁰⁰ addressed the rights of Dominican-born children of Haitian descent to obtain birth certificates, which were necessary for their enrollment in school and other activities. The Court found the State responsible for violations of the girls' rights to juridical personality, nationality, a name, humane treatment and equal protection.¹⁰¹

The Inter-American Commission has referred a case involving **in vitro fertilization** to the Court, alleging that Costa Rica's general ban on this procedure violates the petitioners' rights to private and family life, the right to found a family, equality and non-discrimination.¹⁰²

These cases highlight only a few of the human rights concerns taken up by the Commission and Court, but they do to some extent illustrate the varying degrees of compliance with judgments and decisions issued by these bodies.

State Compliance

While the Court's judgments are explicitly legally binding, the Commission's merits reports – which contain its legal opinion and recommendations on redress – are not universally accepted as such.¹⁰³ Nonetheless, both the Commission's published merits reports and the Court's judgments are, at minimum, persuasive interpretations of the individual freedoms and State responsibilities enshrined in the American Declaration of the Rights and Duties of Man and the American Convention on Human Rights, and may be used in a variety of ways to build public support and political will for reform.

The Commission¹⁰⁴ and Court are each empowered to monitor State compliance with their recommended, or ordered, reparations, although there is no formal enforcement mechanism to compel State action. Both bodies rely on the parties (the State and petitioner) to inform them of steps taken to fulfill the Commission's recommendations or Court's orders.

⁹⁸ *Id.*, para 284.

⁹⁹ *Id.*, para. 314.

¹⁰⁰ I/A Court H.R., Case of the Girls Yean and Bosico v. Dominican Republic. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 8, 2005. Series C No. 130.

¹⁰¹ *Id.*, para. 260.

¹⁰² IACHR. Case 12.361, Gretel Artavia Murillo et al. ("In Vitro Fertilization"), Letter of Submission to the Court (Jul. 29, 2011).

¹⁰³ See, e.g., Michael Camilleri and Viviana Kristicevic, <http://www.bristol.ac.uk/law/research/centres-themes/lhrsp/documents/vivianakrsticevicmichaelcamilleripres.pdf>; International Human Rights in Context: Law, Politics and Morals (2008), p. 1027.

¹⁰⁴ American Convention on Human Rights, art. 41; Statute of the Inter-American Commission on Human Rights, art. 18; Rules of Procedure of the Inter-American Commission on Human Rights, art. 48.

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The OAS General Assembly has urged States to follow up on the Commission's recommendations and has considered the question of State compliance on several occasions.¹⁰⁵

Compliance with the Commission's recommendations is mixed. In 2011, the Commission reported on the level of compliance with all its published decisions between 2000 and 2010, and found the following approximate overall levels of State implementation of its recommendations¹⁰⁶:

- Total compliance: 16% of cases
- Partial compliance: 62% of cases
- No compliance: 22% of cases

One study places the level of partial compliance by States with judgments by the Inter-American Court of Human Rights at 76 percent, while in 17 percent of cases there is no compliance and in 7 percent there is full compliance.¹⁰⁷ In terms of the level of compliance with the specific measures of reparation and guarantees of non-repetition ordered by the Court, the same study found that States had complied with 28 percent of such measures ordered.¹⁰⁸ As may be expected, States are more likely to comply with provisions requiring them to pay damages than those requiring other action.¹⁰⁹

Compliance hinges on the State's interest in actual or perceived adherence to its human rights obligations generally or in a specific instance, but also on the degree to which civil society is involved in making compliance a public priority and political necessity. As two authors assert, "the on-the-ground impact of the system's determinations has not correlated directly with the merits of those determinations but rather has varied in relation to concurrent social justice organization, media engagement and civil society strategies."¹¹⁰

¹⁰⁵ See Inter-American Commission on Human Rights, Annual Report of the Inter-American Commission on Human Rights 2011, Ch. III, para. 87, citing OAS General Assembly Resolution 2672 (XLI-O/11) and 2675 (XLI-O/11).

¹⁰⁶ *Id.* at p. 94-102.

¹⁰⁷ Darren Hawkins & Wade Jacoby, *Partial Compliance: A Comparison of the European and Inter-American Courts for Human Rights* (2008), prepared for 2008 Annual Meeting of American Political Science Association, 4. The study measured compliance based on 92 Court decisions on reparations. *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ See, e.g., *id.* at 4-5. For a light summary of the theories of State compliance with international law with a view towards the Inter-American Court, see Morse Tan, *Member State Compliance with the Judgments of the Inter-American Court of Human Rights*, 33 INT'L J. LEGAL INFORMATION 319 (2005).

¹¹⁰ See James L. Cavallaro and Emily Schaffer, *Rejoinder: Justice before Justicability: Inter/American Litigation and Social Change*, 39 N.Y.U. J. INT'L LAW AND POLITICS 345, 348 (2007), citing James L. Cavallaro and Emily J. Schaffer, *Less as More: Rethinking Supranational Litigation of Economic and Social Rights in the Americas*, 56 HASTINGS L.J. 217, 240, 251 (2004).

Court Cases by Subject Matter

Personhood – Juridical Personality

- Chitay Nech v. Guatemala (2010)
- Contreras et al. v. El Salvador (2011)
- Gelman v. Uruguay (2011)
- González-Medina and relatives v. Dominican Republic (2012)
- La Cantuta v. Peru (2006)
- Sawhoyamaxa Indigenous Community v. Paraguay (2006)
- Torres Millacura et al. v. Argentina (2011)
- Xakmok Kasek Indigenous Community v. Paraguay (2010)

Right to Life

Death Penalty

- Boyce et al. v. Barbados (2007)
- Dacosta Cadogan v. Barbados (2009)
- Fermín Ramírez v. Guatemala (2005)
- Hilaire v. Trinidad and Tobago; Benjamin et al. v. Trinidad and Tobago; Constantine et al. v. Trinidad and Tobago (consolidated cases) (2001)
- Raxcacó Reyes v. Guatemala (2005)

Forced Disappearance

- Anzualdo-Castro v. Peru (2009)
- Blake v. Guatemala (1996)
- Caballero Delgado and Santana v. Colombia (1995)
- Caracazo v. Venezuela (1999)
- Castillo Páez v. Peru (1997)
- Chitay Nech et al. v. Guatemala (2010)
- Contreras et al. v. El Salvador (2011)
- Durrand and Ugarte b. Peru (1999)
- Fairén Garbi and Solís Corrales v. Honduras (1989)
- Garrido and Baigorria v. Argentina (1996)
- Gelman v. Uruguay (2011)
- Godínez Crus v. Honduras (1989)
- Goiburú et al. v. Paraguay (2006)
- Gomes-Lund et al. (“Guerrilha do Araguaia”) v. Brazil (2010)
- Gómez Palomino v. Peru (2005)
- Blanco Romero et al. v. Venezuela (2005)
- González-Medina and Relatives v. Dominican Republic (2012)
- Heliodoro Portugal v. Panama (2008)

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- Ibsen-Cardenas and Ibsen-Peña v. Bolivia (2010)*
- La Cantuta v. Peru (2006)*
- Massacre of Pueblo Bello v. Colombia (2006)*
- Massacres of Ituango v. Colombia (2006)*
- Molina Theissen v. Guatemala (2004)*
- Radilla-Pacheco v. Mexico (2009)*
- The Sisters Serrano Cruz v. El Salvador (2004)*
- Ticona Estrada et al. v. Bolivia (2008)*
- Tiu Tojin v. Guatemala (2008)*
- Torres Millacura et al. v. Argentina (2011)*
- Trujillo Oroza v. Bolivia (2000)*
- Velasquez Rodríguez v. Honduras (1988)*

Massacres

- Cayara v. Peru (1993)*
- El Amparo v. Venezuela (1995)*
- La Cantuta v. Peru (2006)*
- Las Dos Erres Massacre v. Guatemala (2009)*
- Massacre of La Rochela v. Colombia (2007)*
- Massacre of Mapiripán v. Colombia (2005)*
- Massacre of Pueblo Bello v. Colombia (2006)*
- Massacres of Ituango v. Colombia (2006)*
- Moiwana Community v. Suriname (2005)*
- Plan de Sánchez v. Guatemala (2004)*

Extrajudicial Executions

- Almonacid Arellano et al. v. Chile (2006)*
- Aloeboetoe et al. v. Suriname (1991)*
- Bámaca Velásquez v. Guatemala (2000)*
- Benavides Cevallos v. Ecuador (1998)*
- Blake v. Guatemala (1996)*
- Cantoral Huamaní and García Santa Cruz v. Peru (2007)*
- Caracazo v. Venezuela (1999)*
- Case of the “Street Children” (Villagrán Morales et al.) v. Guatemala (1997)*
- Durand and Ugarte v. Peru (1999)*
- Escúe Zapata v. Colombia (2007)*
- Family Barrios v. Venezuela (2011)*
- Gangaram Panday v. Suriname (1994)*
- Heliodor Portugal v. Panama (2008)*
- Huilca Tecse v. Peru (2005)*
- Las Palmeras v. Colombia (2000)*

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- Manuel Cepeda-Vargas v. Colombia* (2010)
- Massacre of La Rochela v. Colombia* (2007)
- Massacre of Mapiripán v. Colombia* (2005)
- Moiwana Community v. Suriname* (2005)
- Myrna Mack Chang v. Guatemala* (2003)
- Plan de Sánchez Massacre v. Guatemala* (2004)
- Servellón García et al. v. Honduras* (2006)
- The 19 Tradesmen v. Colombia* (2002)
- The Brother Gómez Paquiyauri v. Peru* (2004)
- Valle Jaramillo et al. v. Colombia* (2008)
- Vargas Areco v. Paraguay* (2006)
- “White Van” (*Paniagua Morales et al.*) v. *Guatemala* (1998)
- Zambrano Vélez et al. v. Ecuador* (2007)

Excessive Use of Force

- Miguel Castro Castro Prison v. Peru* (2006)
- Montero Aranguren et al. (Retén de Catia) v. Venezuela* (2006)

Death in Custody

- Baldeón García v. Peru* (2006)
- “Juvenile Reeducation Institute” v. *Paraguay* (2004)
- Miguel Castro Castro Prison v. Peru* (2006)
- Montero Aranguren et al. (Rentén de Catia) v. Venezuela* (2006)
- Neira Alegría et al. v. Peru* (1995)
- Vera-Vera et al. v. Ecuador* (2011)
- Ximenes Lopes v. Brazil* (2005)

Lack of Effective Investigation – Impunity

- Albán Cornejo et al. v. Ecuador* (2007)
- Barrios Altos v. Peru* (2001)
- Fernández-Ortega et al. v. Mexico* (2010)
- García Prieto et al. v. El Salvador* (2007)
- González et al. (“Cotton Field”) v. Mexico* (2009)
- Juan Humberto Sánchez v. Honduras* (2003)
- Kawas-Fernández v. Honduras* (2009)
- Moiwana Community v. Suriname* (2005)
- Rosendo-Cantú et al. v. Mexico* (2010)
- Tristan-Donoso v. Panama* (2009)
- Vera-Vera et al. v. Ecuador* (2011)

See also, decisions on: extrajudicial execution, massacre, and forced disappearance.

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Amnesty

- Almonacid Arellano et al. v. Chile (2006)
- Barrios Altos v. Peru (2001)
- Gelman v. Uruguay (2011)
- Gomes-Lund et al. (Guerrilha do Araguaia) v. Brazil (2010)
- Moiwana Community v. Suriname (2005)

Inhumane Treatment and Torture

- Bayarri v. Argentina (2008)
- Bueno Alves v. Argentina (2007)
- Cabrera-García and Montiel–Flores v. Mexico (2010)
- Cantoral Benavides v. Peru (1998)
- Chaparro Álvarez and Lapo Iñiguez v. Ecuador (2007)
- Dacosta-Cadogan v. Barbados (2009)
- Fernández-Ortega et al. v. Mexico (2010)
- Fleury et al. v. Haiti (2011)
- Miguel Castro Castro Prison v. Peru (2006)
- Perozo et al. v. Venezuela (2009)
- Rosendo-Cantú et al. v. Mexico (2010)
- Suárez Rosero v. Ecuador (1997)
- Vargas Areco v. Paraguay (2006)
- Velez Loor v. Panama (2010)
- Vera-Vera et al. v. Ecuador (2011)
- “White Van” (Paniagua Morales et al.) v. Guatemala (1998)

See generally, decisions on: forced disappearance, massacres, and extrajudicial execution.

Conditions of Detention

- Caesar v. Trinidad and Tobago (2005)
- De la Cruz Flores v. Peru (2004)
- Fermín Ramírez v. Guatemala (2005)
- Fleury et al. v. Haiti (2011)
- Hilaire v. Trinidad and Tobago (consolidated cases) (2001)
- Juvenile Reeducation Institute v. Paraguay (2004)
- Lori Berenson Mejía v. Peru (2004)
- Miguel Castro Castro Prison v. Peru (2006)
- Boyce et al. v. Barbados (2007)
- Montero Aranguren et al (Retén de Catia) v. Venezuela (2006)
- Raxcacó Reyes v. Guatemala (2005)
- Vera-Vera et al. v. Ecuador (2011)

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Yvon Neptune v. Haiti (2008)
Velez Loor v. Panama (2010)

Arbitrary Arrest and Detention

Alfonso Martín del Campo Dodd v. Mexico (2004)
Baldeón García v. Peru (2006)
Barreto-Leiva v. Venezuela (2009)
Bayarri v. Argentina (2008)
Bueno Alves v. Argentina (2007)
Bulacio v. Argentina (2003)
Cabrera-García and Montiel-Flores v. Mexico (2010)
Cantoral Benavides v. Peru (1998)
Cantos v. Argentina (2001)
Castillo Pertruzzi et al. v. Peru (1998)
Cayara v. Peru (1993)
Cesti Hurtado v. Peru (1999)
Chaparro Álvarez and Lapo Iñiguez v. Ecuador (2007)
Fleury et al. v. Haiti (2011)
García Asto and Ramírez Rojas v. Peru (2005)
González et al. (“Cotton Field”) v. Mexico (2009)
Gutiérrez Soler v. Colombia (2005)
Juan Humberto Sánchez v. Honduras (2003)
Loayza Tamayo v. Peru (1997)
López Álvarez v. Honduras (2006)
Maqueda v. Argentina (1995)
Maritza Urrutia v. Guatemala (2003)
Suárez Rosero v. Ecuador (1997)
Tibi v. Ecuador (2004)
Uson Ramírez v. Venezuela (2009)
Velez Loor v. Panama (2010)
“White Van” (Paniagua Morales et al.) v. Guatemala (1998)
Yvon Neptune v. Haiti (2008)

See also, decisions on: forced disappearance and extrajudicial execution.

Fair Trial and Due Process

Acosta Calderon v. Ecuador (2005)
Alfonso Martín del Campo Dodd v. Mexico (2004)
Apitz Barbera et al. (“First Contentious Administrative Court) v. Venezuela (2008)
Atala Riffó and Daughters v. Chile (2012)
Barbani Darte et al. v. Uruguay (2011)

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- Barreto-Leiva v. Venezuela (2009)*
Bayarri v. Argentina (2008)
Boyce et al. v. Barbados (2007)
Cabrera-García and Montiel-Flores v. Mexico (2010)
Cantoral Benacides v. Peru (1998)
Cantos v. Argentina (2001)
Castillo Petruzzi et al. v Peru (1998)
Cesti Hurtado v. Peru (1999)
Chocron-Chocron v. Venezuela (2011)
Constitutional Tribunal v. Peru (1999)
Dacosta-Cadogan v. Barbados (2009)
De la Cruz Flores v. Peru (2004)
Escher et al. v. Brazil (2009)
Fermín Ramírez v. Guatemala (2005)
Fernández-Ortega et al. v. Mexico (2010)
“Five Pensioners” v. Peru (2003)
Fleury et al. v. Haiti (2011)
Fontovecchia y D’Amico v. Argentina (2011)
García Asto and Ramírez Rojas v. Peru (2005)
Garibaldi v. Brazil (2009)
González et al. (“Cotton Field”) v. Mexico (2009)
Grande v. Argentina (2011)
Gutiérrez Soler v. Colombia (2005)
Herrera Ulloa v. Costa Rica (2004)
Hilaire v. Trinidad and Tobago (consolidated cases) (2001)
Ivcher Bronstein v. Peru (1999)
Juan Humberto Sánchez v. Honduras (2003)
Juvenile Reeducation Institute v. Paraguay (2004)
Kawas-Fernandez v. Honduras (2009)
Kimel v. Argentina (2008)
Loayza Tamayo v. Peru (1997)
López Álvarez v. Honduras (2006)
López Mendoza v. Venezuela (2011)
Lori Berenson Mejía v. Peru (2004)
Maqueda v. Argentina (1995)
Mejía-Idrovo v. Ecuador (2011)
Perozo et al. v. Venezuela (2009)
Ricardo Canese v. Paraguay (2004)
Ríos et al. v. Venezuela (2009)
Salvador Chiriboga v. Ecuador (2008)
Suárez Rosero v. Ecuador (1997)

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Tibi v. Ecuador (2004)
Tristan-Donoso v. Panama (2009)
Uson Ramírez v. Venezuela (2009)
Velez Loor v. Panama (2010)
Vera-Vera et al. v. Ecuador (2011)
Xakmok Kasek Indigenous Community v. Paraguay (2010)

Freedom from Ex Post Facto Laws

Baena Ricardo v. Panama (1999)
Ricardo Canese v. Paraguay (2004)
De la Cruz Flores v. Peru (2004)
Lori Berenson Mejía v. Peru (2004)

Privacy, Honor and Dignity

Atala Riffó and Daughters v. Chile (2012)
Contreras et al. v. El Salcador (2011)
Escher et al. v. Brazil (2009)
Escué Zapata v. Colombia (2007)
Family Barrios v. Venezuela (2011)
Fernández-Ortega et al. v. Mexico (2010)
Gelman v. Uruguay (2011)
González et al. (“Cotton Field”) v. Mexico (2009)
Plan de Sánchez Massacre v. Guatemala (2004)
Rosendo-Cantú et al. v. Mexico (2010)
Tristan-Donoso v. Panama (2009)
Valle Jaramillo et al. v. Colombia (2008)

Freedom of Thought and Expression + Access to Information

Albán Cornejo et al. v. Ecuador (2007) (access to information)
Bámaca Velásquez v. Guatemala (2000) (right to truth)
Barrios Altos v. Peru (2001) (right to truth)
Carpio Nicolle et al. v. Guatemala (2004)
Claude Reyes et al. v. Chile (2006) (access to information)
Contreras et al. v. El Salvador (2011) (access to information)
Escher et al. v. Brazil (2009)
Fontovecchia y D’Amico v. Argentina (2011)
Gomes Lund et al. (Guerrilha do Araguaia) v. Brazil (2010) (access to information)
González Medina and Relatives v. Dominican Republic (2012)
Herrera Ulloa v. Costa Rica (2004)
Kimel v. Argentina (2008)
“The Last Temptation of Christ” (Olmedo Bustos et al.) v. Chile (2001)

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López Álvarez v. Honduras (2006)
Manuel Cepeda Vargas v. Colombia (2010)
Maritza Urrutia v. Guatemala (2003)
Palamara Iribarne v. Chile (2005)
Perozo et al. v. Venezuela (2009)
Plan de Sánchez Massacre v. Guatemala (2004)
Ricardo Canese v. Paraguay (2004)
Ríos et al. v. Venezuela (2009)
Tristan Donoso v. Panama (2009)
Uson Ramírez v. Venezuela (2009)

Freedom of Assembly

Ticona Estrada et al. v. Bolivia (2008)

Freedom of Association

Kawas Fernández v. Honduras (2009)
Fernández Ortega et al. v. Mexico (2010)
Fleury et al. v. Haiti (2011)
Baena Ricardo v. Panama (1999)
Plan de Sánchez Massacre v. Guatemala (2004)
Huilca Tecse v. Peru (2005)
Reverón Trujillo v. Venezuela (2009)

Employment and Labor Rights-Related Cases

Abrill-Alosilla et al. v. Peru (2011)
Acevedo Buendía et al. (“Discharged and Retired Employees of the Office of the Comptroller” v. Peru (2009)
Acevedo Jaramillo et al. v. Peru (2006)
Baena Ricardo v. Panama (1999)
Cantoral Huamaní and García Santa Cruz v. Peru (2007)
Chocron Chocron v. Venezuela (2011)
Constitutional Tribunal v. Peru (1999)
Dismissed Congressional Employees (Aguado Alfaro et al.) v. Peru (2006)
“Five Pensioners” v. Peru (2003)
Huilca Tecse v. Peru (2005)
Mejía-Idrovo v. Ecuador (2011)
Reverón Trujillo v. Venezuela (2009)

Rights of the Family

Las Dos Erres Massacre v. Guatemala (2009)
Chitay Nech et al. v. Guatemala (2010)

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Gelman v. Uruguay (2011)
Contreras et al. v. El Salvador (2011)
Family Barrios v. Venezuela (2011)
Atala Riffo and Daughters v. Chile (2012)
Molina Theissen v. Guatemala (2004)
The Sisters Serrano Cruz v. El Salvador (2004)

Right to a Name

Las Dos Erres Massacre v. Guatemala (2009)
Contreras et al. v. El Salvador (2011)
Yean and Bosico Children v. Dominican Republic (2005)

Nationality

Gelman v. Uruguay (2011)
Yean and Bosico Children v. Dominican Republic (2005)

Property

Abril Alosilla eta l. v. Peru (2011)
Acevedo Buendía et al. ("Discharged and Retired Employees of the Office of the Comptroller") v. Peru (2009)
Barbani Duarte et al. v. Uruguay (2011)
Chaparro Álvarez and Lapo Iñiguez v. Ecuador (2007)
Community of Mayagna (Sumo) Awas Tingni v. Nicaragua (2000)
Family Barrios v. Venezuela (2011)
Five Pensioners v. Peru (2003)
Ivcher Bronstein v. Peru (1999)
Moiwana Community v. Suriname (2005)
Palamara Iribarne v. Chile (2005)
Perozo et al. v. Venezuela (2009)
Pueblo Saramaka v. Suriname (2007)
Salvador Chiriboga v. Ecuador (2008)
Sawhoyamaxa Indigenous Community v. Paraguay (2006)
Tibi v. Ecuador (2004)
Xakmok Kasek Indigenous Community v. Paraguay (2010)
Yakye Axa Indigenous Community v. Paraguay (2005)

Freedom of Movement and Residence

Chitay Nech et al. v. Guatemala (2010)
Family Barrios v. Venezuela (2011)
Fleury et al. v. Haiti (2011)
Massacre of Mapiripán v. Colombia (2005)
Moiwana Community v. Suriname (2005)

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Ricardo Canese v. Paraguay (2004)
Valle Jaramillo et al. v. Colombia (2008)

Political Rights – Participation in Government

Apitz Barbera et al. “First Contentious Administrative Court”) v. Venezuela (2008)
Carpio Nicolle et al. v. Guatemala (2004)
Castañeda Gutman v. Mexico (2008)
Chitay Nech et al. v. Guatemala (2010)
Escué Zapata v. Colombia (2007)
Huilca Tecse v. Peru (2005)
López Mendoza v. Venezuela (2011)
Manuel Cepeda Vargas v. Colombia (2010)
Reverón Trujillo v. Venezuela (2009)
Yatama v. Nicaragua (2005)
Yvon Neptune v. Haiti (2008)

Equal Protection and Non-Discrimination

Apitz Barbera et al. “First Contentious Administrative Court”) v. Venezuela (2008)
Atala Riffó and Daughters v. Chile (2012)
Fernández Ortega et al. v. Mexico (2010)
Yean and Bosic Children v. Dominican Republic (2005)

Judicial Protection and Effective Remedy

Abrill Alosilla et al. v. Peru (2011)
Acevedo Buendía et al. (“Discharged and Retired Employees of the Office of the Comptroller”) v. Peru (2009)
Acevedo Jaramillo et al. v. Peru (2006)
Albán Cornejo et al. v. Ecuador (2007)
Atala Riffó and Daughters v. Chile (2012)
Baena Ricardo v. Panama (1999)
Barbani Duarte et al. v. Uruguay (2011)
Barrios Altos v. Peru (2001)
Bayarri v. Argentina (2008)
Bueno Alves v. Argentina (2007)
Bulacio v. Argentina (2003)
Cabrera García and Montiel Flores v. Mexico (2010)
Caesar v. Trinidad and Tobago (2005)
Cantoral Benavides v. Peru (1998)
Cantos v. Argentina (2001)
Carpio Nicolle et al. v. Guatemala (2004)
Castañeda Gutman v. Mexico (2008)

THE DECISIONS AND JUDGMENTS OF THE INTER-AMERICAN SYSTEM

- Castillo Petrucci et al. v. Peru (1998)*
Cesti Hurtado v. Peru (1999)
Chocron Chocron v. Venezuela (2011)
Community of Mayagna (Sumo) Awas Tingni v. Nicaragua (2000)
Constitutional Tribunal v. Peru (1999)
Dacosta Cadogan v. Barbados (2009)
De la Cruz Flores v. Peru (2004)
Dismissed Congressional Employees (Aguado Alfaro et al.) v. Peru (2006)
Escher et al. v. Brazil (2009)
Family Barrios v. Venezuela (2011)
Fernández Ortega et al. v. Mexico (2010)
Five Pensioners v. Peru (2003)
Fleury et al. v. Haiti (2011)
García Asto and Ramírez Rojas v. Peru (2005)
García Prieto et al. v. El Salvador (2007)
Garibaldi v. Brazil (2009)
González et al. (“Cotton Field”) v. Mexico (2009)
Grande v. Argentina (2011)
Gutiérrez Soler v. Colombia (2005)
Hilaire v. Trinidad and Tobago (consolidated cases) (2001)
Ivcher Bronstein v. Peru (1999)
Juan Humberto Sánchez v. Honduras (2003)
Juvenile Reeducation Institute v. Paraguay (2004)
Kawas Fernández v. Honduras (2009)
López Mendoza v. Venezuela (2011)
Maritza Urrutia v. Guatemala (2003)
Mejía Idrovo v. Ecuador (2011)
Nogueira de Carvalho and Other v. Brazil (2006)
Perozo et al. v. Venezuela (2009)
Pueblo Saramaka v. Suriname (2007)
Reverón Trujillo v. Venezuela (2009)
Ríos et al. v. Venezuela (2009)
Rosendo Cantú et al. v. Mexico (2010)
Salvador Chiriboga v. Ecuador (2008)
Súarez Rosero v. Ecuador (1998)
Tibi v. Ecuador (2004)
Tristan Donoso v. Panama (2009)
Uson Ramírez v. Venezuela (2009)
Velez Loor v. Panama (2010)
Vera Vera et al. v. Ecuador (2011)
Xakmok Kasek indigenous Community v. Paraguay (2010)

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Yakye Axa Indigenous Community v. Paraguay (2005)

Yatama v. Nicaragua (2005)

Yvon Neptune v. Haiti (2008)

See also, decisions on: extrajudicial execution, forced disappearance

Economic, Social and Cultural Rights

Acevedo Buendía et al. (“Discharged and Retired Employees of the Office of the Comptroller”) v. Peru (2009)

Pueblo Saramaka v. Suriname (2007)

Sawhoyamaxa Indigenous Community v. Paraguay (2006)

Suspension of Guarantees

Caracazo v. Venezuela (1999)

Zambrano Vélez et al. v. Ecuador (2007)

Published Merits Reports, by State : 2001- 2011

Argentina

- 2011 *Juan Jose Lopez, Case 11.395*
- 2009 *Josefina Ghiringhelli de Margaroli and Eolo Margaroli, Case 11.400*
- 2009 *Horacio Anibal Schillizzi Moreno, Case 11.732*

Bahamas

- 2007 *Chad Roger Goodman, Case 12.265*
- 2007 *Prince Pinder, Case 12.513*
- 2001 *Michael Edwards, Case 12.067; and others*

Belize

- 2004 *Maya Indigenous Communities of the Toledo District, Case 12.053*

Brazil

- 2010 *Manoel Leal de Oliveira, Case 12.308*
- 2009 *Secastiao Camargo Filho, Case 12.310*
- 2009 *Wallace de Almeida, Case 12.440*
- 2008 *Antonio Ferreira Braga, Case 12.019*
- 2006 *Simone Andre Diniz, Case 12.001*
- 2004 *Corumbiara Massacre, Case 11.556*
- 2004 *Jailton Neri Da Fonseca, Case 11.634*
- 2003 *42nd Police District, Parque Sao Lucas, Sao Paulo, Case 10.301*
- 2002 *Diniz Bento Da Silva, Case 11.517*

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- 2001 *Maria Da Penha Maia Fernandes, Case 12.051*
2001 *Aluisio Cavalcanti et al (and others), Case 11.286 and others*

Canada

- 2011 *John Doe, Case 12.586*
2008 *Grand Chier Michael Mitchell, Case 12.435*

Chile

- 2010 *Margarita Barberia Miranda, Case 12.469*
2009 *Ricardo Israel Zipper, Case 12.470*
2005 *Cristian Daniel Sahli Vera et al., Case 12.219*
2005 *Alejandra Marcela Matus Acuña et al., Case 12.142*
2001 *Samuel Alfonso Catalan Lincoleo, Case 11.771*

Colombia

- 2011 *James Zapata Valencia and Jose Heriberto Ramirez, Case 10.916*
2008 *Leydi Dayan Sanchez, Case 12.009*
2008 *Sergio Emilio Cadena Antolinez, Case 12.448*
2001 *Rio Frio Massacre, Case 11.654*
2001 *Carlos Manuel Prada Gonzalez and Evelio Antonio Bolaño Castro, Case 11.710*
2001 *Leonel de Jesus Isaza Echeverry and Others, Case 11.712*

Cuba

- 2006 *Oscar Elias Biscet et al., Case 12.476*
2006 *Lorenzo Enrique Copello Castillo et al., Case 12.477*

Ecuador

- 2009 *Nelson Ivan Serrano Saenz, Case 12.525*
2008 *Rafael Ignacio Cuesta Caputi, Case 12.487*
2001 *Dayra Maria Levoyer Jimenez, Case 11.992*

El Salvador

- 2009 *Jorge Odír Miranda Cortez, et al., Case 12.249*

Grenada

- 2002 *Paul Lallion, Case 11.765*
2002 *Benedict Jacob, Case 12.158*
2001 *Donnason Knights, Case 12.028*

Guatemala

- 2007 *Martin Pelico Coxic et al., Case 11.658*

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- 2006 *Tomas Lares Cipriano, Case 11.171*
- 2002 *Finca 'La Exacta', Case 11.382*
- 2001 *Maria Eugenia Morales de Sierra, Case 11.625*
- 2001 *Oscar Manuel Gramajo Lopez, Case 9207*
- 2001 *Ileana del Rosario Solares Castillo, Maria Ana Lopez Rodriguez and Luz Leticia Hernandez, Case 9111*
- 2001 *Remigio Domingo Morales and Rafael Sanchez, Case 10.626 and others*

Guyana

- 2007 *Daniel and Kornel Vaux, Case 12.504*
- 2006 *Franz Britton, Case 12,264*

Haiti

- 2002 *Guy Malary, Case 11.335*

Honduras

- 2005 *Ernst Otto Stalinski, Case 11.887*

Jamaica

- 2008 *Dudley Stokes, Case 12.468*
- 2006 *Derrick Tracey, Case 12,447*
- 2005 *Michael Gayle, Case 12.418*
- 2004 *Whitley Myrie, Case 12.417*
- 2002 *Denton Aitken, Case 12.275*
- 2002 *Dave Sewell, Case 12.347*
- 2001 *Joseph Thomas, Case 12.183*
- 2001 *Leroy Lamey, Case 11.826 and others*
- 2001 *Damion Thomas, Case 12.069*

Mexico

- 2009 *Alfonso Martin del Campo Dodd, Case 12.228*
- 2006 *Miguel Orlando Muñoz Guzman, Case 12.130*
- 2001 *Ana, Beatriz, and Celia Gonzalez Perez, Case 11.565*

Nicaragua

- 2001 *Milton Garcia Fajardo et al., Case 11.381*

Paraguay

- 2010 *Carlos Alberto Mojoli Vargas, Case 12.431*
- 2009 *Victor Hugo Maciel, Case 11.607*
- 2002 *Waldemar Geronimo Pinheiro and Jose Victor Dos Santos, Case 11.506*

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Peru

- 2009 National Association of Ex-Employees of the Peruvian Social Institute, et al., Case 12.670
2001 Extrajudicial Execution and Forced Disappearances of Persons, Case 10.247 and others

Trinidad and Tobago

- 2009 Dexter Lendore, Case 12,269

United States

- 2011 Jessica Lenahan (Gonzales) et al., Case 12.626
2011 Jeffrey Timothy Landrigan, Case 12.776
2010 Wayne Smith, Hugo Armendariz, et al., Case 12.562
2009 Medellin, Ramirez Cardenas and Leal Garcia, Case 12.644
2008 Andrea Mortlock, Case 12.534
2005 Roberto Moreno Ramos, Case 12.430
2005 Toronto Markkey Patterson, Case 12.439
2005 Javier Suarez Medina, Case 12.421
2003 Gary T. Graham, now known as Shaka Sankofa, Case 11.193
2003 Statehood Solidarity Committee, Case 11.204
2003 Cesar Fierro, Case 11.331
2003 Douglas Christopher Thomas, Case 12.240
2003 Napoleon Beazley, Case 12.412
2002 Ramon Martinez Villareal, No 11.753
2002 Mary and Carrie Dann, Case 11.140
2002 Michael Domingues, Case 12.285
2001 Rafael Ferrer-Mazorra et al., Case 9903
2001 Juan Raul Garza, Case 12.243

Uruguay

- 2006 Tomas Eduardo Cirio, Case 11.500
2009 Jorge, Jose and Dante Peirano Basso, Case 12,553

CHAPTER THREE

Sources of International Human Rights Obligations

As in other areas of the law, research and analysis of international human rights law involves identifying the primary and secondary sources of law and interpretation relevant to a specific issue.

Primary Sources

Primary sources of public international law are those that are directly applicable to the situation at issue. These include: treaties and other legal instruments in force with the relevant state, customary law, and general principles of law.¹¹¹

Protection of a specific right or freedom may become customary law when an established practice

Primary Sources of Law

- Treaties and other legal instruments
- Customary law
- General principles

develops among states, based on their belief that they are obligated to respect that right.¹¹² The United Nations Human Rights Committee has identified a number of human rights as the subjects of customary international obligations.¹¹³ The existence of a customary norm can be shown

through treaties, domestic and supranational court decisions, national legislation, and the practices of international organizations, among other sources.¹¹⁴

In addition, some human rights violations – including torture, slavery and mass violations that rise to the level of genocide – are prohibited by *jus cogens*, non-derogable peremptory norms binding on all states. Thus, even where the relevant state is not party to a human rights treaty, advocates can draw on a range of sources in order to demonstrate that a particular practice is nonetheless prohibited by customary law or *jus cogens*.

General principles of law are the theories and principles applied by most major legal systems, particularly with regard to judicial process and the rights of parties to litigation.

¹¹¹ See, e.g., Statute of the International Court of Justice, art. 38(1).

¹¹² See, e.g., Public International Law in a Nutshell, pp. 22-23.

¹¹³ United Nations Human Rights Committee, General Comment 24 (1994). These include the prohibitions on slavery, torture and cruel, inhuman or degrading treatment, arbitrary deprivation of life, arbitrary detention, execution of pregnant women or children and laws permitting advocacy of national, racial or religious hatred, and also include the rights to freedom of thought, conscience and religion, presumption of innocence, marriage, and minority cultural rights. *Id.*, para. 8.

¹¹⁴ International Law Commission, Report of the International Law Commission to the General Assembly (Part II): Ways and Means of Making the Evidence of Customary International Law More Readily Available, [1950] 2 U.B. Int'l L. Comm'n 367, ILC Doc. A/1316, available at http://untreaty.un.org/ilc/texts/instruments/english/reports/1_4_1950.pdf.

Secondary Sources

Judicial decisions and analysis by reputable experts are subsidiary sources of interpretation courts may use to identify states' human rights obligations. These secondary sources include non-judicial statements, such as those of UN special rapporteurs, the Inter-American Commission on Human Rights, and the UN treaty bodies' general comments¹¹⁵ and concluding observations¹¹⁶. In addition, domestic courts' judgments and the statements of respected non-governmental organizations may be used as persuasive authority.

Secondary Sources of Interpretation

- Judicial decisions
- Expert analysis

Comparative analysis and reference to other system's interpretations are more common in the field of international human rights law than in other fields, partly because of the way in which public international law is made (including through state acceptance and custom). For example, the Inter-American Court of Human Rights considers the judgments of the European Court of Human Rights, in addition to the practices of states within the Americas.¹¹⁷ This cross-fertilization in the jurisprudence of regional and international human rights tribunals appears increasingly common, and benefits litigants and petitioners by broadening the body of caselaw on which they can draw.

Outside the courtroom, advocates enjoy greater latitude with respect to what decisions or other materials can be used as evidence of a state's obligation to respect a specific human right. Examples of domestic or international laws that are more protective than those in force in the relevant country can provide powerful counterpoints and provide impetus for change. And, non-legal arguments based on culture or morals may help build public support. However, an advocacy position may be more persuasive and better suited to monitoring and enforcement when it is founded on identified principles of international human rights law.

Researching International Law

Researching international human rights law can be complicated and time-consuming, mostly because the kinds of comprehensive, searchable databases lawyers use to identify other, domestic norms and jurisprudence do not exist in this area of the law. However, a number of free, publicly-accessible online databases allow users to search human rights bodies' doctrine. And, a good place to start for those researching international human rights law is often with journals, books and other publications

¹¹⁵ "General comments" are documents published by the United Nations treaty bodies, in which they examine the scope or meaning of specific provisions or theme of the treaty whose implementation they oversee. This analysis is of a general, rather than case-specific nature, and is meant to guide and develop understanding of State's obligations under the treaty.

¹¹⁶ "Concluding observations" are the United Nations treaty bodies' written responses, including observations and recommendations, to individual States' reports on their implementation of the treaty.

¹¹⁷ I/A Court H.R., Case of Bayarri v. Argentina. Preliminary Objection, Merits, Reparations and Costs. Judgment of October 30, 2008. Series C No. 187.

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that can provide an overview of the topic and lead to discovery of additional primary and secondary sources.

The resources listed below include databases containing regional and international treaties, the decisions of many or all supranational human rights bodies, the decisions of individual bodies, and country-specific information. The relevant treaties and decisions can also be found on each regional or international body's website.

BOOKS, TREATISES AND ARTICLES

Scholars have published thousands of articles and conference papers on [human rights topics](#), which are available for download on the Social Science Research Network ([SSRN](#)).

[JSTOR](#) is a database of thousands of academic journals, including 85 on legal topics. Access to full articles often requires a subscription or one-time payment.

The [Harvard Human Rights Journal](#) provides free access to all content.

The Washington College of Law's [Human Rights Brief](#) is an international human rights and humanitarian law journal and is available free online.

The [Human Rights Law Review](#) provides free access to select articles on its website and occasionally provides free access to a [sample issue](#).

[HuriSearch](#) allows users to search over 5,000 human rights web sites (principally NGOs, national human rights institutions, and IGOs) simultaneously for press releases, policy statements, state reports and commentary.

Use Google books' [Advanced Book Search](#) to find digitized books on human rights topics.

TREATIES AND LEGISLATION

The [United Nations Treaty Collection](#)¹¹⁸ contains the texts of all major multilateral treaties entered into by UN Member States and deposited with the Secretary General of the United Nations, as well as the relevant ratifications and declarations. The database is [searchable](#)¹¹⁹ by treaty title, popular name, keyword, Member State, and action (such as signature, entry into force or withdrawal of declaration).

The UN High Commissioner for Human Rights provides a [list of the all major international human rights treaties](#), with links.¹²⁰

¹¹⁸ <http://treaties.un.org/Pages/Home.aspx?lang=en>

¹¹⁹ <http://treaties.un.org/Pages/UNTSOnline.aspx?id=1>

¹²⁰ <http://www2.ohchr.org/english/law/index.htm>

The International Committee of the Red Cross maintains a searchable database of treaties on [international humanitarian law](#).¹²¹

In addition, the instruments relevant to each **regional human rights system** can be found on the websites of the following bodies:

- [Inter-American Commission on Human Rights](#)¹²² and the [Inter-American Court of Human Rights](#)¹²³
- [European Court of Human Rights](#)¹²⁴ and [European Committee of Social Rights](#)¹²⁵
- [Organization for Security and Co-operation in Europe](#)¹²⁶
- [African Commission on Human and Peoples' Rights](#)¹²⁷ and the [African Court on Human and Peoples' Rights](#)¹²⁸
- see also, the [Arab Charter on Human Rights](#)¹²⁹

CASELAW DATABASES

- [World Courts](#)¹³⁰ is a searchable database of international judicial and quasi-judicial bodies' decisions in individual cases, including the regional human rights commissions and courts, the United Nations treaty bodies, and international (and internationalized) criminal tribunals.
- The [Netherlands Institute of Human Rights](#)¹³¹ (SIM) manages a searchable database of decisions of the **UN treaty bodies, European Court of Human Rights, ICTR and ICTY**, as well as of UN treaty body comments and general comments.
- The **University of Minnesota's Human Rights Library**¹³² houses a wealth of domestic and international materials on human rights, including legislation, secondary sources, and country condition research tools. See the principal [search page](#).¹³³ It is perhaps most useful for searching

¹²¹ <http://www.icrc.org/ihl>

¹²² <http://www.cidh.oas.org/Basicos/English/Basic.TOC.htm>

¹²³ <http://www.corteidh.or.cr/sistemas.cfm?id=2>

¹²⁴ <http://www.echr.coe.int/ECHR/>

¹²⁵ http://www.coe.int/t/dghl/monitoring/socialcharter/ecsr/ecsrdefault_EN.asp

¹²⁶ <http://www.osce.org/library/>

¹²⁷ <http://www.achpr.org/instruments/>

¹²⁸ <http://www.african-court.org/en/index.php/documents-legal-instruments>

¹²⁹ <http://www1.umn.edu/humanrts/instree/loas2005.html>

¹³⁰ <http://worldcourts.com/>

¹³¹ <http://sim.law.uu.nl/SIM/Dochome.nsf>

¹³² <http://hrlibrary.ngo.ru/index.html>

¹³³ <http://humanrights.law.monash.edu.au/google/localssearch.html>

the [decisions of the regional human rights tribunals](#)¹³⁴ and [international criminal tribunals](#), but also contains decisions from the [UN treaty bodies](#). Users can search within the UM Human Rights Library and 14 [external sites](#)¹³⁵ at the same time, for any document, by keyword. The database seems to be updated through 2010.

- [WorldLII](#),¹³⁶ the [World Legal Information Institute](#), is a collection of smaller databases containing case law, legislation, treaties, reports and articles from [international courts and the domestic courts of more than 20 countries](#). Search the [international law library](#)¹³⁷ for international (and not domestic) documents, or the [international courts and tribunals library](#)¹³⁸ for international jurisprudence. The focus of WorldLII and the subsidiary country and regional LII bases is weighted toward current and former [Commonwealth](#) countries and the Pacific region, presumably due to the Australian origins of the facility. The list of information available (e.g. jurisprudence of the Constitutional Court of Indonesia from 2006 onward is listed on the site.¹³⁹
- Use the **region- and country-specific LII databases** if looking only for documents pertaining to a particular country or region because the search results are sometimes more accurate when the relevant LII database is used. These databases cover: [Asia](#), [Australia](#), [Canada](#), the [Commonwealth countries](#), [Hong Kong](#), [Ireland](#), [New Zealand](#), [the Pacific Islands](#), [the Philippines](#), [Southern Africa](#), [Uganda](#), [United Kingdom and Ireland](#), and the [United States](#).
- [INTERIGHTS' Commonwealth and International Human Rights Law Databases](#)¹⁴⁰ provide summaries of significant judicial decisions from Commonwealth jurisdictions and international human rights tribunals, searchable by keyword.
- [ESCR-Net](#) is a searchable database of domestic and international jurisprudence relevant to **economic, social and cultural rights**.
- [Bayefsky.com](#) contains a limited database of **UN treaty body** decision excerpts and comment summaries, arranged by state, category or subject matter.

¹³⁴ <http://www.google.com/cse?cx=010639091889682836221:6ucikbmpyo0&ie=UTF-8&q=#gsc.tab=0>

¹³⁵ <http://humanrights.law.monash.edu.au/searchgoogle.htm>

¹³⁶ <http://www.worldlii.org/>

¹³⁷ <http://www.worldlii.org/int/special/ihl/>

¹³⁸ <http://www.worldlii.org/int/cases/>

¹³⁹ <http://www.worldlii.org/databases.html>

¹⁴⁰ <http://www.interights.org/commonwealth-and-international-law-database/index.html>

- The [Universal Human Rights Index of United Nations Documents](#) provides a database of UN treaty body and rapporteurs' observations and recommendations, searchable by country, right or body.
- The [UN High Commissioner on Human Rights website](#) lists all the UN treaty bodies' [General Comments](#), providing non-case specific interpretation of treaty provisions.
- [UNHCR's Refworld](#) contains an online database of international and domestic judicial decisions and other documents relevant to **refugee and asylum law**.
- The [University of Michigan Law School's Refugee Caselaw Site](#) provides a searchable database of asylum-related decisions from the highest courts of 33 countries.
- The [Global Legal Information Network \(GLIN\)](#) site is most useful for finding **domestic legislation**, through its searchable database of domestic and international jurisprudence and law made available by the following states and organizations: the Arab League, Brazil, Cameroon, Canada, Cape Verde, Democratic Republic of the Congo, Costa Rica, El Salvador, Gabon, Guatemala, Honduras, Indonesia, Justice Studies Center of the Americas, South Korea, Kuwait, Mali, Mauritania, Mexico, Nicaragua, Organization of American States, Panama, Paraguay, Peru, Philippines, Portugal, Qatar, Spain, Taiwan, Tunisia, United Kingdom, United States, and the United States Institute of Peace/ International Network to Promote Rule of Law (USIP/INPROL).

CHAPTER FOUR

The Purposes of Documentation

The term documentation, as used here, refers to the gathering of facts, physical evidence, official records, written and oral statements, expert analysis, and other types of information. Through documentation, advocates can both ascertain and demonstrate the existence of a governmental practice or policy that infringes on an individual's or a community's human rights. This tool is integral to successful advocacy before the Inter-American System – whether in the context of a petition, thematic hearing, or meeting with a rapporteur – and can also be highly useful in domestic advocacy.

Documentation can be used to help: further civil or criminal legal action against those responsible for a human rights violation, tell the stories of individual victims, clarify the scope or impact of a perceived human rights violation, identify patterns and phenomena that may not otherwise be clear, hold the State accountable before an international monitoring body, demonstrate the need for new or revised legislation, and increase support for reform by elected officials and the public. However, advocates must know from the outset what their specific goal is in creating and implementing a documentation strategy. The kind of evidence sought and the ways in which it is collected will likely vary according to its planned use. This chapter focuses on documentation for the purposes of engagement with the Inter-American System.

Reporting on Thematic Issues and Country Conditions

The Commission's thematic hearings, published reports on specific topics or countries, and on-site visits by rapporteurs are valuable opportunities to inform the commissioners about specific human rights problems. In these circumstances, advocates can use documentation strategies to present a clear and compelling picture of conditions on the ground. Advocates should take advantage of the greater flexibility and creativity allowed by these forms of engagement, where there are no formal standards of proof but where the credibility of sources remains a foremost consideration.

For example, highlighting individual stories can be a powerful way to help the Commission understand the local, human impact of a widespread problem. Statistical evidence can be useful in illustrating the impact or scope of a particular practice or policy, in terms of the number of people affected or the gravity of the violation. Similarly, statistical information and anecdotal evidence can be used to demonstrate the existence of a pattern or practice that may not be obvious otherwise.

Documentation to Support a Petition

The kind of documentation useful to support a petition to the Inter-American Commission on Human Rights depends on the nature of the alleged violation, the number of victims, and the reparations sought. For example, if the petition concerns an alleged violation of due process in a criminal prosecution, the most relevant pieces of evidence will probably include the trial transcript, any briefs or motions submitted by the victim, the court's orders and judgments, and other pieces of the case file, along with the domestic laws and constitutional provisions applicable to the case. If, however, the petition alleges a pattern of discriminatory arrests by local police or environmental

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contamination, the documentation necessary to demonstrate the existence of these violations will be very different.

To the extent possible, petitioners should generally collect and submit information to demonstrate:

- the **identity** of the victim(s)
- the occurrence of an alleged **human rights violation**
- the government agent, agency or other **State entity responsible** for the violation, through its action, acquiescence or omission
- the **timing and location** of the alleged violation
- the **impact** of that violation on the victim(s)
- **exhaustion** of domestic remedies, including all appeals and appellate decisions,
- or the inadequacy, insufficiency or unavailability of domestic remedies
- and, the **timeliness** of the petition.

In order to prepare a documentation strategy, advocates should ask the following questions:

- ✓ What facts will the petitioner need to allege, and provide proof of, in order to show that the existence of a specific human rights violation?
- ✓ What facts will the petitioner need to allege, and provide proof of, in order to show that the State is responsible for the alleged violation?
- ✓ Which of these facts are known (e.g., the name of a victim of enforced disappearance) and which are unknown (e.g., the whereabouts of the victim)?
- ✓ What documents, witness accounts, records, or studies are likely to provide support for the victim's allegations?
- ✓ What documents or records can be used to demonstrate that the victim has met the admissibility requirements of exhaustion of domestic remedies and timeliness?
- ✓ What person, company, or government body possesses or has access to this information?
- ✓ How long will it take to obtain each piece of information or document? Is there a fee or other cost associated?
- ✓ Will the petitioner need to keep the source(s) of information confidential? Will witnesses or others be at risk if their identity is made public?
- ✓ If the preferred sources are unavailable, what alternative sources could be used?

Meeting the Burden of Proof

The Inter-American Commission on Human Rights and Inter-American Court of Human Rights interpret the law according to the *pro homine* principle, which requires the interpretation most favorable to the protection of human rights. The Inter-American bodies also apply standards of evidence and proof that are more flexible and informal than in domestic judicial proceedings. Nonetheless, in general, the petitioner bears the burden of proving the allegations made in his or her petition. This means that the petitioner must present convincing evidence of the alleged violation(s) and of his or her compliance with the procedural requirements.

However, the burden of proof will shift to the State when:

- the State alleges that the victim failed to exhaust domestic remedies. However, if the State demonstrates the existence of unexhausted domestic remedies, the burden shifts back to the petitioner.
- the State's cooperation is required to obtain the evidence necessary to prove a violation or where the violation allegedly took place in State custody, and
- where the Inter-American doctrine establishes the *prima facie* existence of a violation based on specific criteria, such as where the victim experiences prolonged delay in a criminal trial.

Additionally, the Commission and Court will accept as true those allegations not contested by the State, provided that the allegations are not contradicted by the evidence.

Establishing the existence of a State **practice or pattern** of systemic violations can help the petitioners meet their burden of proof when there is insufficient evidence of a violation against a specific individual.

Organizing and Presenting the Evidence

Petitioners may be tempted to gather and submit as much information as possible to the Commission in support of a petition. However, it is important to: 1) thoughtfully identify the documents and other materials that provide evidence of the alleged violation, and 2) present the evidence in a clear and organized manner, so that the Commission can quickly and easily understand the allegations and how the evidence supports those allegations. The petition itself, along with any subsequent briefs or written submissions, should succinctly summarize the facts and legal arguments and include an itemized list of supporting documentation. If possible, consider using tabs to separate and identify each document. Petitioners should also label compact disks, tapes, and other materials.

DOCUMENTING HUMAN RIGHTS ABUSES AND COMPLAINTS

Important: Label every communication or piece of evidence submitted to the Commission or Court with the petition or case number and the petitioner or victim's name.

Adopting these practices will help ensure that the Executive Secretariat understands the allegations and can process the petition as quickly as possible, while also avoiding unnecessary use of the petitioner's and Commission's resources.

Submitting Evidence in a Hearing

Hearings before the Commission and Court provide a unique opportunity to present information that either cannot be submitted by other means or which is more compelling when presented in an in-person, public setting. These include: expert testimony, video footage of the affected area or victim(s), filmed interviews with the victim(s) or their family members, and slide presentations.

Types of Documentation

As noted above, the Commission and Court employ flexible standards for the acceptance and evaluation of evidence, and will consider indirect or circumstantial evidence, which means that petitioners are able to choose from a range of types of evidence, as necessary to support a petition. However, care should be taken to identify the sources most relevant to meeting the admissibility and merits requirements. It is also helpful to concisely explain the reasons why a preferred source of evidence may not be available to the petitioner and the alternate sources of evidence that are presented.

Community Opinion

As a preliminary step in trying to understand the scope of a problem or its impact on a particular community, it may be advisable to meet with members of that community and other interested stakeholders, even if they have not been directly affected by the alleged violation. Other organizations, advocates, community leaders, and private individuals may be able to provide a more complete picture of the relationships, history, and consequences involved. This type of outreach is particularly advisable when the petitioner or representative is not based in the same geographic area as the victim, or is unfamiliar with the context.

Victim and Witness Statements

The individuals directly and indirectly affected by an alleged violation are often able to provide detailed information about the facts and their consequences, as are other witnesses with first-hand experience of the events. Collecting information from these individuals is an important step in evaluating the veracity of the victim's claim and putting together a complete narrative. Victim and witness statements may be taken down as a letter, declaration, or affidavits, or in an audio or video recording. Before conducting the interview, the interviewer should know what kinds of questions he

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or she will ask and what information he or she is hoping to gain, based on what is known about the interviewee.

Particular care must be taken when interviewing victims and their family members, so as to: avoid inflicting psychological or emotional harm, take into account their need for confidentiality or anonymity, and ensure that they give informed consent for the use of their statements. If a victim or witness is receiving threats or otherwise fears for their safety, the petitioner should advise him or her of the possibility of requesting precautionary measures.

A related, but equally important consideration when interacting with victims and their family members is to establish clear, mutually-understood boundaries and expectations. The victim must understand the nature of his or her relationship with the petitioner, what assistance and advice the petitioner is willing and able to provide, and what outcomes the victim should expect. In the context of a petition before the Inter-American Commission, this means reaching an agreement as to whether the petitioner will represent the victim only before the Commission or also in domestic proceedings and whether the petitioner will engage in any other advocacy or outreach related to the substance of the petition. The petitioner should also advise the victim regarding the stages and length of proceedings before the Inter-American System, the possible outcomes of a petition, and the kinds of reparations that may be sought.

Government Records

If the victim or family members do not have copies of the records pertaining to the alleged violation or if additional documents are required, these can often be obtained from the relevant government body. Local, state or provincial, and national governments generally maintain records on their activities, decision making, expenditures, the individuals they serve or hold in custody, and investigations, among other topics. Subject to certain restrictions or limitations, many such records can be obtained through public records requests. These requests may carry a fee. In addition, the government body may not be able or willing to provide the records for several months' time. Before making a records request, petitioners may want to conduct an Internet search to determine whether the records are posted online and/or contact relevant non-governmental organizations or universities that may already have the desired information.

Expert Reports or Testimony

Expert reports and testimony can be useful for: drawing conclusions from physical evidence, substantiating a victim's claim of torture or psychological suffering, understanding scientific or mathematical data, illustrating the broader historical or sociological context surrounding an alleged violation, and explaining the domestic legal structure or policies. Universities and non-governmental organizations can be excellent sources for this kind of information. For example, the Fundación de Antropología Forense de Guatemala uses its specialized knowledge and equipment to exhume and

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document massacre sites, enabling the identification of victims and their causes of death. Through the organization Physicians for Human Rights, doctors apply their medical expertise to help verify and document instances of torture.

Statistical Accounts

Through government records or their own surveys, petitioners can collect statistical evidence about a government activity, the people it affects, and its scope and duration. This information can be useful as circumstantial or indirect evidence of a government practice or pattern, particularly where direct evidence linking the suspected practice to a particular victim is not available. Statistical information is also useful in the context of thematic hearings and engagement with the Commission's rapporteurs, in order to show the gravity of a specific human rights problem.

Photographs and Video and Audio Recordings

Photographs and recordings can be useful to help the Commission or Court understand or visualize important details of an alleged violation. For example, photographs can be used to support a claim of torture, to show the destruction of a family home, or to provide proof of deforestation. If a victim or witness is unable to travel to Washington, D.C. for a hearing before the Commission, a video could be used to present his or her statement.

ANNEX I

American Declaration of the Rights and Duties of Man

Adopted 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.

ANNEX I: INTER-AMERICAN HUMAN RIGHTS INSTRUMENTS

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 therefore.	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.

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<p>Article XII. Every person has the right to an education, which should be based on the principles of liberty, morality and human solidarity.</p> <p>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.</p> <p>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.</p> <p>Every person has the right to receive, free, at least a primary education.</p>	Right to education.
<p>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 that result from intellectual progress, especially scientific discoveries.</p> <p>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.</p>	Right to the benefits of culture.
<p>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.</p> <p>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.</p>	Right to work and to fair remuneration.
<p>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.</p>	Right to leisure time and to the use thereof.
<p>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.</p>	Right to social security.
<p>Article XVII. Every person has the right to be recognized everywhere as a person having rights and</p>	Right to recognition of juridical personality and civil rights.

ANNEX I: INTER-AMERICAN HUMAN RIGHTS INSTRUMENTS

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.

Right to a fair trial.

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.

Right to nationality.

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.

Right to vote and to participate in government.

Article XXI. Every person has the right to assemble peaceably with others in a formal public meeting or an informal gathering, in connection with matters of common interest of any nature.

Right of assembly.

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

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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.

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.

Article XXVIII. The rights of man are limited by the rights of others, by the security of all, and by the just demands of the general welfare and the advancement of democracy.

Right to due process of law.

Right of asylum.

Scope of the rights of man.

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,

Duty to serve the community and the nation.

ANNEX I: INTER-AMERICAN HUMAN RIGHTS INSTRUMENTS

and, in case of public disaster, to render such services as may be in his power.

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.

American Convention on Human Rights

Signed 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.

ANNEX I: INTER-AMERICAN HUMAN RIGHTS INSTRUMENTS

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:

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- 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;

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- 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.

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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

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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.

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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
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

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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

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

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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

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- 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

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- 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.

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- 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

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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

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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

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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.

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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.

ANNEX I: INTER-AMERICAN HUMAN RIGHTS INSTRUMENTS

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.

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.

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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.

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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.

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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.

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

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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.

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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.

ANNEX I: INTER-AMERICAN HUMAN RIGHTS INSTRUMENTS

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.

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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.

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.

Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women "Convention of Belém do Pará"

Adopted in Belém do Pará, Brazil, 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.

ANNEX I: INTER-AMERICAN HUMAN RIGHTS INSTRUMENTS

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;

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- 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

ANNEX I: INTER-AMERICAN HUMAN RIGHTS INSTRUMENTS

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

ANNEX I: INTER-AMERICAN HUMAN RIGHTS INSTRUMENTS

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 BELÉM DO PARÁ, BRAZIL, the ninth of June in the year one thousand nine hundred ninety-four.

ANNEX I: INTER-AMERICAN HUMAN RIGHTS INSTRUMENTS

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 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.

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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.

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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.

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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.

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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 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.

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- 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

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- 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.

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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.

Declaration of Principles on Freedom of Expression

Approved by the Inter-American Commission on Human Rights during its 108th regular period of sessions, held from October 2 to 20, 2000

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:

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PRINCIPLES

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.

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.

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.

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.

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.

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.

Prior conditioning of expressions, such as truthfulness, timeliness or impartiality, is incompatible with the right to freedom of expression recognized in international instruments.

Every social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential.

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.

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.

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.

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

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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.

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.

Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas

Approved by the Commission during its 131st regular period of sessions, held from March 3-14, 2008

The Inter-American Commission on Human Rights, under the auspices of its Rapporteurship on the Rights of Persons Deprived of Liberty,

CONSIDERING the value of human dignity and the fundamental rights and freedoms recognized by the inter-American system and by the other systems for international protection of human rights;

RECOGNIZING the fundamental right of all persons deprived of liberty to humane treatment, and to have their dignity, as well as their life, and their physical, mental, and moral integrity respected and ensured;

UNDERSCORING the importance of due legal process and its fundamental principles and guarantees for the effective protection of the rights of persons deprived of liberty, given their particular situation of vulnerability;

BEARING IN MIND that punishments consisting of deprivation of liberty shall have as an essential aim the reform, social readaptation and personal rehabilitation of those convicted; the reintegration into society and family life; as well as the protection of both the victims and society.

RECALLING that the Member States of the Organization of American States have committed to respecting and ensuring the rights of all persons deprived of liberty subject to their jurisdiction;

DULY TAKING INTO ACCOUNT the principles and provisions enshrined in the following international instruments: American Convention on Human Rights; Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights; Inter-American Convention to Prevent and Punish Torture; Inter-American Convention on Forced Disappearance of Persons; Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women; Inter-American Convention for the Elimination of all Forms of Discrimination against Persons with Disabilities; American Declaration of the Rights and Duties of Man; International Covenant on Civil and Political Rights; International Covenant on Economic, Social, and Cultural Rights; Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and its Optional Protocol; Convention on the Rights of the Child; Convention on the Elimination of All Forms of Discrimination against Women; International Convention for the Protection of All Persons from Enforced Disappearance; International Convention on the Protection of All Migrant Workers and Members of their Families; International Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Rights of Persons with Disabilities; Convention relating to the Status of Refugees; Convention Number 169 concerning Indigenous and Tribal Peoples in Independent Countries; Geneva Conventions of 12 August 1949, and their Additional Protocols of 1977; Universal Declaration of Human Rights; Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; Basic Principles for the Treatment of Prisoners; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care; Standard Minimum Rules for the Treatment of Prisoners; United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); United Nation Rules for the Protection of Juveniles Deprived of their Liberty; United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules); and in other international human rights instruments applicable in the Americas;

REAFFIRMING the decisions and the jurisprudence of the Inter-American System of Human Rights;

OBSERVING WITH CONCERN the critical situation of violence, overcrowding, and inhumane living conditions in several places of deprivation of liberty in the Americas; as well as the particular situation of vulnerability of persons with mental disabilities deprived of liberty in psychiatric hospitals and prisons; and the serious risks to children, women, and seniors confined to other public and private institutions, migrants, refugee or asylum

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seekers, stateless and undocumented persons, and persons deprived of liberty in the context of armed conflicts;

WITH A VIEW TO offering input to the process of drafting an Inter-American Declaration on the rights, duties, and care of persons under any form of detention or imprisonment by the Permanent Council, following the mandate requested through Resolution AG/RES 2283 (XXXVII-0/07);

ADOPTS the following PRINCIPLES AND BEST PRACTICES ON THE PROTECTION OF PERSONS DEPRIVED OF LIBERTY IN THE AMERICAS (OEA/Ser/L/V/II.131 doc. 26).

PRINCIPLES AND BEST PRACTICES ON THE PROTECTION OF PERSONS DEPRIVED OF LIBERTY IN THE AMERICAS

General Provision

For the purposes of the present document, “deprivation of liberty” means:

Any form of detention, imprisonment, institutionalization, or custody of a person in a public or private institution which that person is not permitted to leave at will, by order of or under de facto control of a judicial, administrative or any other authority, for reasons of humanitarian assistance, treatment, guardianship, protection, or because of crimes or legal offenses. This category of persons includes not only those deprived of their liberty because of crimes or infringements or non compliance with the law, whether they are accused or convicted, but also those persons who are under the custody and supervision of certain institutions, such as: psychiatric hospitals and other establishments for persons with physical, mental, or sensory disabilities; institutions for children and the elderly; centers for migrants, refugees, asylum or refugee status seekers, stateless and undocumented persons; and any other similar institution the purpose of which is to deprive persons of their liberty.

Given the breadth of the aforementioned concept, the following principles and best practices shall be invoked, according to each case, depending on whether the persons are deprived of liberty as a result of the perpetration of crimes or violations of the law, or for humanitarian and protective reasons.

GENERAL PRINCIPLES

Principle I

Humane treatment

All persons subject to the jurisdiction of any Member State of the Organization of American States shall be treated humanely, with unconditional respect for their inherent dignity, fundamental rights and guarantees, and strictly in accordance with international human rights instruments.

In particular, and taking into account the special position of the States as guarantors regarding persons deprived of liberty, their life and personal integrity shall be respected and ensured, and they shall be afforded minimum conditions compatible with their dignity.

They shall be protected from any kind of threats and acts of torture, execution, forced disappearance, cruel, inhuman, or degrading treatment or punishment, sexual violence, corporal punishment, collective punishment, forced intervention or coercive treatment, from any method intended to obliterate their personality or to diminish their physical or mental capacities.

Circumstances such as war, states of exception, emergency situations, internal political instability, or other national or international emergencies may not be invoked in order to evade the obligations imposed by international law to respect and ensure the right to humane treatment of all persons deprived of liberty.

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Principle II

Equality and non-discrimination

Every person deprived of liberty shall be equal before the law and be entitled to equal protection of the law and the tribunals. They shall also have the right to maintain their guarantees and exercise their fundamental rights, except for those rights which exercise is temporarily limited or restricted by law and for reasons inherent to their condition as persons deprived of liberty.

Under no circumstances shall persons deprived of liberty be discriminated against for reasons of race, ethnic origin, nationality, color, sex, age, language, religion, political or other opinion, national or social origin, economic status, birth, physical, mental, or sensory disability, gender, sexual orientation, or any other social condition. Therefore, any distinction, exclusion, or restriction that is either designed to or has the effect of undermining or impeding the recognition, enjoyment, or exercise of the internationally recognized rights of persons deprived of liberty, shall be prohibited.

Measures designed exclusively to protect the rights of women, particularly the rights of pregnant women and nursing mothers; of children; of the elderly; of those who are sick or suffering from infections such as HIV-AIDS; of persons with a physical, mental, or sensory disability; as well as of indigenous peoples, afro-descendants, and minorities shall not be considered discriminatory. These measures shall be applied in accordance with the law and international human rights law, and shall always be subject to review by a judge or other competent, independent, and impartial authority.

Persons deprived of liberty in the context of an armed conflict shall be afforded special protection and attention in conformity with the special juridical regimen established by the norms of international humanitarian law, complemented by the norms of international human rights law.

The measures and sanctions imposed on persons deprived of liberty shall be applied impartially, based on objective criteria.

Principle III

Personal liberty

1. Basic principle

Every person shall have the right to personal liberty and to be protected against any illegal or arbitrary deprivation of liberty. The law shall prohibit, in all circumstances, incommunicado detention of persons and secret deprivation of liberty since they constitute cruel and inhuman treatment. Persons shall only be deprived of liberty in officially recognized places of deprivation of liberty.

As a general rule, the deprivation of liberty of persons shall be applied for the minimum necessary period.

Deprivation of liberty of children shall be applied as a measure of last resort and for the minimum necessary period, and shall be limited to strictly exceptional cases.

In imposing penalties laid down by general law on members of indigenous peoples preference shall be given to methods of punishment other than confinement in prison, in conformity with their customs or customary laws, where these are compatible with the legal system in force.

2. Exceptional use of preventive deprivation of liberty

The law shall ensure that personal liberty is the general rule in judicial and administrative procedures, and that preventive deprivation of liberty is applied as an exception, in accordance with international human rights instruments.

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In the context of criminal proceedings, there shall be sufficient evidentiary elements that associate the accused with the facts of the case, in order to justify an order of preventive deprivation of liberty. The foregoing is a demand or a condition sine qua non for imposing any precautionary measure; nevertheless, after a certain lapse of time it no longer suffices.

Preventive deprivation of liberty is a precautionary measure, not a punitive one, which shall additionally comply with the principles of legality, the presumption of innocence, need, and proportionality, to the extent strictly necessary in a democratic society. It shall only be applied within the strictly necessary limits to ensure that the person will not impede the efficient development of the investigations nor will evade justice, provided that the competent authority examines the facts and demonstrates that the aforesaid requirements have been met in the concrete case.

3. Special measures for persons with mental disabilities

The health systems of the Member States of the Organization of American States shall apply in conformity with the law a series of measures in favor of persons with mental disabilities, with a view to gradually de-institutionalizing these people, and organizing alternative service models that facilitate the achievement of objectives that are compatible with an integrated, continuing, preventative, participatory, and community-based psychiatric care and health system, and in this way avoid unnecessary deprivation of liberty in hospitals or other institutions. The deprivation of liberty of a person in a psychiatric hospital or other similar institution shall be applied as a measure of last resort, and solely when there is serious likelihood of immediate or imminent harm to that person or to others. The mere existence of a disability shall in no case justify a deprivation of liberty.

4. Alternative or substitute measures for deprivation of liberty

The Member States of the Organization of American States shall establish by law a series of alternative or substitute measures for deprivation of liberty, duly taking into account the international human rights standards on the topic.

When applying alternative or substitute measures for deprivation of liberty, Member States shall promote the participation of society and the family in such a way as to complement the intervention by the State, and shall also provide the necessary and appropriate resources to ensure their availability and effectiveness.

Principle IV **Principle of legality**

No one shall be deprived of his or her physical liberty except for the reasons and under the conditions established beforehand by domestic law, and in accordance with the provisions of international human rights law. Orders of deprivation of liberty shall be duly reasoned and issued by the competent authority.

The judicial or administrative orders and resolutions that are capable of affecting, limiting, or restricting the rights and guarantees of persons deprived of liberty, shall conform to domestic and international law. Administrative authorities may neither alter the rights and guarantees enshrined in international law, nor limit nor restrict them any further than expressly allowed.

Principle V **Due process of law**

Every person deprived of liberty shall, at all times and in all circumstances, have the right to the protection of and regular access to competent, independent, and impartial judges and tribunals, previously established by law.

Persons deprived of liberty shall have the right to be promptly informed in a language they understand of the reasons for their deprivation of liberty and of the charges against them, as well as to be informed of their rights

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and guarantees; to have access to a translator or interpreter during the proceedings; and to communicate with their family. They shall have the right to a hearing and a trial, with due guarantees and within a reasonable time, by a judge, authority or official who is legally authorized to exercise judicial functions, or to be released without prejudice to the continuation of the proceedings; to appeal the judgment to a higher judge or court; and to not be subjected to a new trial for the same cause, if they have been acquitted by a nonappealable judgment in conformity with due process of law and international human rights law.

Three criteria shall be taken into consideration when determining if a judicial proceeding complied with the reasonable time requirement: the complexity of the case; the conduct of the applicant; and the conduct of the relevant authorities.

All persons deprived of liberty shall have the right to a defense and to legal counsel, named by themselves, their family, or provided by the State; they shall have the right to communicate privately with their counsel, without interference or censorship, without delays or unjustified time limits, from the time of their capture or arrest and necessarily before their first declaration before the competent authority.

All persons deprived of liberty shall have the right, exercised by themselves or by others, to present a simple, prompt, and effective recourse before the competent, independent, and impartial authorities, against acts or omissions that violate or threaten to violate their human rights. In particular, persons deprived of liberty shall have the right to lodge complaints or claims about acts of torture, prison violence, corporal punishment, cruel, inhuman, or degrading treatment or punishment, as well as concerning prison or internment conditions, the lack of appropriate medical or psychological care, and of adequate food.

Persons deprived of liberty shall not be compelled to be a witness against themselves or to plead guilty. Statements obtained through torture or cruel, inhuman, or degrading treatment shall not be admissible as evidence in a legal proceeding except in a legal action against a person or persons accused of having committed such acts, and only as evidence that those statements were obtained through such means.

If found guilty, the punishments or sanctions that were applicable at the time of the commission of the crime or legal infraction shall be applied, unless subsequent law establishes a lesser punishment or sanction, in which case the law that is most favorable to the person shall be applied.

Death penalty sentences shall meet the principles, restrictions, and prohibitions established in international human rights law. In all circumstances, they shall have the right to request commutation of punishment.

Persons deprived of liberty in a Member State of the Organization of American States of which they are not nationals, shall be informed, without delay, and in any case before they make any statement to the competent authorities, of their right to consular or diplomatic assistance, and to request that consular or diplomatic authorities be notified of their deprivation of liberty immediately. Furthermore, they shall have the right to communicate with their diplomatic and consular authorities freely and in private.

Principle VI

Judicial control and supervision of punishments

Competent, independent, and impartial judges and tribunals shall be in charge of the periodic control of legality of acts of the public administration that affect, or could affect the rights, guarantees, or benefits to which persons deprived of liberty are entitled, as well as the periodic control of conditions of deprivation of liberty and supervision of the execution of, or compliance with, punishments.

Member States of the Organization of American States shall ensure the necessary resources to permit the establishment and effectiveness of judicial bodies of control and supervision of punishments, and shall provide the necessary resources for them to function adequately.

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Principle VII

Petition and response

Persons deprived of liberty shall have the right of individual and collective petition and the right to a response before judicial, administrative, or other authorities. This right may be exercised by third parties or organizations, in accordance with the law.

This right comprises, amongst others, the right to lodge petitions, claims, or complaints before the competent authorities, and to receive a prompt response within a reasonable time. It also comprises the right to opportunely request and receive information concerning their procedural status and the remaining time of deprivation of liberty, if applicable.

Persons deprived of liberty shall also have the right to lodge communications, petitions or complaints with the national human rights institutions; with the Inter-American Commission on Human Rights; and with the other competent international bodies, in conformity with the requirements established by domestic law and international law.

PRINCIPLES RELATED TO THE CONDITIONS OF DEPRIVATION OF LIBERTY

Principle VIII

Rights and restrictions

Persons deprived of liberty shall enjoy the same rights recognized to every other person by domestic law and international human rights law, except for those rights which exercise is temporarily limited or restricted by law and for reasons inherent to their condition as persons deprived of liberty.

Principle IX

Admission, registration, medical examination and transfers

1. Admission

The authorities responsible for places of deprivation of liberty shall refuse the admission of any person, unless this is authorized by a commitment order or an order of deprivation of liberty issued by a judicial, administrative, medical or other competent authority, in accordance with the requirements set out by law.

Upon admission, the persons deprived of their liberty shall be informed clearly and in a language they understand, either in writing, verbally, or by other means, of their rights, duties, and prohibitions in their place of deprivation of liberty.

2. Registration

The personal data of persons admitted to places of deprivation of liberty shall be recorded into an official register, which shall be made available to the person deprived of liberty, his or her representative, and the competent authorities. The register shall include, as a minimum the following information:

Personal information including, at least, the following: name, age, sex, nationality, address and name of parents, family members, legal representatives or defense counsel if applicable, or other relevant data of the persons deprived of liberty;

Information concerning the personal integrity and the state of health of the persons deprived of liberty;

Reason or grounds for the deprivation of liberty;

The authority that ordered or authorized the deprivation of liberty;

The authority that conducted the person deprived of liberty to the institution;

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The authority legally responsible for supervising the deprivation of liberty;

Time and date of admission and release;

Time and date of transfers to another place and the destination;

Identity of the authority who ordered the transfer and of the one who is responsible for it;

Inventory of personal effects; and

Signature of the persons deprived of liberty, or where this is impossible, an explanation about the reasons thereof.

3. Medical examination

All persons deprived of liberty shall be entitled to an impartial and confidential medical or psychological examination, carried out by idoneous medical personnel immediately following their admission to the place of imprisonment or commitment, in order to verify their state of physical or mental health and the existence of any mental or physical injury or damage; to ensure the diagnosis and treatment of any relevant health problem; or to investigate complaints of possible ill-treatment or torture.

The medical or psychological information shall be entered into the respective official register, and when necessary taking into account the gravity of the findings, it shall be immediately transmitted to the competent authority.

4. Transfers

The transfers of persons deprived of liberty shall be authorized and supervised by the competent authorities, who shall, in all circumstances, respect the dignity and fundamental rights of persons deprived of liberty, and shall take into account the need of persons to be deprived of liberty in places near their family, community, their defense counsel or legal representative, and the tribunal or other State body that may be in charge of their case.

The transfers shall not be carried out in order to punish, repress, or discriminate against persons deprived of liberty, their families or representatives; nor shall they be conducted under conditions that cause physical or mental suffering, are humiliating or facilitate public exhibition.

Principle X

Health

Persons deprived of liberty shall have the right to health, understood to mean the enjoyment of the highest possible level of physical, mental, and social well-being, including amongst other aspects, adequate medical, psychiatric, and dental care; permanent availability of suitable and impartial medical personnel; access to free and appropriate treatment and medication; implementation of programs for health education and promotion, immunization, prevention and treatment of infectious, endemic, and other diseases; and special measures to meet the particular health needs of persons deprived of liberty belonging to vulnerable or high risk groups, such as: the elderly, women, children, persons with disabilities, people living with HIV-AIDS, tuberculosis, and persons with terminal diseases. Treatment shall be based on scientific principles and apply the best practices.

The provision of health services shall, in all circumstances, respect the following principles: medical confidentiality; patient autonomy; and informed consent to medical treatment in the physician-patient relationship.

The State shall ensure that the health services provided in places of deprivation of liberty operate in close coordination with the public health system so that public health policies and practices are also applied in places of deprivation of liberty.

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Women and girls deprived of liberty shall be entitled to access to specialized medical care that corresponds to their physical and biological characteristics, and adequately meets their reproductive health needs. In particular, they shall have access to gynecological and pediatric care, before, during, and after giving birth, which shall not take place, as far as possible, inside the place of deprivation of liberty, but at hospitals or appropriate institutions. If a child is born in a place of deprivation of liberty, this fact shall not be mentioned in the birth certificate.

In women's or girls' institutions there shall be special accommodation, as well as adequate personnel and resources for pre-natal and post-natal care and treatment of women and girls.

Where children of parents deprived of their liberty are allowed to remain in the place of deprivation of liberty, the necessary provisions shall be made for a nursery staffed by qualified persons, and with the appropriate educational, pediatric, and nutritional services, in order to protect the best interest of the child.

Principle XI

Food and drinking water

1. Food

Persons deprived of liberty shall have the right to food in such a quantity, quality, and hygienic condition so as to ensure adequate and sufficient nutrition, with due consideration to their cultural and religious concerns, as well as to any special needs or diet determined by medical criteria. Such food shall be provided at regular intervals, and its suspension or restriction as a disciplinary measure shall be prohibited by law.

2. Drinking water

Every person deprived of liberty shall have access at all times to sufficient drinking water suitable for consumption. Its suspension or restriction as a disciplinary measure shall be prohibited by law.

Principle XII

Accommodation, hygiene, and clothing

1. Accommodation

Persons deprived of liberty shall have adequate floor space, daily exposure to natural light, appropriate ventilation and heating, according to the climatic conditions of their place of deprivation of liberty. They shall be provided with a separate bed, suitable bed clothing, and all other conditions that are indispensable for nocturnal rest. The installations shall take into account the special needs of the sick, persons with disabilities, children, pregnant women or breastfeeding mothers, and the elderly, amongst others.

2. Hygiene

Persons deprived of liberty shall have access to clean and sufficient sanitary installations that ensure their privacy and dignity. They shall also have access to basic personal hygiene products and water for bathing or shower, according to the climatic conditions.

Women and girls deprived of their liberty shall regularly be provided with those articles that are indispensable to the specific sanitary needs of their sex.

3. Clothing

The clothing to be used by persons deprived of liberty shall be sufficient and adequate to the climatic conditions, with due consideration to their cultural and religious identity. Such clothing shall never be degrading or humiliating.

Principle XIII

Education and cultural activities

Persons deprived of liberty shall have the right to education, which shall be accessible to all, without any discrimination, with due consideration to cultural diversity and special needs.

Primary or basic education shall be free for persons deprived of liberty, particularly for children, and for adults who have not received or completed the whole cycle of primary instruction.

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Member States of the Organization of American States shall promote, progressively and to the maximum of their available resources, secondary, technical, vocational, and higher education in places of deprivation of liberty, and shall make them accessible to all, on the basis of individual capacity and skills.

Member States shall ensure that educational services provided in places of deprivation of liberty operate in close coordination and integration with the public education system; and shall promote cooperation with society through the participation of civil associations, non-governmental organizations, and private educational institutions.

Places of deprivation of liberty shall have libraries with sufficient books, newspapers, and educational magazines, with the appropriate equipment and technology, according to available resources.

Persons deprived of liberty shall have the right to take part in cultural, sporting, and social activities, and shall have opportunities for healthy and constructive recreation. Member States shall encourage the participation of the family, the community, and non-governmental organizations in these activities, in order to promote the reform, social readaptation, and rehabilitation of persons deprived of liberty.

Principle XIV

Work

All persons deprived of liberty shall have the right to work, to have effective opportunities of work, and to receive a fair and equitable remuneration, in accordance with their physical and mental capacities, in order to promote the reform, rehabilitation and social readaptation of convicted persons, to stimulate and encourage the culture of work, and to combat idleness in places of deprivation of liberty. Such labor shall never be of an afflictive nature.

Member States of the Organization of American States shall apply all protective national and international standards applicable to child labor, particularly in order to prevent exploitative labor practices and to ensure the best interest of the child.

Member States shall promote, progressively and to the maximum of their available resources, vocational orientation and the development of projects of technical or professional training in places of deprivation of liberty. They shall also ensure the implementation of permanent, sufficient and suitable labor workshops while promoting the participation and the cooperation with society and private enterprises.

Principle XV

Freedom of conscience and religion

Persons deprived of liberty shall have the right to freedom of conscience and of religion, including the right to profess, manifest, practice, maintain or change their religion, in line with their beliefs; the right to participate in religious and spiritual activities and to practice traditional rites; as well as the right to receive visits from religious or spiritual representatives.

Religious and spiritual diversity and plurality shall be recognized in places of deprivation of liberty, subject to the limitations that are strictly necessary to protect the rights of others or public health or morals, and maintain public order, internal security, and discipline in places of deprivation of liberty, as well as subject to other limitations permitted by law and international human rights law.

Principle XVI

Freedom of expression, association and reunion

Persons deprived of liberty shall have the right to freedom of expression in their own language, association, and peaceful assembly, subject to the limitations that are strictly necessary in a democratic society to protect the rights of others or public health or morals, and maintain public order, internal security, and discipline in places of deprivation of liberty, as well as subject to other limitations permitted by law and international human rights law.

Principle XVII

Measures against overcrowding

The competent authority shall determine the maximum capacity of each place of deprivation of liberty according to international standards related to living conditions. Such information, as well as the actual ratio of occupation of each institution or center shall be public, accessible and regularly updated. The law shall establish the procedures through which persons deprived of liberty, their legal representatives or non-governmental organizations can individually or collectively dispute the data regarding the maximum capacity or the occupation ratio. In these procedures, the participation of independent experts shall be permitted.

The occupation of an institution over its maximum capacity shall be prohibited by law. In cases where such overcrowding results in human rights violations, it shall be considered cruel, inhuman or degrading treatment or punishment. The law shall establish remedies intended to immediately address any situation of overcrowding. The competent judicial authorities shall adopt adequate measures in the absence of an effective legal regulation.

Once overcrowding is observed, States shall investigate the reasons for such situation and determine the corresponding individual responsibilities of the authorities who authorized that situation. Moreover, States shall adopt measures to prevent the repetition of such situations. In both cases, the law shall establish the procedures through which persons deprived of liberty, their legal representatives or non-governmental organizations can participate in those procedures.

Principle XVIII

Contact with the outside world

Persons deprived of liberty shall have the right to receive and dispatch correspondence, subject to such limitations as are consistent with international law; and to maintain direct and personal contact through regular visits with members of their family, legal representatives, especially their parents, sons and daughters, and their respective partners.

They shall have the right to be informed about the news of the outside world through means of communication, or any other form of contact with the outside, in accordance with the law.

Principle XIX

Separation of categories

The different categories of persons deprived of freedom shall be kept in separate places of deprivation of liberty or in different sections within the same institution, taking account of their sex, age, the reason for their deprivation of liberty, the need to protect the life and integrity of persons deprived of liberty or personnel, special needs of attention, or other circumstances relating to internal security.

In particular, arrangements shall be made to separate men and women; children and adults; the elderly; accused and convicted; persons deprived of liberty for civil reasons and those deprived of liberty on criminal charges. In cases of deprivation of liberty of asylum or refugee status seekers, and in other similar cases, children shall not be separated from their parents. Asylum or refugee status seekers and persons deprived of liberty due to migration issues shall not be deprived of liberty in institutions designed to hold persons deprived of liberty on criminal charges.

Under no circumstances shall the separation of persons deprived of liberty based on categories be used to justify discrimination, the use of torture, cruel, inhuman, or degrading treatment or punishment, or the imposition of harsher or less adequate conditions on a particular group. The same criteria shall be observed during transfers of persons deprived of liberty.

ANNEX I: INTER-AMERICAN HUMAN RIGHTS INSTRUMENTS

PRINCIPLES RELATED TO THE SYSTEMS OF DEPRIVATION OF LIBERTY

Principle XX

Personnel of places of deprivation of liberty

The personnel responsible for the direction, custody, care, transfer, discipline and surveillance of persons deprived of liberty shall at all time and under any circumstances respect the human rights of persons deprived of liberty and of their families.

The personnel shall be carefully selected, taking into account their ethical and moral integrity, sensitivity to cultural diversity and to gender issues, professional capacity, personal suitability for the work, and sense of responsibility.

The personnel shall comprise suitable employees and officers, of both sexes, preferably with civil service and civilian status. As a general rule, members of the Police or Armed forces shall be prohibited from exercising direct custody of persons deprived of liberty, unless it is a police or military institution.

Places of deprivation of liberty for women, or the women's sections in mixed institutions shall be under the direction of female personnel. The custody and surveillance of women deprived of liberty shall be performed exclusively by female personnel, although staff with other capacities or skills, such as doctors, teachers, or administrative personnel may be male.

Sufficient and qualified personnel shall be available to ensure security, surveillance, and custody, as well as to attend to medical, psychological, educational, labor, and other needs.

The personnel of places of deprivation of liberty shall be provided with the necessary resources and equipment so as to allow them to perform their duties in suitable conditions, including fair and equitable remuneration, decent living conditions, and appropriate basic services.

The personnel of places of deprivation of liberty shall receive initial instruction and periodic specialized training, with an emphasis on the social nature of their work. Such instruction and training shall include, at least, education on human rights; on the rights, duties, and prohibitions in the exercise of their functions; and on national and international principles and rules regarding the use of force, firearms, and physical restraint. For these purposes, the Member States of the Organization of American States shall promote the creation and operation of specialized education and training programs with the participation and cooperation of social institutions and private enterprises.

Principle XXI

Bodily searches, inspection of installations and other measures

Whenever bodily searches, inspections of installations and organizational measures of places of deprivation of liberty are permitted by law, they shall comply with criteria of necessity, reasonableness and proportionality.

Bodily searches of persons deprived of liberty and visitors to places of deprivation of liberty shall be carried out under adequate sanitary conditions by qualified personnel of the same sex, and shall be compatible with human dignity and respect for fundamental rights. In line with the foregoing, Member States shall employ alternative means through technological equipment and procedures, or other appropriate methods.

Intrusive vaginal or anal searches shall be forbidden by law.

The inspections or searches in units or installations of places of deprivation of liberty shall be carried out by the competent authorities, in accordance with a properly established procedure and with respect for the rights of persons deprived of liberty.

Principle XXII

Disciplinary regime

1. Disciplinary sanctions

Disciplinary sanctions, and the disciplinary procedures adopted in places of deprivation of liberty shall be subject to judicial review and be previously established by law and shall not contravene the norms of international human rights law.

2. Due process of law

The imposition of disciplinary sanctions or measures and the supervision of their execution shall be the responsibility of competent authorities who shall act in all circumstances in accordance with the principles of due process of law, respecting the human rights and basic guarantees of persons deprived of liberty as enshrined in international human rights law.

3. Measures of solitary confinement

The law shall prohibit solitary confinement in punishment cells.

It shall be strictly forbidden to impose solitary confinement to pregnant women; mothers who are living with their children in the place of deprivation of liberty; and children deprived of liberty.

Solitary confinement shall only be permitted as a disposition of last resort and for a strictly limited time, when it is evident that it is necessary to ensure legitimate interests relating to the institution's internal security, and to protect fundamental rights, such as the right to life and integrity of persons deprived of liberty or the personnel.

In all cases, the disposition of solitary confinement shall be authorized by the competent authority and shall be subject to judicial control, since its prolonged, inappropriate or unnecessary use would amount to acts of torture, or cruel, inhuman, or degrading treatment or punishment.

In cases of involuntary seclusion of persons with mental disabilities it shall be ensured that the measure is authorized by a competent physician; carried out in accordance with officially approved procedures; recorded in the patient's individual medical record; and immediately notified to their family or legal representatives. Persons with mental disabilities who are secluded shall be under the care and supervision of qualified medical personnel.

4. Prohibition of collective sanctions

The imposition of collective punishments shall be prohibited by law.

5. Disciplinary competence

Persons deprived of liberty shall not be responsible for the execution of disciplinary measures, or for custody or surveillance activities, not excluding their right to take part in educational, religious, sporting, and other similar activities, with the participation of the community, non-governmental organizations, and other private institutions.

Principle XXIII

Measures to combat violence and emergency situations

1. Preventive measures

In accordance with international human rights law, appropriate and effective measures shall be adopted to prevent violence amongst persons deprived of liberty, or between persons deprived of liberty and the personnel.

In order to achieve that, the following measures shall be taken, amongst others:

- a. Separate the different categories of persons deprived of liberty in conformity with the criteria set down in the present document;
- b. Provide periodic and appropriate instruction and training for the personnel;

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- c. Increase the number of personnel in charge of internal security and surveillance, and set up continuous internal surveillance patterns;
- d. Effectively prevent the presence of weapons, drugs, alcohol, and other substances and objects forbidden by law, by means of regular searches and inspections, and by using technological and other appropriate methods, including searches to personnel;
- e. Set up early warning mechanisms to prevent crises or emergencies;
- f. Promote mediation and the peaceful resolution of internal conflicts;
- g. Prevent and combat all types of abuse of authority and corruption;
- h. Eradicate impunity by investigating and punishing all acts of violence and corruption in accordance with the law.

2. Criteria for the use of force and weapons

The personnel of places of deprivation of liberty shall not use force and other coercive means, save exceptionally and proportionally, in serious, urgent and necessary cases as a last resort after having previously exhausted all other options, and for the time and to the extent strictly necessary in order to ensure security, internal order, the protection of the fundamental rights of persons deprived of liberty, the personnel, or the visitors.

The personnel shall be forbidden to use firearms or other lethal weapons inside places of deprivation of liberty, except when strictly unavoidable in order to protect the lives of persons.

In all circumstances, the use of force and of firearms, or any other means used to counteract violence or emergencies, shall be subject to the supervision of the competent authority.

3. Investigation and punishment

Member States of the Organization of American States shall carry out serious, exhaustive, impartial, and prompt investigations in relation to all acts of violence or situations of emergency that have occurred in places of deprivation of liberty, with a view to uncovering the causes, identifying those responsible, and imposing the corresponding punishments on them.

States shall take appropriate measures and make every effort possible to prevent the recurrence of acts of violence or situations of emergency in places of deprivation of liberty.

Principle XXIV

Institutional Inspections

In accordance with national legislation and international law, regular visits and inspections of places of deprivation of liberty shall be conducted by national and international institutions and organizations, in order to ascertain, at any time and under any circumstance, the conditions of deprivation of liberty and the respect for human rights.

As a minimum, such inspections shall be carried out with full access to places of deprivation of liberty and their installations, access to the information and documentation relating to the institution and the persons deprived of liberty therein; and the possibility of conducting private and confidential interviews with persons deprived of liberty and personnel.

The mandate of the Inter-American Commission on Human Rights and its Rapporteurships, in particular the Rapporteurship on the Rights of Persons Deprived of Liberty, shall be respected in all circumstances, so that they may verify the respect for the dignity and the fundamental rights and guarantees of persons deprived of liberty in Member States of the Organization of American States.

These provisions shall not affect the obligations of States Parties to the four Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1997, nor the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

Principle XXV

Interpretation

In order to fully respect and ensure the fundamental rights and freedoms enshrined in the Inter-American system, Member States of the Organization of American States shall utilize extensive interpretation to human rights norms, so as to apply the most favorable clause to persons deprived of liberty.

Nothing in the present document shall be interpreted as precluding, suspending or restricting the rights and guarantees of persons deprived of liberty recognized by virtue of domestic or international law, under the pretext that they are recognized to a lesser extent or are not provided for herein.

ANNEX II

Charter of the Organization of American States

Signed in Bogotá in 1948

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

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- 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

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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

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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

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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.

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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.

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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.

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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

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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.

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PART TWO

Chapter VIII THE ORGANS

Article 53

The Organization of American States accomplishes its purposes by means of:

- a) The General Assembly;
- b) The Meeting of Consultation of Ministers of Foreign Affairs;
- c) The Councils;
- d) The Inter-American Juridical Committee;
- e) The Inter-American Commission on Human Rights;
- f) The General Secretariat;
- g) The Specialized Conferences; and
- h) The Specialized Organizations.

There may be established, in addition to those provided for in the Charter and in accordance with the provisions thereof, such subsidiary organs, agencies, and other entities as are considered necessary.

Chapter IX THE GENERAL ASSEMBLY

Article 54

The General Assembly is the supreme organ of the Organization of American States. It has as its principal powers, in addition to such others as are assigned to it by the Charter, the following:

- a) To decide the general action and policy of the Organization, determine the structure and functions of its organs, and consider any matter relating to friendly relations among the American States;
- b) To establish measures for coordinating the activities of the organs, agencies, and entities of the Organization among themselves, and such activities with those of the other institutions of the inter-American system;
- c) To strengthen and coordinate cooperation with the United Nations and its specialized agencies;
- d) To promote collaboration, especially in the economic, social, and cultural fields, with other international organizations whose purposes are similar to those of the Organization of American States;
- e) To approve the program-budget of the Organization and determine the quotas of the Member States;
- f) To consider the reports of the Meeting of Consultation of Ministers of Foreign Affairs and the observations and recommendations presented by the Permanent Council with regard to the reports that should be presented by the other organs and entities, in accordance with the provisions of Article 91.f, as well as the reports of any organ which may be required by the General Assembly itself;
- g) To adopt general standards to govern the operations of the General Secretariat; and

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- h) To adopt its own rules of procedure and, by a two-thirds vote, its agenda.
The General Assembly shall exercise its powers in accordance with the provisions of the Charter and of other inter-American treaties.

Article 55

The General Assembly shall establish the bases for fixing the quota that each Government is to contribute to the maintenance of the Organization, taking into account the ability to pay of the respective countries and their determination to contribute in an equitable manner. Decisions on budgetary matters require the approval of two thirds of the Member States.

Article 56

All Member States have the right to be represented in the General Assembly. Each State has the right to one vote.

Article 57

The General Assembly shall convene annually during the period determined by the rules of procedure and at a place selected in accordance with the principle of rotation. At each regular session the date and place of the next regular session shall be determined, in accordance with the rules of procedure.

If for any reason the General Assembly cannot be held at the place chosen, it shall meet at the General Secretariat, unless one of the Member States should make a timely offer of a site in its territory, in which case the Permanent Council of the Organization may agree that the General Assembly will meet in that place.

Article 58

In special circumstances and with the approval of two thirds of the Member States, the Permanent Council shall convoke a special session of the General Assembly.

Article 59

Decisions of the General Assembly shall be adopted by the affirmative vote of an absolute majority of the Member States, except in those cases that require a two-thirds vote as provided in the Charter or as may be provided by the General Assembly in its rules of procedure.

Article 60

There shall be a Preparatory Committee of the General Assembly, composed of representatives of all the Member States, which shall:

- a) Prepare the draft agenda of each session of the General Assembly;
- b) Review the proposed program-budget and the draft resolution on quotas, and present to the General Assembly a report thereon containing the recommendations it considers appropriate; and
- c) Carry out such other functions as the General Assembly may assign to it.

The draft agenda and the report shall, in due course, be transmitted to the Governments of the Member States.

Chapter X THE MEETING OF CONSULTATION OF MINISTERS OF FOREIGN AFFAIRS

Article 61

The Meeting of Consultation of Ministers of Foreign Affairs shall be held in order to consider problems of an urgent nature and of common interest to the American States, and to serve as the Organ of Consultation.

Article 62

Any Member State may request that a Meeting of Consultation be called. The request shall be addressed to the

ANNEX II: FOUNDATIONAL AND GOVERNING DOCUMENTS

Permanent Council of the Organization, which shall decide by an absolute majority whether a meeting should be held.

Article 63

The agenda and regulations of the Meeting of Consultation shall be prepared by the Permanent Council of the Organization and submitted to the Member States for consideration.

Article 64

If, for exceptional reasons, a Minister of Foreign Affairs is unable to attend the meeting, he shall be represented by a special delegate.

Article 65

In case of an armed attack on the territory of an American State or within the region of security delimited by the treaty in force, the Chairman of the Permanent Council shall without delay call a meeting of the Council to decide on the convocation of the Meeting of Consultation, without prejudice to the provisions of the Inter-American Treaty of Reciprocal Assistance with regard to the States Parties to that instrument.

Article 66

An Advisory Defense Committee shall be established to advise the Organ of Consultation on problems of military cooperation that may arise in connection with the application of existing special treaties on collective security.

Article 67

The Advisory Defense Committee shall be composed of the highest military authorities of the American States participating in the Meeting of Consultation. Under exceptional circumstances the Governments may appoint substitutes. Each State shall be entitled to one vote.

Article 68

The Advisory Defense Committee shall be convoked under the same conditions as the Organ of Consultation, when the latter deals with matters relating to defense against aggression.

Article 69

The Committee shall also meet when the General Assembly or the Meeting of Consultation or the Governments, by a two-thirds majority of the Member States, assign to it technical studies or reports on specific subjects.

Chapter XI THE COUNCILS OF THE ORGANIZATION Common Provisions

Article 70

The Permanent Council of the Organization and the Inter-American Council for Integral Development are directly responsible to the General Assembly, and each has the authority granted to it in the Charter and other inter-American instruments, as well as the functions assigned to it by the General Assembly and the Meeting of Consultation of Ministers of Foreign Affairs.

Article 71

All Member States have the right to be represented on each of the Councils. Each State has the right to one vote.

Article 72

The Councils may, within the limits of the Charter and other inter-American instruments, make

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recommendations on matters within their authority.

Article 73

The Councils, on matters within their respective competence, may present to the General Assembly studies and proposals, drafts of international instruments, and proposals on the holding of specialized conferences, on the creation, modification, or elimination of specialized organizations and other inter-American agencies, as well as on the coordination of their activities. The Councils may also present studies, proposals, and drafts of international instruments to the Specialized Conferences.

Article 74

Each Council may, in urgent cases, convoke Specialized Conferences on matters within its competence, after consulting with the Member States and without having to resort to the procedure provided for in Article 122.

Article 75

The Councils, to the extent of their ability, and with the cooperation of the General Secretariat, shall render to the Governments such specialized services as the latter may request.

Article 76

Each Council has the authority to require the other Council, as well as the subsidiary organs and agencies responsible to them, to provide it with information and advisory services on matters within their respective spheres of competence. The Councils may also request the same services from the other agencies of the inter-American system.

Article 77

With the prior approval of the General Assembly, the Councils may establish the subsidiary organs and the agencies that they consider advisable for the better performance of their duties. When the General Assembly is not in session, the aforesaid organs or agencies may be established provisionally by the corresponding Council. In constituting the membership of these bodies, the Councils, insofar as possible, shall follow the criteria of rotation and equitable geographic representation.

Article 78

The Councils may hold meetings in any Member State, when they find it advisable and with the prior consent of the Government concerned.

Article 79

Each Council shall prepare its own statutes and submit them to the General Assembly for approval. It shall approve its own rules of procedure and those of its subsidiary organs, agencies, and committees.

Chapter XII THE PERMANENT COUNCIL OF THE ORGANIZATION

Article 80

The Permanent Council of the Organization is composed of one representative of each Member State, especially appointed by the respective Government, with the rank of ambassador. Each Government may accredit an acting representative, as well as such alternates and advisers as it considers necessary.

Article 81

The office of Chairman of the Permanent Council shall be held by each of the representatives, in turn, following the alphabetic order in Spanish of the names of their respective countries. The office of Vice Chairman shall be filled in the same way, following reverse alphabetic order.

The Chairman and the Vice Chairman shall hold office for a term of not more than six months, which shall be determined by the statutes.

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Article 82

Within the limits of the Charter and of 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.

Article 83

The Permanent Council shall serve provisionally as the Organ of Consultation in conformity with the provisions of the special treaty on the subject.

Article 84

The Permanent Council shall keep vigilance over the maintenance of friendly relations among the Member States, and for that purpose shall effectively assist them in the peaceful settlement of their disputes, in accordance with the following provisions.

Article 85

In accordance with the provisions of this Charter, any party to a dispute in which none of the peaceful procedures provided for in the Charter is under way may resort to the Permanent Council to obtain its good offices. The Council, following the provisions of the preceding article, shall assist the parties and recommend the procedures it considers suitable for peaceful settlement of the dispute.

Article 86

In the exercise of its functions and with the consent of the parties to the dispute, the Permanent Council may establish ad hoc committees.

The ad hoc committees shall have the membership and the mandate that the Permanent Council agrees upon in each individual case, with the consent of the parties to the dispute.

Article 87

The Permanent Council may also, by such means as it deems advisable, investigate the facts in the dispute, and may do so in the territory of any of the parties, with the consent of the Government concerned.

Article 88

If the procedure for peaceful settlement of disputes recommended by the Permanent Council or suggested by the pertinent ad hoc committee under the terms of its mandate is not accepted by one of the parties, or one of the parties declares that the procedure has not settled the dispute, the Permanent Council shall so inform the General Assembly, without prejudice to its taking steps to secure agreement between the parties or to restore relations between them.

Article 89

The Permanent Council, in the exercise of these functions, shall take its decisions by an affirmative vote of two thirds of its Members, excluding the parties to the dispute, except for such decisions as the rules of procedure provide shall be adopted by a simple majority.

Article 90

In performing their functions with respect to the peaceful settlement of disputes, the Permanent Council and the respective ad hoc committee shall observe the provisions of the Charter and the principles and standards of international law, as well as take into account the existence of treaties in force between the parties.

Article 91

The Permanent Council shall also:

- a) Carry out those decisions of the General Assembly or of the Meeting of Consultation of Ministers of

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Foreign Affairs the implementation of which has not been assigned to any other body;

- b) Watch over the observance of the standards governing the operation of the General Secretariat and, when the General Assembly is not in session, adopt provisions of a regulatory nature that enable the General Secretariat to carry out its administrative functions;
- c) Act as the Preparatory Committee of the General Assembly, in accordance with the terms of Article 60 of the Charter, unless the General Assembly should decide otherwise;
- d) Prepare, at the request of the Member States and with the cooperation of the appropriate organs of the Organization, draft agreements to promote and facilitate cooperation between the Organization of American States and the United Nations or between the Organization and other American agencies of recognized international standing. These draft agreements shall be submitted to the General Assembly for approval;
- e) Submit recommendations to the General Assembly with regard to the functioning of the Organization and the coordination of its subsidiary organs, agencies, and committees;
- f) Consider the reports of the Inter-American Council for Integral Development, of the Inter-American Juridical Committee, of the Inter-American Commission on Human Rights, of the General Secretariat, of specialized agencies and conferences, and of other bodies and agencies, and present to the General Assembly any observations and recommendations it deems necessary; and
- g) Perform the other functions assigned to it in the Charter.

Article 92

The Permanent Council and the General Secretariat shall have the same seat.

Chapter XIII THE INTER-AMERICAN COUNCIL FOR INTEGRAL DEVELOPMENT

Article 93

The Inter-American Council for Integral Development is composed of one principal representative, of ministerial or equivalent rank, for each Member State, especially appointed by the respective Government.

In keeping with the provisions of the Charter, the Inter-American Council for Integral Development may establish the subsidiary bodies and the agencies that it considers advisable for the better performance of its duties.

Article 94

The purpose of the Inter-American Council for Integral Development is to promote cooperation among the American States for the purpose of achieving integral development and, in particular, helping to eliminate extreme poverty, in accordance with the standards of the Charter, especially those set forth in Chapter VII with respect to the economic, social, educational, cultural, scientific, and technological fields.

Article 95

In order to achieve its various goals, especially in the specific area of technical cooperation, the Inter-American Council for Integral Development shall:

- a) Formulate and recommend to the General Assembly a strategic plan which sets forth policies, programs, and courses of action in matters of cooperation for integral development, within the framework of the general policy and priorities defined by the General Assembly;
- b) Formulate guidelines for the preparation of the program-budget for technical cooperation and for the other activities of the Council;

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c) Promote, coordinate, and assign responsibility for the execution of development programs and projects to the subsidiary bodies and relevant organizations, on the basis of the priorities identified by the Member States, in areas such as:

- 1) Economic and social development, including trade, tourism, integration and the environment;
- 2) Improvement and extension of education to cover all levels, promotion of scientific and technological research, through technical cooperation, and support for cultural activities; and

3) Strengthening of the civic conscience of the American peoples, as one of the bases for the effective exercise of democracy and for the observance of the rights and duties of man.

These ends shall be furthered by sectoral participation mechanisms and other subsidiary bodies and organizations established by the Charter and by other General Assembly provisions;

d) Establish cooperative relations with the corresponding bodies of the United Nations and with other national and international agencies, especially with regard to coordination of inter-American technical cooperation programs;

e) Periodically evaluate cooperation activities for integral development, in terms of their performance in the implementation of policies, programs, and projects, in terms of their impact, effectiveness, efficiency, and use of resources, and in terms of the quality, *inter alia*, of the technical cooperation services provided; and report to the General Assembly.

Article 96

The Inter-American Council for Integral Development shall hold at least one meeting each year at the ministerial or equivalent level. It shall also have the right to convene meetings at the same level for the specialized or sectorial topics it considers relevant, within its province or sphere of competence. It shall also meet when convoked by the General Assembly or the Meeting of Consultation of Foreign Ministers, or on its own initiative, or for the cases envisaged in Article 37 of the Charter.

Article 97

The Inter-American Council for Integral Development shall have the nonpermanent specialized committees which it decides to establish and which are required for the proper performance of its functions. Those committees shall operate and shall be composed as stipulated in the Statutes of the Council.

Article 98

The execution and, if appropriate, the coordination, of approved projects shall be entrusted to the Executive Secretariat for Integral Development, which shall report on the results of that execution to the Council.

Chapter XIV THE INTER-AMERICAN JURIDICAL COMMITTEE

Article 99

The purpose of the Inter-American Juridical Committee is to serve the Organization as an advisory body on juridical matters; to promote the progressive development and the codification of international law; and to study juridical problems related to the integration of the developing countries of the Hemisphere and, insofar as may appear desirable, the possibility of attaining uniformity in their legislation.

Article 100

The Inter-American Juridical Committee shall undertake the studies and preparatory work assigned to it by the General Assembly, the Meeting of Consultation of Ministers of Foreign Affairs, or the Councils of the Organization. It may also, on its own initiative, undertake such studies and preparatory work as it considers

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advisable, and suggest the holding of specialized juridical conferences.

Article 101

The Inter-American Juridical Committee shall be composed of eleven jurists, nationals of Member States, elected by the General Assembly for a period of four years from panels of three candidates presented by Member States. In the election, a system shall be used that takes into account partial replacement of membership and, insofar as possible, equitable geographic representation. No two Members of the Committee may be nationals of the same State.

Vacancies that occur for reasons other than normal expiration of the terms of office of the Members of the Committee shall be filled by the Permanent Council of the Organization in accordance with the criteria set forth in the preceding paragraph.

Article 102

The Inter-American Juridical Committee represents all of the Member States of the Organization, and has the broadest possible technical autonomy.

Article 103

The Inter-American Juridical Committee shall establish cooperative relations with universities, institutes, and other teaching centers, as well as with national and international committees and entities devoted to study, research, teaching, or dissemination of information on juridical matters of international interest.

Article 104

The Inter-American Juridical Committee shall draft its statutes, which shall be submitted to the General Assembly for approval.

The Committee shall adopt its own rules of procedure.

Article 105

The seat of the Inter-American Juridical Committee shall be the city of Rio de Janeiro, but in special cases the Committee may meet at any other place that may be designated, after consultation with the Member State concerned.

Chapter XV THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

Article 106

There shall be 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.

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.

Chapter XVI THE GENERAL SECRETARIAT

Article 107

The General Secretariat is the central and permanent organ of the Organization of American States. It shall perform the functions assigned to it in the Charter, in other inter-American treaties and agreements, and by the General Assembly, and shall carry out the duties entrusted to it by the General Assembly, the Meeting of Consultation of Ministers of Foreign Affairs, or the Councils.

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Article 108

The Secretary General of the Organization shall be elected by the General Assembly for a five-year term and may not be reelected more than once or succeeded by a person of the same nationality. In the event that the office of Secretary General becomes vacant, the Assistant Secretary General shall assume his duties until the General Assembly shall elect a new Secretary General for a full term.

Article 109

The Secretary General shall direct the General Secretariat, be the legal representative thereof, and, notwithstanding the provisions of Article 91.b, be responsible to the General Assembly for the proper fulfillment of the obligations and functions of the General Secretariat.

Article 110

The Secretary General, or his representative, may participate with voice but without vote in all meetings of the Organization.

The Secretary General may bring to the attention of the General Assembly or the Permanent Council any matter which in his opinion might threaten the peace and security of the Hemisphere or the development of the Member States.

The authority to which the preceding paragraph refers shall be exercised in accordance with the present Charter.

Article 111

The General Secretariat shall promote economic, social, juridical, educational, scientific, and cultural relations among all the Member States of the Organization, with special emphasis on cooperation for the elimination of extreme poverty, in keeping with the actions and policies decided upon by the General Assembly and with the pertinent decisions of the Councils.

Article 112

The General Secretariat shall also perform the following functions:

- a) Transmit ex officio to the Member States notice of the convocation of the General Assembly, the Meeting of Consultation of Ministers of Foreign Affairs, the Inter-American Council for Integral Development, and the Specialized Conferences;
- b) Advise the other organs, when appropriate, in the preparation of agenda and rules of procedure;
- c) Prepare the proposed program-budget of the Organization on the basis of programs adopted by the Councils, agencies, and entities whose expenses should be included in the program-budget and, after consultation with the Councils or their permanent committees, submit it to the Preparatory Committee of the General Assembly and then to the Assembly itself;
- d) Provide, on a permanent basis, adequate secretariat services for the General Assembly and the other organs, and carry out their directives and assignments. To the extent of its ability, provide services for the other meetings of the Organization;
- e) Serve as custodian of the documents and archives of the inter-American Conferences, the General Assembly, the Meetings of Consultation of Ministers of Foreign Affairs, the Councils, and the Specialized Conferences;
- f) Serve as depository of inter-American treaties and agreements, as well as of the instruments of ratification thereof;

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- g) Submit to the General Assembly at each regular session an annual report on the activities of the Organization and its financial condition; and
- h) Establish relations of cooperation, in accordance with decisions reached by the General Assembly or the Councils, with the Specialized Organizations as well as other national and international organizations.

Article 113

The Secretary General shall:

- a) Establish such offices of the General Secretariat as are necessary to accomplish its purposes; and
- b) Determine the number of officers and employees of the General Secretariat, appoint them, regulate their powers and duties, and fix their remuneration.

The Secretary General shall exercise this authority in accordance with such general standards and budgetary provisions as may be established by the General Assembly.

Article 114

The Assistant Secretary General shall be elected by the General Assembly for a five-year term and may not be reelected more than once or succeeded by a person of the same nationality. In the event that the office of Assistant Secretary General becomes vacant, the Permanent Council shall elect a substitute to hold that office until the General Assembly shall elect a new Assistant Secretary General for a full term.

Article 115

The Assistant Secretary General shall be the Secretary of the Permanent Council. He shall serve as advisory officer to the Secretary General and shall act as his delegate in all matters that the Secretary General may entrust to him. During the temporary absence or disability of the Secretary General, the Assistant Secretary General shall perform his functions.

The Secretary General and the Assistant Secretary General shall be of different nationalities.

Article 116

The General Assembly, by a two-thirds vote of the Member States, may remove the Secretary General or the Assistant Secretary General, or both, whenever the proper functioning of the Organization so demands.

Article 117

The Secretary General shall appoint, with the approval of the Inter-American Council for Integral Development, an Executive Secretary for Integral Development.

Article 118

In the performance of their duties, the Secretary General and the personnel of the Secretariat shall not seek or receive instructions from any Government or from any authority outside the Organization, and shall refrain from any action that may be incompatible with their position as international officers responsible only to the Organization.

Article 119

The Member States pledge themselves to respect the exclusively international character of the responsibilities of the Secretary General and the personnel of the General Secretariat, and not to seek to influence them in the discharge of their duties.

Article 120

In selecting the personnel of the General Secretariat, first consideration shall be given to efficiency, competence, and integrity; but at the same time, in the recruitment of personnel of all ranks, importance shall be given to the necessity of obtaining as wide a geographic representation as possible.

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Article 121

The seat of the General Secretariat is the city of Washington, D.C.

Chapter XVII THE SPECIALIZED CONFERENCES

Article 122

The Specialized Conferences are intergovernmental meetings to deal with special technical matters or to develop specific aspects of inter-American cooperation. They shall be held when either the General Assembly or the Meeting of Consultation of Ministers of Foreign Affairs so decides, on its own initiative or at the request of one of the Councils or Specialized Organizations.

Article 123

The agenda and rules of procedure of the Specialized Conferences shall be prepared by the Councils or Specialized Organizations concerned and shall be submitted to the Governments of the Member States for consideration.

Chapter XVIII THE SPECIALIZED ORGANIZATIONS

Article 124

For the purposes of the present Charter, Inter-American Specialized Organizations are the intergovernmental organizations established by multilateral agreements and having specific functions with respect to technical matters of common interest to the American States.

Article 125

The General Secretariat shall maintain a register of the organizations that fulfill the conditions set forth in the foregoing Article, as determined by the General Assembly after a report from the Council concerned.

Article 126

The Specialized Organizations shall enjoy the fullest technical autonomy, but they shall take into account the recommendations of the General Assembly and of the Councils, in accordance with the provisions of the Charter.

Article 127

The Specialized Organizations shall transmit to the General Assembly annual reports on the progress of their work and on their annual budgets and expenses.

Article 128

Relations that should exist between the Specialized Organizations and the Organization shall be defined by means of agreements concluded between each organization and the Secretary General, with the authorization of the General Assembly.

Article 129

The Specialized Organizations shall establish cooperative relations with world agencies of the same character in order to coordinate their activities. In concluding agreements with international agencies of a worldwide character, the Inter-American Specialized Organizations shall preserve their identity and their status as integral parts of the Organization of American States, even when they perform regional functions of international agencies.

Article 130

In determining the location of the Specialized Organizations consideration shall be given to the interest of all of the Member States and to the desirability of selecting the seats of these organizations on the basis of a geographic representation as equitable as possible.

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PART THREE

Chapter XIX THE UNITED NATIONS

Article 131

None of the provisions of this Charter shall be construed as impairing the rights and obligations of the Member States under the Charter of the United Nations.

Chapter XX MISCELLANEOUS PROVISIONS

Article 132

Attendance at meetings of the permanent organs of the Organization of American States or at the conferences and meetings provided for in the Charter, or held under the auspices of the Organization, shall be in accordance with the multilateral character of the aforesaid organs, conferences, and meetings and shall not depend on the bilateral relations between the Government of any Member State and the Government of the host country.

Article 133

The Organization of American States shall enjoy in the territory of each Member such legal capacity, privileges, and immunities as are necessary for the exercise of its functions and the accomplishment of its purposes.

Article 134

The representatives of the Member States on the organs of the Organization, the personnel of their delegations, as well as the Secretary General and the Assistant Secretary General shall enjoy the privileges and immunities corresponding to their positions and necessary for the independent performance of their duties.

Article 135

The juridical status of the Specialized Organizations and the privileges and immunities that should be granted to them and to their personnel, as well as to the officials of the General Secretariat, shall be determined in a multilateral agreement. The foregoing shall not preclude, when it is considered necessary, the concluding of bilateral agreements.

Article 136

Correspondence of the Organization of American States, including printed matter and parcels, bearing the frank thereof, shall be carried free of charge in the mails of the Member States.

Article 137

The Organization of American States does not allow any restriction based on race, creed, or sex, with respect to eligibility to participate in the activities of the Organization and to hold positions therein.

Article 138

Within the provisions of this Charter, the competent organs shall endeavor to obtain greater collaboration from countries not Members of the Organization in the area of cooperation for development.

Chapter XXI RATIFICATION AND ENTRY INTO FORCE

Article 139

The present Charter shall remain open for signature by the American States and shall be ratified in accordance with their respective constitutional procedures. The original instrument, the Spanish, English, Portuguese, and

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French texts of which are equally authentic, shall be deposited with the General Secretariat, which shall transmit certified copies thereof to the Governments for purposes of ratification. The instruments of ratification shall be deposited with the General Secretariat, which shall notify the signatory States of such deposit.

Article 140

The present Charter shall enter into force among the ratifying States when two thirds of the signatory States have deposited their ratifications. It shall enter into force with respect to the remaining States in the order in which they deposit their ratifications.

Article 141

The present Charter shall be registered with the Secretariat of the United Nations through the General Secretariat.

Article 142

Amendments to the present Charter may be adopted only at a General Assembly convened for that purpose. Amendments shall enter into force in accordance with the terms and the procedure set forth in Article 140.

Article 143

The present Charter shall remain in force indefinitely, but may be denounced by any Member State upon written notification to the General Secretariat, which shall communicate to all the others each notice of denunciation received. After two years from the date on which the General Secretariat receives a notice of denunciation, the present Charter shall cease to be in force with respect to the denouncing State, which shall cease to belong to the Organization after it has fulfilled the obligations arising from the present Charter.

Chapter XXII TRANSITORY PROVISIONS

Article 144

The Inter-American Committee on the Alliance for Progress shall act as the permanent executive committee of the Inter-American Economic and Social Council as long as the Alliance is in operation.

Article 145

Until the inter-American convention on human rights, referred to in Chapter XV, enters into force, the present Inter-American Commission on Human Rights shall keep vigilance over the observance of human rights.

Article 146

The Permanent Council shall not make any recommendation nor shall the General Assembly take any decision with respect to a request for admission on the part of a political entity whose territory became subject, in whole or in part, prior to December 18, 1964, the date set by the First Special Inter-American Conference, to litigation or claim between an extracontinental country and one or more Member States of the Organization, until the dispute has been ended by some peaceful procedure. This article shall remain in effect until December 10, 1990.

Inter-American Democratic Charter

Adopted by the General Assembly at its special session held in Lima, Peru, on September 11, 2001

THE GENERAL ASSEMBLY,

CONSIDERING that the Charter of the Organization of American States recognizes that representative democracy is indispensable for the stability, peace, and development of the region, and that one of the purposes of the OAS is to promote and consolidate representative democracy, with due respect for the principle of nonintervention;

RECOGNIZING the contributions of the OAS and other regional and sub-regional mechanisms to the promotion and consolidation of democracy in the Americas;

RECALLING that the Heads of State and Government of the Americas, gathered at the Third Summit of the Americas, held from April 20 to 22, 2001 in Quebec City, adopted a democracy clause which establishes that any unconstitutional alteration or interruption of the democratic order in a state of the Hemisphere constitutes an insurmountable obstacle to the participation of that state's government in the Summits of the Americas process;

BEARING IN MIND that existing democratic provisions in regional and subregional mechanisms express the same objectives as the democracy clause adopted by the Heads of State and Government in Quebec City;

REAFFIRMING that the participatory nature of democracy in our countries in different aspects of public life contributes to the consolidation of democratic values and to freedom and solidarity in the Hemisphere;

CONSIDERING that solidarity among and cooperation between American states require the political organization of those states based on the effective exercise of representative democracy, and that economic growth and social development based on justice and equity, and democracy are interdependent and mutually reinforcing;

REAFFIRMING that the fight against poverty, and especially the elimination of extreme poverty, is essential to the promotion and consolidation of democracy and constitutes a common and shared responsibility of the American states;

BEARING IN MIND that the American Declaration on the Rights and Duties of Man and the American Convention on Human Rights contain the values and principles of liberty, equality, and social justice that are intrinsic to democracy;

REAFFIRMING that the promotion and protection of human rights is a basic prerequisite for the existence of a democratic society, and recognizing the importance of the continuous development and strengthening of the inter-American human rights system for the consolidation of democracy;

CONSIDERING that education is an effective way to promote citizens' awareness concerning their own countries and thereby achieve meaningful participation in the decision-making process, and reaffirming the importance of human resource development for a sound democratic system;

RECOGNIZING that a safe environment is essential to the integral development of the human being, which contributes to democracy and political stability;

BEARING IN MIND that the Protocol of San Salvador on Economic, Social, and Cultural Rights emphasizes the great importance of the reaffirmation, development, improvement, and protection of those rights in order to consolidate the system of representative democratic government;

ANNEX II: FOUNDATIONAL AND GOVERNING DOCUMENTS

RECOGNIZING that the right of workers to associate themselves freely for the defense and promotion of their interests is fundamental to the fulfillment of democratic ideals;

TAKING INTO ACCOUNT that, in the Santiago Commitment to Democracy and the Renewal of the Inter-American System, the ministers of foreign affairs expressed their determination to adopt a series of effective, timely, and expeditious procedures to ensure the promotion and defense of representative democracy, with due respect for the principle of nonintervention; and that resolution AG/RES. 1080 (XXI-O/91) therefore established a mechanism for collective action in the case of a sudden or irregular interruption of the democratic political institutional process or of the legitimate exercise of power by the democratically-elected government in any of the Organization's member states, thereby fulfilling a long-standing aspiration of the Hemisphere to be able to respond rapidly and collectively in defense of democracy;

RECALLING that, in the Declaration of Nassau [AG/DEC. 1 (XXII-O/92)], it was agreed to develop mechanisms to provide assistance, when requested by a member state, to promote, preserve, and strengthen representative democracy, in order to complement and give effect to the provisions of resolution AG/RES. 1080 (XXI-O/91);

BEARING IN MIND that, in the Declaration of Managua for the Promotion of Democracy and Development [AG/DEC. 4 (XXIII-O/93)], the member states expressed their firm belief that democracy, peace, and development are inseparable and indivisible parts of a renewed and integral vision of solidarity in the Americas; and that the ability of the Organization to help preserve and strengthen democratic structures in the region will depend on the implementation of a strategy based on the interdependence and complementarity of those values;

CONSIDERING that, in the Declaration of Managua for the Promotion of Democracy and Development, the member states expressed their conviction that the Organization's mission is not limited to the defense of democracy wherever its fundamental values and principles have collapsed, but also calls for ongoing and creative work to consolidate democracy as well as a continuing effort to prevent and anticipate the very causes of the problems that affect the democratic system of government;

BEARING IN MIND that the Ministers of Foreign Affairs of the Americas, at the thirty-first regular session of the General Assembly, held in San Jose, Costa Rica, in keeping with express instructions from the Heads of State and Government gathered at the Third Summit of the Americas, in Quebec City, accepted the base document of the Inter-American Democratic Charter and entrusted the Permanent Council of the Organization with strengthening and expanding the document, in accordance with the OAS Charter, for final adoption at a special session of the General Assembly in Lima, Peru;

RECOGNIZING that all the rights and obligations of member states under the OAS Charter represent the foundation on which democratic principles in the Hemisphere are built; and

BEARING IN MIND the progressive development of international law and the advisability of clarifying the provisions set forth in the OAS Charter and related basic instruments on the preservation and defense of democratic institutions, according to established practice,

RESOLVES:

To adopt the following:

INTER-AMERICAN DEMOCRATIC CHARTER

I

Democracy and the Inter-American System

Article 1

The peoples of the Americas have a right to democracy and their governments have an obligation to promote and defend it.

ANNEX II: FOUNDATIONAL AND GOVERNING DOCUMENTS

Democracy is essential for the social, political, and economic development of the peoples of the Americas.

Article 2

The effective exercise of representative democracy is the basis for the rule of law and of the constitutional regimes of the member states of the Organization of American States. Representative democracy is strengthened and deepened by permanent, ethical, and responsible participation of the citizenry within a legal framework conforming to the respective constitutional order.

Article 3

Essential elements of representative democracy include, inter alia, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government.

Article 4

Transparency in government activities, probity, responsible public administration on the part of governments, respect for social rights, and freedom of expression and of the press are essential components of the exercise of democracy.

The constitutional subordination of all state institutions to the legally constituted civilian authority and respect for the rule of law on the part of all institutions and sectors of society are equally essential to democracy.

Article 5

The strengthening of political parties and other political organizations is a priority for democracy. Special attention will be paid to the problems associated with the high cost of election campaigns and the establishment of a balanced and transparent system for their financing.

Article 6

It is the right and responsibility of all citizens to participate in decisions relating to their own development. This is also a necessary condition for the full and effective exercise of democracy. Promoting and fostering diverse forms of participation strengthens democracy.

II Democracy and Human Rights

Article 7

Democracy is indispensable for the effective exercise of fundamental freedoms and human rights in their universality, indivisibility and interdependence, embodied in the respective constitutions of states and in inter-American and international human rights instruments.

Article 8

Any person or group of persons who consider that their human rights have been violated may present claims or petitions to the inter-American system for the promotion and protection of human rights in accordance with its established procedures.

Member states reaffirm their intention to strengthen the inter-American system for the protection of human rights for the consolidation of democracy in the Hemisphere.

Article 9

The elimination of all forms of discrimination, especially gender, ethnic and race discrimination, as well as diverse forms of intolerance, the promotion and protection of human rights of indigenous peoples and

ANNEX II: FOUNDATIONAL AND GOVERNING DOCUMENTS

migrants, and respect for ethnic, cultural and religious diversity in the Americas contribute to strengthening democracy and citizen participation.

Article 10

The promotion and strengthening of democracy requires the full and effective exercise of workers' rights and the application of core labor standards, as recognized in the International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work, and its Follow-up, adopted in 1998, as well as other related fundamental ILO conventions. Democracy is strengthened by improving standards in the workplace and enhancing the quality of life for workers in the Hemisphere.

III

Democracy, Integral Development, and Combating Poverty

Article 11

Democracy and social and economic development are interdependent and are mutually reinforcing.

Article 12

Poverty, illiteracy, and low levels of human development are factors that adversely affect the consolidation of democracy. The OAS member states are committed to adopting and implementing all those actions required to generate productive employment, reduce poverty, and eradicate extreme poverty, taking into account the different economic realities and conditions of the countries of the Hemisphere. This shared commitment regarding the problems associated with development and poverty also underscores the importance of maintaining macroeconomic equilibria and the obligation to strengthen social cohesion and democracy.

Article 13

The promotion and observance of economic, social, and cultural rights are inherently linked to integral development, equitable economic growth, and to the consolidation of democracy in the states of the Hemisphere.

Article 14

Member states agree to review periodically the actions adopted and carried out by the Organization to promote dialogue, cooperation for integral development, and the fight against poverty in the Hemisphere, and to take the appropriate measures to further these objectives.

Article 15

The exercise of democracy promotes the preservation and good stewardship of the environment. It is essential that the states of the Hemisphere implement policies and strategies to protect the environment, including application of various treaties and conventions, to achieve sustainable development for the benefit of future generations.

Article 16

Education is key to strengthening democratic institutions, promoting the development of human potential, and alleviating poverty and fostering greater understanding among our peoples. To achieve these ends, it is essential that a quality education be available to all, including girls and women, rural inhabitants, and minorities.

IV

Strengthening and Preservation of Democratic Institutions

Article 17

When the government of a member state considers that its democratic political institutional process or its legitimate exercise of power is at risk, it may request assistance from the Secretary General or the Permanent Council for the strengthening and preservation of its democratic system.

ANNEX II: FOUNDATIONAL AND GOVERNING DOCUMENTS

Article 18

When situations arise in a member state that may affect the development of its democratic political institutional process or the legitimate exercise of power, the Secretary General or the Permanent Council may, with prior consent of the government concerned, arrange for visits or other actions in order to analyze the situation. The Secretary General will submit a report to the Permanent Council, which will undertake a collective assessment of the situation and, where necessary, may adopt decisions for the preservation of the democratic system and its strengthening.

Article 19

Based on the principles of the Charter of the OAS and subject to its norms, and in accordance with the democracy clause contained in the Declaration of Quebec City, an unconstitutional interruption of the democratic order or an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order in a member state, constitutes, while it persists, an insurmountable obstacle to its government's participation in sessions of the General Assembly, the Meeting of Consultation, the Councils of the Organization, the specialized conferences, the commissions, working groups, and other bodies of the Organization.

Article 20

In the event of an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order in a member state, any member state or the Secretary General may request the immediate convocation of the Permanent Council to undertake a collective assessment of the situation and to take such decisions as it deems appropriate.

The Permanent Council, depending on the situation, may undertake the necessary diplomatic initiatives, including good offices, to foster the restoration of democracy.

If such diplomatic initiatives prove unsuccessful, or if the urgency of the situation so warrants, the Permanent Council shall immediately convene a special session of the General Assembly. The General Assembly will adopt the decisions it deems appropriate, including the undertaking of diplomatic initiatives, in accordance with the Charter of the Organization, international law, and the provisions of this Democratic Charter.

The necessary diplomatic initiatives, including good offices, to foster the restoration of democracy, will continue during the process.

Article 21

When the special session of the General Assembly determines that there has been an unconstitutional interruption of the democratic order of a member state, and that diplomatic initiatives have failed, the special session shall take the decision to suspend said member state from the exercise of its right to participate in the OAS by an affirmative vote of two thirds of the member states in accordance with the Charter of the OAS. The suspension shall take effect immediately.

The suspended member state shall continue to fulfill its obligations to the Organization, in particular its human rights obligations.

Notwithstanding the suspension of the member state, the Organization will maintain diplomatic initiatives to restore democracy in that state.

Article 22

Once the situation that led to suspension has been resolved, any member state or the Secretary General may propose to the General Assembly that suspension be lifted. This decision shall require the vote of two thirds of the member states in accordance with the OAS Charter.

ANNEX II: FOUNDATIONAL AND GOVERNING DOCUMENTS

V Democracy and Electoral Observation Missions

Article 23

Member states are responsible for organizing, conducting, and ensuring free and fair electoral processes.

Member states, in the exercise of their sovereignty, may request that the Organization of American States provide advisory services or assistance for strengthening and developing their electoral institutions and processes, including sending preliminary missions for that purpose.

Article 24

The electoral observation missions shall be carried out at the request of the member state concerned. To that end, the government of that state and the Secretary General shall enter into an agreement establishing the scope and coverage of the electoral observation mission in question. The member state shall guarantee conditions of security, free access to information, and full cooperation with the electoral observation mission.

Electoral observation missions shall be carried out in accordance with the principles and norms of the OAS. The Organization shall ensure that these missions are effective and independent and shall provide them with the necessary resources for that purpose. They shall be conducted in an objective, impartial, and transparent manner and with the appropriate technical expertise.

Electoral observation missions shall present a report on their activities in a timely manner to the Permanent Council, through the General Secretariat.

Article 25

The electoral observation missions shall advise the Permanent Council, through the General Secretariat, if the necessary conditions for free and fair elections do not exist.

The Organization may, with the consent of the state concerned, send special missions with a view to creating or improving said conditions.

VI Promotion of a Democratic Culture

Article 26

The OAS will continue to carry out programs and activities designed to promote democratic principles and practices and strengthen a democratic culture in the Hemisphere, bearing in mind that democracy is a way of life based on liberty and enhancement of economic, social, and cultural conditions for the peoples of the Americas. The OAS will consult and cooperate on an ongoing basis with member states and take into account the contributions of civil society organizations working in those fields.

Article 27

The objectives of the programs and activities will be to promote good governance, sound administration, democratic values, and the strengthening of political institutions and civil society organizations. Special attention shall be given to the development of programs and activities for the education of children and youth as a means of ensuring the continuance of democratic values, including liberty and social justice.

Article 28

States shall promote the full and equal participation of women in the political structures of their countries as a fundamental element in the promotion and exercise of a democratic culture.

Statute of the Inter-American Commission on Human Rights

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.

ANNEX II: FOUNDATIONAL AND GOVERNING DOCUMENTS

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 at 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.

ANNEX II: FOUNDATIONAL AND GOVERNING DOCUMENTS

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.

ANNEX II: FOUNDATIONAL AND GOVERNING DOCUMENTS

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

ANNEX II: FOUNDATIONAL AND GOVERNING DOCUMENTS

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.

ANNEX II: FOUNDATIONAL AND GOVERNING DOCUMENTS

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.

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

[1] Modified by AG/RES. 1098 (XXI-0/90).

Rules of Procedure of the Inter-American Commission on Human Rights

Approved by the Commission at its 137th regular period of sessions, held from October 28 to November 13, 2009, and modified on September 2nd, 2011

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. 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.

ANNEX II: FOUNDATIONAL AND GOVERNING DOCUMENTS

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.

ANNEX II: FOUNDATIONAL AND GOVERNING DOCUMENTS

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

1. The Executive Secretariat shall be composed of an Executive Secretary, and at least one Assistant Executive Secretary, as well as the professional, technical and administrative staff needed to carry out its activities.
2. The Executive Secretary shall be a person of independence and high moral standing, with experience and recognized expertise in the field of human rights.
3. The Executive Secretary is appointed by the Secretary-General of the Organization. The Commission shall undertake the following internal procedure to identify the best qualified candidate and forward his or her name to the Secretary General, proposing appointment for a four-year term that can be renewed once.

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- a. The Commission shall open a public competition to fill the vacancy, publicizing the criteria and qualifications for the office and description of the functions and duties to be fulfilled.
 - b. The Commission shall review the applications submitted and identify three to five finalists who shall then be interviewed for the post.
 - c. The curriculum vitae of each finalist shall be made public, including on the Commission's website, during one month prior to the final selection, in order to receive observations on the candidates.
 - d. The Commission shall determine the best qualified candidate, taking into account the observations, by an absolute majority of its members.
4. Prior to and during their period of appointment, the Executive Secretary and Assistant Executive Secretary shall disclose to the Commission any interest which may be considered to be in conflict with the exercise of his or her functions.

Article 12. Powers of the Executive Secretary

1. The powers of the Executive Secretary shall be:
 - a. to direct, plan, and coordinate the work of the Executive Secretariat and to coordinate the operational aspects of the tasks assigned to working groups and rapporteurships;
 - 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, individual petitions or cases before the IACtHR 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 assign specific tasks or mandates to either an individual member or group of members concerning the preparation of its periods of sessions or the execution of special programs, studies and projects.
2. The Commission may designate its members as country rapporteurs, in which case the Commission will ensure that each Member State of the OAS has a rapporteur. In the first session of the year, or whenever necessary, the IACMR will consider the functioning and work of the country rapporteurships, and decide on their designation. The country rapporteurs will also be responsible for carrying out the follow-up assigned by the Commission and will report to the plenary of the Commission at least once a year on the activities undertaken.
3. The Commission may create rapporteurships with mandates that are linked to the fulfillment of its functions of promotion and protection of human rights, and in accordance with the thematic areas deemed of special interest for achieving this purpose. The grounds for the decision will be expressed in a resolution adopted by the absolute majority of votes of the members of the Commission in which the following will be recorded:
 - a. the definition of the conferred mandate, including its functions and scope; and
 - b. the description of the activities to be carried out and the methods of planned financing to defray them.

The mandates will be evaluated periodically and will also be subject to review, renewal, or termination at least once every three years.

4. The rapporteurships mentioned in the previous paragraph may function as thematic rapporteurships, assigned to a member of the Commission, or as special rapporteurships, assigned to other persons designated by the Commission. The thematic rapporteurs will be designated by the Commission in the first session of the year or whenever necessary. The special rapporteurs will be designated by the Commission in accordance with the following parameters:

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- a. a public competition to fill the vacancy, which publicizes the criteria to be employed in the selection of candidates, the appropriate background for the position, and the applicable resolution by the IACMR establishing the procedures for the selection;
- b. the election shall require the affirmative vote of an absolute majority of members of the Commission and an announcement publicizing the grounds of the decision.

Prior to the appointment process, and during the exercise of their functions, special rapporteurs must disclose to the Commission any interest which may be considered to be in conflict with the mandate of the rapporteurship. Special rapporteurs shall serve for a period of three years, renewable once, unless the mandate of the rapporteurship terminates earlier. The Commission, by an absolute majority of its members, may decide to replace a special rapporteur for reasonable cause.

5. Special rapporteurs shall perform their duties in coordination with the Executive Secretary, who may delegate to them the preparation of reports on petitions and cases.
6. The thematic and special rapporteurs shall perform their activities in coordination with the country rapporteurs. Rapporteurs shall present their work plans to the plenary of the Commission for approval. They shall report in writing to the Commission, at least annually, on the work undertaken.
7. The activities and functions provided for in the Rapporteurships' mandates shall be performed in accordance with the present Rules of Procedure and the guidelines, codes of conduct and manuals that the Commission might adopt.
8. All rapporteurs shall advise the plenary with respect to issues they have become aware of that may be considered matters of controversy, grave concern or special interest for the Commission.

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 review, 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.

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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.
4. The explanation of vote shall be presented in writing to the Secretariat within the 30 days following the period of sessions in which that decision was adopted. In urgent cases, an absolute majority of the members may stipulate a shorter period. Once that deadline has elapsed, and no written explanation of the vote has been presented to the Secretariat, the member in question shall be deemed to have desisted from submitting an explanation of his or her vote, without prejudice to his or her dissent being recorded.

Article 20. Minutes of 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.

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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 by the Commission, 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 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 “Pact of San José, Costa Rica”, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights “Protocol of San Salvador”, the Protocol to the American Convention on Human Rights 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 “Convention of Belém do Pará”, 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 a separate document.

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 situations, the Commission may, on its own initiative or at the request of a party, request that a State adopt precautionary measures to prevent irreparable harm to persons or to the subject matter of the proceedings in connection with a pending petition or case.
2. In serious and urgent situations, the Commission may, on its own initiative or at the request of a party, request that a State adopt precautionary measures to prevent irreparable harm to persons under the jurisdiction of the State concerned, independently of any pending petition or case.
3. The measures referred to in paragraphs 1 and 2 above may be of a collective nature to prevent irreparable harm to persons due to their association with an organization, a group, or a community with identified or identifiable members.
4. The Commission shall consider the gravity and urgency of the situation, its context and the imminence of the harm in question when deciding whether to request that a State adopt precautionary measures. The Commission shall also take into account:
 - a. whether the situation of risk has been brought to the attention of the pertinent authorities or the reasons why it might not have been possible to do so;

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- b. the individual identification of the potential beneficiaries of the precautionary measures or the identification of the group to which they belong; and
 - c. the express consent of the potential beneficiaries whenever the request is filed before the Commission by a third party unless the absence of consent is duly justified.
5. Prior to the adoption of precautionary measures, the Commission shall request relevant information to the State concerned, unless the urgency of the situation warrants the immediate granting of the measures.
6. The Commission shall evaluate periodically whether it is pertinent to maintain any precautionary measures granted.
7. At any time, the State may file a duly grounded petition that the Commission withdraws its request for the adoption of precautionary measures. Prior to the adoption of a decision on the State's petition, the Commission shall request observations from the beneficiaries or their representatives. The submission of such a petition shall not suspend the enforcement of the precautionary measures granted.
8. The Commission may request relevant information from the interested parties on any matter related to the granting, observance, and maintenance of precautionary measures. Material non-compliance by the beneficiaries or their representatives with such a request may be considered a ground for the Commission to withdraw a request that the State adopt precautionary measures. With regard to precautionary measures of a collective nature, the Commission may establish other appropriate mechanisms of periodic follow-up and review.
9. The granting of such measures and their adoption by the State shall not constitute a prejudgment on the violation of the rights protected by the American Convention on Human Rights or other applicable instruments.

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 set for in these Rules of Procedure, the Executive Secretariat may request the petitioner or his or her representative to fulfill them.
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:

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- 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.

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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 for information made to the State 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 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 and urgent cases, or when it is believed that the life or personal integrity of a person is in real and 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. Any considerations on or challenges to the admissibility of the petition shall be submitted from the time that the relevant parts of the petition are forwarded to the State and prior to the Commission's decision on admissibility.
7. In the cases envisioned in paragraph 4, the Commission may request that the State presents its response and observations on the admissibility and the merits of the matter. The response and observations of the State shall be submitted within a reasonable period, to be determined by the Commission in accordance with the circumstances of each case.

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. Statute of Limitations for 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

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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. Working Group on Admissibility

The Commission shall establish a working group of three or more of its members to study, between sessions, the admissibility of petitions and make recommendations to the plenary.

Article 36. 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.

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4. When the Commission proceeds in accordance with Article 30.7 of these Rules of Procedure, it shall open a case and inform the parties in writing that it has deferred its treatment of admissibility until the debate and decision on the merits.

Article 37. Procedure on the Merits

1. Upon opening the case, the Commission shall set a period of three 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 three months.

2. The Executive Secretariat shall evaluate requests for an extension of the time periods established in the preceding subparagraph that are duly founded. However, it shall not grant extensions that exceed four months from the date the initial request for observations was sent to each party.

3. In serious and urgent cases, or when it is believed that the life or personal integrity of a person is in real and imminent danger, and once the case has been opened, the Commission shall request that the State forward its additional observations on the merits within a reasonable time period, established by the Commission taking into account the circumstances of each case.

4. 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 40 of these Rules of Procedure. In the cases provided for in Article 30, subparagraph 7 and in the preceding subparagraph, the Commission shall request the parties to respond in a more expeditious manner. The Commission may also invite the parties to submit additional observations in writing.

5. 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 38. 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 period set by the Commission under the provisions of Article 37 of these Rules of Procedure, as long as other evidence does not lead to a different conclusion.

Article 39. 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. In serious and urgent cases, and with the prior consent of the State in whose territory a violation has allegedly been committed, the sole presentation of a petition or communication that fulfils all the formal requirements of admissibility shall be necessary in order for the Commission to conduct an on-site investigation.

2. The Commission may delegate to one or more of its members the reception of testimony pursuant to the rules established in sections 5, 6, 7 and 8 of Article 65.

Article 40. 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.

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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 the 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 41. Withdrawal

The petitioner may at any time desist from his or her petition or case, to which effect he or she must so notify it 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 it appropriate, or continue to process it in the interest of protecting a particular right.

Article 42. Archiving of Petitions and Cases

1. At any time during the proceedings, the Commission may decide to archive the file whenever:
 - a. the grounds for the petition or case do not exist or subsist; or
 - b. the information necessary for the adoption of a decision is unavailable.
2. Before considering the archiving of a petition or case, it shall request that the petitioners submit the necessary information and notify the possibility of a decision to archive. Once the time limit specified for that purpose has expired, the Commission shall proceed to adopt the corresponding decision.

Article 43. 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. If the report does not represent, in whole or in part, the unanimous opinion of the members of the Commission, any of them may add his or her opinion separately, following the procedure established in Article 19.4 of these Rules of Procedure.

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Article 44. 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; and
 - d. the claims concerning reparations and costs.

Article 45. 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; and
 - d. the future effect of the decision within the legal systems of the Member States.

Article 46. Suspension of Time Limit to Refer the Case to the Court

The Commission may consider, at the request of the State concerned, the suspension of the time limit established in Article 51.1 of the American Convention for the referral of the case to the Court, pursuant to the following requirements:

- a. that the State shows its willingness to implement the recommendations included in the merits report through the adoption of concrete and adequate measures of compliance; and

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b. that in its request the State expressly and irrevocably accepts the suspension of the time limit established in Article 51.1 of the American Convention for the submission of the case to the Court and consequently expressly waives the right to file preliminary objections regarding compliance with the aforementioned time limit in the event that the matter is later referred to the Court.

Article 47. 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 48. 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 49. 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 50. 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 51. 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 52. 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 44 and 47 to 49 of these Rules of Procedure.

CHAPTER IV
ON-SITE OBSERVATIONS

Article 53. 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 54. 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 55. 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 56. 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 57. 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;

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- 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; and
- 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 58. 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 59. 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;

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- 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 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 60. 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 be done according to the following rules:
- 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 61. 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.

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Article 62. 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 63. 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 64. 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 50 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, in exceptional circumstances, that time period may be reduced.

Article 65. 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.

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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 66. 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 written request for a hearing to the Executive Secretariat at least 50 days prior to the beginning of the respective session of the Commission.

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.

3. If the Commission accedes to a request for a hearing on the situation of human rights in a State, it shall convene the State concerned, unless the Commission decides to hold a private hearing pursuant to Article 68.

4. Should the Commission deem it appropriate, it may also request the participation of other interested parties in the hearings on the human rights situation in one or more States, or on matters of general interest.

5. The Executive Secretariat shall inform the party or parties as to the date, place, and time of the hearing at least one month in advance. However, under exceptional circumstances, that time period may be reduced.

Article 67. Participation of the Commission Members

The President of the Commission may form working groups to participate in the program of hearings.

Article 68. Public Nature of Hearings

Hearings shall be public. When warranted by exceptional circumstances, the Commission, at its own initiative or at the request of an interested party, may hold private hearings and shall decide who may attend them. This decision pertains exclusively to the Commission, which shall notify the parties in this regard prior to the beginning of the hearing, either orally or in writing. Even in these cases, the minutes shall be prepared in the terms set forth in Article 70 of these Rules of Procedure.

Article 69. Expenses

The party that proposes the production of evidence at a hearing shall cover all of the attendant expenses.

Article 70. Documents and Minutes of the Hearings

1. Minutes will be prepared for each hearing. Minutes of hearing 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.

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TITLE III RELATIONS WITH THE INTER-AMERICAN COURT OF HUMAN RIGHTS

CHAPTER I DELEGATES, ADVISERS, WITNESSES AND EXPERTS

Article 71. Delegates and Advisors

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. In appointing such delegates, the Commission shall issue any instructions it considers necessary to guide their actions before the Court.
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 receive the assistance of any person designated by the Commission to be an advisor. In the exercise of their role, advisors shall follow the instructions issued by the delegates.

Article 72. 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 73. Notification to the State and 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 State, the petitioner and the victim. With that communication the Commission shall transmit to the petitioner all the elements necessary for the preparation and presentation of the application.

Article 74. Referral of the case to the Court

1. When, in accordance with Article 61 of the American Convention on Human Rights and Article 45 of these Rules, the Commission decides to bring a case before the Inter-American Court, it shall submit, through its Secretariat, a copy of the report adopted pursuant to Article 50 of the American Convention, accompanied by a copy of the file before the Commission, excluding any internal working documents, and including any other document deemed useful for the analysis of the case.
2. The Commission shall also submit a note of referral of the case to the Court which may include:
 - a. the available data of the injured party or his or her duly accredited representative, with the indication of whether the petitioner has requested that his or her identity be withheld;
 - b. an appraisal of the degree of compliance with the recommendations issued in the merits report;
 - c. the grounds for the referral of the case to the Court;

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- d. the names of its delegates; and
- e. any other information deemed useful for the analysis of the case.

3. Once the case has been submitted to the jurisdiction of the Court, the Commission shall make public the report approved in accordance with Article 50 of the American Convention and the note of referral of the case to the Court.

Article 75. Transmittal of other Elements

The Commission shall transmit to the Court, at its request, any other petition, 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 76. Provisional Measures

1. The Commission may request that the Court adopt provisional measures in cases of extreme seriousness 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 77. Computing Time

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 78. 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 79. Amendment of the Rules of Procedure

The Rules of Procedure may be amended by an absolute majority of the members of the Commission.

Article 80. Transitory Provision

These Rules of Procedure, the Spanish and English versions of which are equally authentic, shall enter into force on December 31, 2009.

Rules of the Inter-American Commission on Human Rights on the Legal Assistance Fund of the Inter-American Human Rights System

Article 1. Purpose

The present Rules shall govern the functioning of the Legal Assistance Fund for Victims, regarding the Inter-American Commission on Human Rights.

Article 2. Legal Assistance

The Commission may grant resources of the legal assistance Fund at the request of a petitioner after the Commission has declared the complaint admissible or has informed its decision to join the issue of admissibility to the merits.

Article 3. Criterion of necessity and availability of the Fund's resources

The legal assistance benefit shall be granted on condition of available resources, to those persons demonstrating the lack of sufficient means to afford all or some of the expenses described in Article 4 of these Rules.

Article 4. Purpose of the legal assistance

The legal assistance referred to in these Rules shall be used to defray the expenses derived from gathering and sending of documentary evidence, as well as the expenses derived from the appearance of the alleged victim, witnesses and experts in hearings held by the Commission and other expenses considered pertinent by the Commission for the processing of a petition or case.

Article 5. Requirements to apply for the legal assistance benefit

Any applicant to the legal assistance benefit shall demonstrate, by an affidavit and other pertinent methods of proof, that he or she lacks sufficient means to cover the expenses described in Article 4 of the present Rules, and shall specify the expenses to which the resources of the Fund will be applied, as well as its relation to the petition or case.

Article 6. Admittance of the request

The Executive Secretariat of the Inter-American Commission shall carry out a preliminary review of the request and if necessary, will request additional information to the applicant. Once the preliminary examination has been completed, the Secretariat shall put the request to the consideration of the Directive Council of the Fund.

The Directive Council shall analyze each one of the applications filed, determine their admittance and establish which aspects of the processing of the claim may be covered by the Fund's resources.

The decision on the granting of resources to cover the expenses derived from the appearance of alleged victims, witnesses and experts in public hearings shall be taken at the moment of granting the hearing.

In case of granting the benefit, the beneficiary shall receive in advance the financial resources assigned to him or her and will be required to submit the support documentation of the expenses afterwards.

Article 7. Composition of the Directive Council of the legal assistance Fund

The Directive Council of the legal assistance Fund shall be composed by one representative of the Inter-American Commission and one representative of the General Secretariat of the OAS.

Article 8. Financial Administration of the Legal Assistance Fund

The financial administration of the Legal Assistance Fund, as far as the Inter-American Commission on Human Rights is concerned, shall be the responsibility of the Secretariat for Administration and Finances of the OAS.

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Once the Directive Council of the Fund has approved a request and this decision has been notified to the beneficiary, the Secretariat for Administration and Finances of the OAS shall open an expenses file, in which will be documented all the expenses incurred in accordance with the parameters established by the Directive Board.

Article 9. Reimbursement of expenses to the Legal Assistance Fund

The Commission shall include among the recommendations of the report on the merits of a claim adopted pursuant to Articles 50 of the American Convention and 45 of its Rules, as the case may be, an estimate of the expenses incurred and charged to the Legal Assistance Fund so that the State concern may reimburse the amount to that Fund.

Article 10. Publication

The Commission will publish annually a brief report on the expenses charged to Legal Assistance Fund.

Article 11. Interpretation

Any questions regarding the interpretation of these rules shall be resolved by an absolute majority of the members of the Commission.

Article 12. Amendment of the Rules

The present Rules may be amended by the decision of the absolute majority of the Commission's members.

Article 13. Entry into force

The present Rules shall enter into force on March 1, 2011.

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]

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.

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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[2]

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.

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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.

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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;

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- 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.

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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.

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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.

[1] Amended by Resolution 625 (XII-0/82) of the Twelfth Regular Session of the OAS General Assembly.

[2] Modified by AG/RES. 1098 (XXI-91).

Rules of Procedure of the Inter-American Court of Human Rights

Approved [1] by the Court during its LXXXV Regular Period of Sessions, held from November 16 to 28, 2009. [2]

PRELIMINARY PROVISIONS

Article 1. Purpose

1. These Rules regulate the organization and procedure of the Inter-American Court of Human Rights.
2. The Court may adopt 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 expression “Deputy Agent” refers to the person designated by a State to assist the Agent in the discharge of his or her functions and to replace him or her during temporary absences;
3. the expression “amicus curiae” refers to the person or institution who is unrelated to the case and to the proceeding and submits to the Court reasoned arguments on the facts contained in the presentation of the case or legal considerations on the subject-matter of the proceeding by means of a document or an argument presented at a hearing;
4. the expression “General Assembly” refers to the General Assembly of the Organization of American States;
5. the term “Commission” refers to the Inter-American Commission on Human Rights;
6. the expression “Permanent Commission” refers to the Permanent Commission of the Inter-American Court of Human Rights;
7. the expression “Permanent Council” refers to the Permanent Council of the Organization of American States;
8. the term “Convention” refers to the American Convention on Human Rights (Pact of San José, Costa Rica);
9. the term “Court” refers to the Inter-American Court of Human Rights;
10. the term “declarants” refers to the alleged victims, witnesses, and expert witnesses that make declarations in a proceeding before the Court;
11. the expression “Inter-American Defender” refers to the person whom the Court designates to undertake the legal representation of an alleged victim that has not designated an advocate on his or her own accord;
12. the term “Delegates” refers to the persons designated by the Commission to represent it before the Court;
13. the term “day” shall be understood to be a natural day;

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14. the expression “States Parties” refers to the States that have ratified or have adhered to the Convention;
15. the expression “Member States” refers to the States that are members of the Organization of American States;
16. 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;
17. the term “Judge” refers to the Judges who compose the Court in each case;
18. the expression “Titular Judge” refers to any Judge selected 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 term “expert witness” refers to the person whom, possessing particular scientific, artistic, technical, or practical knowledge or experience, informs the Court about issues in contention inasmuch as they relate to his or her special area of knowledge or experience;
24. the term “Presidency” refers to the President of the Court;
25. the expression “alleged victim” refers to the person whose rights under the Convention or another treaty of the Inter-American System have allegedly been violated;
26. the term “representatives” refers to the duly accredited legal representative or representatives of the alleged victim or victims;
27. the term “Secretariat” refers to the Secretariat of the Court;
28. the term “Secretary” refers to the Secretary of the Court;
29. the expression “Deputy Secretary” refers to the Deputy Secretary of the Court;
30. the expression “Secretary General” refers to the Secretary General of the OAS;
31. the term “Tribunal” refers to the Inter-American Court of Human Rights;
32. the term “Vice-Presidency” refers to the Vice-President of the Court;
33. the term “victim” refers to a person whose rights have been violated, according to a judgment emitted by the Court.

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TITLE I ORGANIZATION AND FUNCTIONING OF THE COURT

Chapter I THE PRESIDENCY AND VICE-PRESIDENCY

Article 3. Election of the Presidency and the Vice-Presidency

1. The Presidency and the Vice-Presidency 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 year in question. The election shall take place during the last regular period of sessions held by the Court during the preceding year.
2. The elections referred to in this Article shall be carried out through a secret vote of the Titular Judges present, and the Judges who win four or more votes shall be elected. If no candidate receives the required number of votes, a new election 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 elected.

Article 4. Functions of the Presidency

1. The functions of the Presidency are to:
 - a. represent the Court;
 - b. preside over the sessions of the Court and submit the topics appearing on the agenda to its consideration;
 - c. direct and promote the work of the Court;
 - d. rule on the points of order that arise during the sessions of the Court. If any Judge so requests, a point of order shall be decided by a majority vote;
 - e. present a biannual report to the Court on the activities he or she has carried out as President during that period;
 - f. exercise such other functions as are conferred upon him or her by the Statute or these Rules, or entrusted to him or her by the Court.
 - g. In specific cases, the Presidency may delegate the representation referred to in paragraph 1(a) of this Article to the Vice-Presidency, to any of the Judges, or, if necessary, to the Secretary or Deputy Secretary.

Article 5. Functions of the Vice-Presidency

1. The Vice-Presidency shall replace the Presidency 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-Presidency to serve out the rest of the term. The same procedure shall be followed if the absence of the Vice-Presidency is permanent.
2. In the absence of the Presidency and the Vice-Presidency, their functions shall be assumed by the other Judges in the order of precedence established in Article 13 of the Statute.

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Article 6. Commissions

1. The Permanent Commission shall be composed of the Presidency, the Vice-Presidency, and any other Judges that the Presidency deems appropriate to appoint, according to the needs of the Court. The Permanent Commission shall assist the Presidency in the exercise of his or her functions.
2. The Court may appoint other Commissions for specific matters. In urgent cases, these Commissions may be appointed by the Presidency 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 knowledge required for the position, a command of the working languages of the Court, and the experience necessary for discharging his or her functions.
2. The Secretary shall be elected for a term of five years and may be re-elected. He or she 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 appointment or removal of the Secretary.

Article 8. Deputy Secretary

1. The Deputy Secretary shall be proposed by the Secretary and appointed in the manner prescribed in the Statute. He or she shall assist the Secretary in the exercise of his or her functions and replace him or her during temporary absences.
2. If the Secretary and the Deputy Secretary are both unable to perform their functions, the Presidency may appoint an Interim Secretary.
3. If the Secretary and the Deputy Secretary are both temporarily away from the seat of the Court, the Secretary may appoint one of the Secretariat's attorneys to take charge of the Secretariat in their absence.

Article 9. Oath

1. The Secretary and the Deputy Secretary shall take an oath or make a solemn declaration before the Presidency, 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 Presidency, 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 Presidency is not present at the seat of the Court, the Secretary or Deputy 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. serve notice of the judgments, advisory opinions, orders, and other rulings of the Court;

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- b. keep the minutes of the sessions of the Court;
- c. attend the meetings of the Court held at its seat or elsewhere;
- d. process the correspondence of the Court;
- e. certify the authenticity of documents;
- f. direct the administration of the Court, pursuant to the instructions of the Presidency;
- g. prepare drafts of the work schedules, rules and regulations, and budgets of the Court;
- h. plan, direct, and coordinate the work of the staff of the Court;
- i. carry out the tasks assigned to him or her by the Court or the Presidency;
- j. perform any other duties provided for in the Statute or in these Rules.

Chapter III FUNCTIONING OF THE COURT

Article 11. Regular Sessions

The Court shall hold the regular periods of sessions necessary for the exercise of its functions on the dates decided by the Court during the previous regular session. In exceptional circumstances, the Presidency may, in consultation with the other Judges, change the dates of the sessions.

Article 12. Extraordinary Sessions

Extraordinary sessions may be convened by the Presidency on his or her own initiative or at the request of a majority of the Judges.

Article 13. Sessions held away from the seat of the Court

The Court may convene in any Member State when a majority of the Court considers it desirable, with the prior consent of the State concerned.

Article 14. Quorum

The quorum for the deliberations of the Court shall consist of five Judges.

Article 15. Hearings, deliberations, and decisions

1. The Court shall hold hearings when it deems it appropriate to do so. Hearings shall be public, unless the Tribunal deems it appropriate that they be private.

2. The Court shall deliberate in private, and its deliberations shall remain secret. Only the Judges shall take part in the deliberations; however, the Secretary and Deputy Secretary or their substitutes, as well as the necessary staff of Secretariat, may attend. 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 hearings and deliberations of the Court shall be kept on audio-recordings.

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Article 16. Decisions and voting

1. The Presidency 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 reverse order of precedence as 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 Presidency shall have a casting vote.

Article 17. Continuation in Office of 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, impediment, recusal, or disqualification, the Judge in question shall be replaced by the Judge who was elected to take his or her place, if applicable, or by the Judge who has precedence among the new Judges elected upon the expiration of the term of the Judge to be replaced.
2. All matters relating to reparations and costs, as well as to the monitoring of compliance with the judgments of the Court, shall be heard by the Judges comprising the Court at that stage of the proceedings, unless a public hearing has already been held. In the latter case, those matters shall be heard by the Judges who attended the hearing.
3. All matters relating to provisional measures shall be heard by the Court composed of Titular Judges.

Article 18. Interim Judges

Interim Judges shall have the same rights and functions as Titular Judges.

Article 19. National Judges

1. In the cases referred to in Article 44 of the Convention, a Judge who is a national of the respondent State shall not be able to participate in the hearing and deliberation of the case.
2. In the cases referred to in Article 45 of the Convention, national Judges will be able to participate in the hearing and deliberation of the case. If the President is a national of one of the parties to the case, he or she will cede the exercise of his or her functions.

Article 20. Judges Ad Hoc in Interstate Cases

1. In a case arising under Article 45 of the Convention, the Presidency, acting through the Secretariat, shall inform the States referred to in that Article of their right to appoint a Judge ad hoc within 30 days following the notification of the application.
2. When it appears that two or more States have a common interest, the Presidency shall inform them that they may jointly appoint one Judge ad hoc, pursuant to Article 10 of the Statute. If those States do not communicate their agreement to the Court within 30 days of the last notification of the application, each State may propose its candidate within the following 15 days. Subsequently, if more than one candidate has been nominated, the Presidency 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.

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4. The Secretary shall communicate the appointment of Judges ad hoc to the Inter-American Commission, the representatives of the alleged victim, and the petitioning State or respondent State, as applicable.
5. The Judge ad hoc shall take an oath at the first session devoted to the consideration of the case for which he or she has been appointed.
6. Judges ad hoc shall receive honoraria on the same terms as Titular Judges.

Article 21. Impediments, recusals, and disqualification

1. Impediments, recusals, and the disqualification of Judges shall be governed by the provisions of Article 19 of the Statute and Article 19 of these Rules of Procedure.
2. Motions for recusal or allegations of impediment must be filed prior to the first hearing of the case. However, if the grounds therefor occur or become known after that hearing, 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, 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 into account all the circumstances it deems relevant.

TITLE II PROCEDURE

Chapter I GENERAL RULES

Article 22. Official Languages

1. The official languages of the Court shall be those of the OAS, to wit, 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 the respondent State or, if applicable, the petitioning State may be adopted as the 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.
4. The Court may authorize any person appearing before it to use his or her own language if he or she does not have sufficient knowledge of the working languages. In those circumstances, the Court shall make the arrangements necessary to ensure that an interpreter is present to translate that statement into the working languages. The interpreter must take an oath or make a solemn declaration, undertaking to discharge his or her duties faithfully and to respect the confidential nature of the facts that come to his or her attention in the exercise of his or her functions.
5. When deemed necessary, the Court shall determine which text of an order is authentic.

Article 23. Representation of the States

1. States that are parties to a case shall be represented by Agents, who may be assisted by any persons of their choice.
2. Deputy Agents may be designated to assist Agents in the exercise of their functions and replace them during temporary absences.

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3. If a State replaces its Agent or Agents, it shall so notify the Court; replacements shall take effect only upon said notification.

Article 24. Representation of the Commission

The Commission shall be represented by the Delegates it has designated for that purpose. Delegates may be assisted by any persons of their choice.

Article 25. Participation of the Alleged Victims or their Representatives

1. Once notice of the brief submitting a case before the Court has been served, in accordance with Article 39 of the Rules of Procedure, the alleged victims or their representatives may submit their brief containing pleadings, motions, and evidence autonomously and shall continue to act autonomously throughout the proceedings.

2. When there are several alleged victims or representatives, these shall designate a common intervenor, who shall be the only person authorized to present pleadings, motions, and evidence during the proceedings, including the public hearings. Should there be no agreement as to the appointment of a common intervenor in a case, the Court or its Presidency may, if appropriate, establish a deadline for the appointment of up to three representatives to act as common intervenors. In the latter case, the Presidency shall establish the deadline for the submission of the respondent State's answer and the time allotted to the respondent State, the alleged victims or their representatives, and, if applicable, the petitioning State for their participation in the public hearings.

3. In case that there is disagreement among the alleged victims as to that indicated in the preceding paragraph, the Court shall make the appropriate ruling.

Article 26. Cooperation of the States

1. States that are 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 must also facilitate compliance with summonses by persons who reside or are present in 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 that is a party to a case.

3. When performance of any of the measures referred to in the preceding paragraphs requires the cooperation of any other State, the Presidency shall request that State to provide the assistance necessary.

Article 27. Provisional Measures

1. At any stage of proceedings involving cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court may, on its own motion, order such provisional measures as it deems appropriate, 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. In contentious cases before the Court, victims or alleged victims, or their representatives, may submit to it a request for provisional measures, which must be related to the subject matter of the case.

4. The request may be submitted to the Presidency, 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 attention of the Presidency.

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5. The Court, or if the Court is not sitting, the Presidency, upon considering that it is possible and necessary, may require the State, the Commission, or the representatives of the beneficiaries to provide information on a request for provisional measures before deciding on the measure requested.

6. If the Court is not sitting, the Presidency, in consultation with the Permanent Commission and, if possible, with the other Judges, shall call upon the State 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 during its next period of sessions.

7. The monitoring of urgent or provisional measures ordered shall be carried out through the submission of reports by the State and the filing of observations to those reports by the beneficiaries of the measures or their representatives. The Commission shall submit observations to the State's reports and to the observations of the beneficiaries of the measures or their representatives.

8. When the Court considers it appropriate, it may require from other sources of information any relevant data on the matter that would permit it to assess the gravity and urgency of the situation and the effectiveness of the measures. To that end, it may also require expert opinions and any other report that it considers appropriate.

9. The Court, or its Presidency if the Court is not sitting, may convene the Commission, the beneficiaries of the measures or their representatives, and the State to a public or private hearing on provisional measures.

10. 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 28. Filing of Briefs

1. All briefs addressed to the Court may be presented in person or by courier, facsimile, post, or electronic mail, and must be signed in order to ensure their authenticity. If a brief is transmitted to the Court by electronic means and has not been subscribed, or in the case that a brief is not accompanied by its annexes, the original documents or missing annexes must be received by the Tribunal within a non-renewable term of 21 days from the expiration of the deadline established for the submission of that brief.

2. All briefs and annexes submitted to the Court through non-electronic means shall be accompanied by two identical copies, either on paper or in digital format, and received by the Tribunal within the term of 21 days described in the previous paragraph.

3. Annexes and copies thereof must be duly individualized and identified.

4. The Presidency may, in consultation with the Permanent Commission, reject any communication that he or she considers patently inadmissible, and shall order that it be returned to the relevant party without further action.

Article 29. Default Procedure

1. When the Commission; the victims, alleged victims, or their representatives; the respondent State; or, if applicable, the petitioning State fail to appear in or pursue a matter, the Court shall, on its own motion, take the measures necessary to conduct the proceedings to their completion.

2. When victims, alleged victims, or their representatives; the respondent State; or, if applicable, the petitioning State enter a case at a later stage in the proceedings, they shall participate in the proceedings at that stage.

ANNEX II: FOUNDATIONAL AND GOVERNING DOCUMENTS

Article 30. Joinder of Cases and Proceedings

1. The Court may, at any stage of the proceedings, order the joinder of related cases when there is commonality of parties, subject-matter, and applicable law.
2. The Court may also order that the written or oral proceedings of several cases, including the introduction of declarants, proceed jointly.
3. After consulting the Agents, Delegates, and alleged victims or their representatives, the Presidency may order that the proceedings of two or more cases be joined.
4. The Court may, when it deems it appropriate, order that provisional measures applications be joined when the subject-matter or the parties are identical. If such is the case, the other provisions of this Article shall be applicable.
5. The Court may join proceedings for the monitoring of compliance of two or more judgments issued with respect to a single State if it considers that the decisions set out in each judgment are closely related. In those circumstances, the victims in those cases or their representatives shall designate a common intervenor in accordance with Article 25 of these Rules of Procedure.

Article 31. Decisions

1. Judgments and orders completing proceedings shall be rendered exclusively by the Court.
2. All other orders shall be rendered by the Court if it is sitting and by the Presidency if it is not, unless otherwise provided. Decisions of the Presidency that are not merely procedural may be appealed from to the Court.
3. Judgments and orders of the Court may not be contested in any way.

Article 32. Publication of Judgments and Other Decisions

1. The Court shall make public:
 - a. its judgments, orders, opinions, and other decisions, including separate opinions, dissenting or concurring, whenever they fulfill the requirements set forth in Article 65(2) of these Rules;
 - b. documents from the case file, except those considered unsuitable for publication;
 - c. the conduct of the hearings, except private hearings, through the appropriate means;
 - d. any other document that the Court considers suitable for publication.
2. Judgments shall be published in the working languages used in each case. All other documents shall be published in their original language.
3. Documents submitted to the Secretariat of the Court that relate to cases already adjudicated shall be made accessible to the public, unless the Court decides otherwise.

Article 33. Transmission of Briefs

The Court may transmit briefs, annexes, orders, judgments, advisory opinions, and other communications submitted to it by electronic means with adequate guarantees of security.

Chapter II WRITTEN PROCEEDINGS

Article 34. Initiation of Proceedings

For a case to be referred to the Court under Article 61(1) of the Convention, a brief must be filed with the Secretariat in any of the working languages of the Tribunal. The submission of the case in only one working language shall not suspend the proceeding; however, a translation into the language of the respondent State must be submitted within the following 21 days, as long as that language is one of the working languages of the Court.

Article 35. Filing of the case by the Commission

1. The case shall be presented to the Court through the submission of the report to which article 50 of the Convention refers, which must establish all the facts that allegedly give rise to a violation and identify the alleged victims. In order for the case to be examined, the Court shall receive the following information:

- a. the names of the Delegates;
- b. the names, address, telephone number, electronic address, and facsimile number of the representatives of the alleged victims, if applicable;
- c. the reasons leading the Commission to submit the case before the Court and its observations on the answer of the respondent State to the recommendations of the report to which Article 50 of the Convention refers;
- d. a copy of the entire case file before the Commission, including all communications following the issue of the report to which Article 50 of the Convention refers;
- e. the evidence received, including the audio and the transcription, with an indication of the alleged facts and arguments on which they bear. The Commission shall indicate whether the evidence was rendered in an adversarial proceeding;
- f. when the Inter-American public order of human rights is affected in a significant manner, the possible appointment of expert witnesses, the object of their statements, and their curricula vitae;
- g. the claims, including those relating to reparations.

2. When it has not been possible to identify one or more of the alleged victims who figure in the facts of the case because it concerns massive or collective violations, the Tribunal shall decide whether to consider those individuals as victims.

3. The Commission shall indicate which facts contained in the report to which Article 50 of the Convention refers it is submitting to the consideration of the Court.

Article 36. Filing of the case by a State

1. A State Party may submit a case to the Court, in accordance with Article 61 of the Convention, through a reasoned brief containing the following information:

- a. the names of the Agents and Alternate Agents, and the address where all relevant communications shall be deemed to have been officially received;
- b. the names, address, telephone number, electronic address, and facsimile number of the duly accredited representatives of the alleged victims, if applicable;

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- c. the reasons leading the State to submit the case before the Court;
 - d. a copy of the entire case file before the Commission, including the report to which Article 50 of the Convention refers and all communications following the issue of that report;
 - e. the evidence offered, with an indication of the alleged facts and arguments on which they bear;
 - f. the identity of declarants and the object of their statements. Expert witnesses must also submit their curricula vitae and contact information.
2. Paragraphs 2 and 3 of the preceding Article are applicable in cases submitted by States before the Court.

Article 37. Inter-American Defender

In cases where alleged victims are acting without duly accredited legal representation, the Tribunal may, on its own motion, appoint an Inter-American defender to represent them during the processing of the case.

Article 38. Preliminary Review of the Presentation of the Case

When, during a preliminary review of the presentation of the case, the Presidency finds that the basic requirements have not been met, he or she shall request that its deficiencies be met within 20 days.

Article 39. Notification of the Case

1. The Secretary of the Court shall serve notice of the presentation of the case on:
 - a. the Presidency and the Judges;
 - b. the respondent State;
 - c. the Commission, when it has not presented the case;
 - d. the alleged victim, his or her representatives, or the Inter-American defender, if applicable.
2. The Secretary shall inform the other States Parties, the Permanent Council through its Presidency, and the Secretary General of the presentation of the case.
3. When giving notice, the Secretary shall request the respondent State to designate its Agent or Agents within 30 days. When appointing its Agents, the State in question shall indicate the address at which all relevant communications shall be deemed officially received.
4. Until Delegates are appointed, the Commission shall be deemed properly represented by its Presidency for all purposes of the case.
5. When giving notice, the Secretary shall request the representatives of the alleged victims to confirm, within 30 days, the address at which all relevant communications shall be deemed officially received.

Article 40. Brief containing Pleadings, Motions, and Evidence

1. Upon notice of the presentation of the case to the alleged victim or his or her representatives, these shall have a non-renewable term of two months as of receipt of that brief and its annexes to autonomously submit to the Court the brief containing pleadings, motions, and evidence.
2. The brief containing pleadings, motions, and evidence shall contain:
 - a. a description of the facts within the factual framework established in the presentation of the case by the Commission;

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- b. the evidence offered, properly organized, with an indication of the alleged facts and arguments that it relates to;
- c. the identities of declarants and the object of their statements. Expert witnesses must also submit their curricula vitae and contact information;
- d. all claims, including those relating to reparations and costs.

Article 41. The State's Answer

- 1. The respondent shall, in writing, state its position regarding the presentation of the case and, if applicable, answer the brief containing pleadings, motions, and evidence within a non-renewable term of two months from the receipt of the latter brief and its annexes, without prejudice to the term that the Presidency may establish in the circumstances mentioned in Article 24(2) of these Rules of Procedure. In its answer, the State shall indicate:
 - a. whether it accepts the facts and claims or whether it contradicts them;
 - b. the evidence tendered, properly organized, with an indication of the facts and arguments that it relates to;
 - c. the identity of the declarants offered and the object of their statements. Expert witnesses must also submit their curricula vitae and contact information;
 - d. its legal arguments, observations on the reparations and reimbursement of costs requested, and conclusions.
- 2. The answer shall be communicated by the Secretary to those persons mentioned in Article 39(1)(a), 39(1)(c), and 39(1)(d) of these Rules of Procedure and to the petitioning State in the cases to which Article 45 of the Convention refers.

The Court may consider those facts that have not been expressly denied and those claims that have not been expressly controverted as accepted.

Article 42. Preliminary Objections

- 1. Preliminary objections may only be filed in the brief indicated in the preceding Article.
- 2. The document setting out preliminary objections shall contain the facts on which the objections are based, legal arguments and conclusions, and supporting documents, as well as any evidence to be offered.
- 3. The presentation of preliminary objections shall not suspend the proceedings on the merits, nor their respective deadlines.
- 4. The Commission, alleged victims or their representatives, and, if applicable, the petitioning State may present their observations to the preliminary objections within 30 days as of their receipt.
- 5. When the Court considers it necessary, it may convene a special hearing on the preliminary objections presented, after which it shall rule thereon.
- 6. The Court may decide upon the preliminary objections, the merits, and the reparations and costs of the case in a single judgment.

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Article 43. Other Steps in the Written Proceedings

After receipt of the brief presenting the case, the brief containing pleadings, motions, and evidence, and the brief containing the answer, and before the initiation of oral proceedings, the Commission, the alleged victims or their representatives, the respondent State, and, if applicable, the petitioning State may seek the permission of the Presidency to enter additional written pleadings. In such a case, if deemed appropriate, the Presidency shall establish time limits for the presentation of the relevant documents.

Article 44. Arguments of Amicus Curiae

1. Any person or institution seeking to act as amicus curiae may submit a brief to the Tribunal, together with its annexes, by any of the means established in Article 28(1) of these Rules of Procedure, in the working language of the case and bearing the names and signatures of its authors.
2. If the amicus curiae brief is submitted by electronic means and is not signed, or if the brief is submitted without its annexes, the original and supporting documentation must be received by the Tribunal within 7 days of its transmission. If the brief is submitted out of time or is submitted without the required documentation, it shall be archived without further processing.
3. Amicus curiae briefs may be submitted at any time during contentious proceedings for up to 15 days following the public hearing. If the Court does not hold a public hearing, amicus briefs must be submitted within 15 days following the Order setting deadlines for the submission of final arguments. Following consultation with the President, the amicus curiae brief and its annexes shall be immediately transmitted to the parties, for their information.
4. Amicus curiae briefs may be submitted during proceedings for monitoring compliance of judgments and those regarding provisional measures.

Chapter III ORAL PROCEEDINGS

Article 45. Opening

The Presidency shall announce the date on which oral proceedings will open and shall fix the necessary hearings.

Article 46. Definitive list of declarants

1. The Court will request the Commission, the alleged victims or their representatives, the respondent State, and, if applicable, the petitioning State to submit definitive lists of declarants, in which they shall confirm or retract offers of evidence submitted within time in accordance with Articles 35(1)(f), 36(1)(f), 40(2)(c), and 41(1)(c) of these Rules of Procedure, in the form of statements of alleged victims, witnesses, or expert witnesses. Additionally, they must indicate to the Court their position as to which of the declarants offered should be summoned to the hearing, where applicable, and which declarants can render their statements through affidavits.
2. The Tribunal shall transmit the definitive list of declarants to the opposing party and shall establish a time limit in which to present, if necessary, observations, objections, or challenges.

Article 47. Objections to Witnesses

1. Any party may object to a witness within ten days of receiving the definitive list of declarants offered to the Court.

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2. The Court or the Presidency, as applicable in each case, shall assess the value of statements rendered and objections thereto.

Article 48. Objections to Expert Witnesses

1. An expert witness may be disqualified based on the following grounds:

- a. he or she is a relative by blood, affinity, or adoption, up to the fourth degree, of one of the alleged victims;
- b. he or she is or has been a representative of one of the alleged victims in proceedings regarding the facts of the case before the Court, either at the domestic level or before the Inter-American System for the promotion and protection of human rights;
- c. he or she currently has, or has had, close ties with the proposing party, or is, or has been, a subordinate of the proposing party, and the Court considers that his or her impartiality may be affected;
- d. he or she is, or has been, an officer of the Inter-American Commission on Human Rights with knowledge of the contentious case in which his or her expert opinion is required;
- e. he or she is or has been an Agent of the respondent State in the contentious case in which his or her expert opinion is required;
- f. he or she has previously intervened, in any capacity and before any organ, whether national or international, in relation to the same case.

2. Objections shall be presented within 10 days of receipt of the definitive list of expert witnesses offered to the Court.

3. The Presidency shall communicate to the expert witness in question objections made against him or her and shall establish a time limit for the expert witness to present observations thereto. All of this shall be transmitted to those who form part of the proceedings. The Court or presiding judge shall subsequently decide on the matter.

Article 49. Substitution of Declarants Offered

Exceptionally, upon receiving a well-founded request from a party and after hearing the opinion of the opposing party, the Court may accept the replacement of a declarant, as long as his or her replacement is identified, and always respecting the object of the statement, testimony, or expert opinion originally offered.

Article 50. Offering, Convocation, and Appearance of Declarants

1. The Court or its Presidency shall issue an order deciding on the observations, objections, and challenges presented, as applicable; defining the object of the statement of each one of the declarants; requiring the submission of the affidavits deemed appropriate; and summoning all those the Court deems appropriate to a hearing, if necessary.

2. The party who has proposed a statement shall notify the declarant of the order mentioned in the preceding paragraph.

3. Statements shall be limited to the object defined by the Court in the order referred to in paragraph 1 of this Article. Exceptionally, upon receiving a well-founded request and after hearing the opinion of the opposing party, the Court may modify the object of the statement or admit a statement that has exceeded the object established.

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4. The party who offers a declarant shall be responsible for his or her appearance before the Tribunal or the submission of his or her affidavit, as applicable.

5. The alleged victims or their representatives, the respondent State, and, if applicable, the petitioning State may formulate questions in writing for the declarants offered by the opposing party and, if applicable, by the Commission who have been convened by the Court to render their statements through affidavits. The Presidency can determine the pertinence of the questions formulated and can excuse the person being questioned from responding, unless the Court determines otherwise. Leading questions and questions that do not refer to the timely-established object of the statement shall not be admitted.

6. Once an affidavit is received, it shall be transmitted to the opposing party and, if applicable, to the Commission so that observations thereto may be submitted within the time limit established by the Court or its Presidency.

Article 51. Hearing

1. First, the Commission will state the grounds of the report to which Article 50 of the Convention refers and of the presentation of the case before the Court, and set out any other matter that it considers relevant for its resolution.

2. Once the Commission has concluded the statement indicated in the preceding paragraph, the Presidency shall call those declarants who have been summoned in accordance with Article 50(1) of these Rules of Procedure so that they may be interrogated in conformity with the Article that follows. The interrogation of the declarant shall be initiated by the party that has proposed said declarant.

3. After his or her identity has been established, and before testifying, the witness shall take an oath or make a solemn declaration stating that he or she will speak the truth, the whole truth, and nothing but the truth.

4. After his or her identity has been established by the Court, and before performing his or her task, the expert witness shall take an oath or make a solemn declaration stating that he or she will discharge his or her duties honorably and conscientiously.

5. The identities of alleged victims shall be established; however, alleged victims shall not take an oath.

6. Those alleged victims and witnesses who have not rendered their statements before the Court may not be present while the statement of another alleged victim, witness, or expert witness is being delivered at the hearing.

7. Once the Court has heard the declarants summoned and the Judges have questioned them, the Presidency shall allow the victims or their representatives and the respondent State to present their oral arguments to the Tribunal. Subsequently, the Presidency shall allow the victims or their representatives and the State to present a rebuttal and surrebuttal, respectively.

8. Once the oral arguments have concluded, the Commission shall present its final observations.

9. Finally, the President shall call upon the Judges of the Tribunal, in reverse order according to the system of precedence established in Article 13 of the Statute, so that they may ask questions to the Commission, the victims or their representatives, and the State, if they so desire.

10. In cases that are not submitted to this Tribunal by the Commission, the Presidency shall conduct hearings, determine the order in which those who will intervene in the proceedings shall submit their statements to the Court, and determine the measures appropriate so that hearings are carried out in the best possible manner.

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11. The Court may receive the statements of witnesses, expert witnesses, or alleged victims through the use of electronic audio-visual means.

Article 52. Questions during the debates

1. The Judges may formulate the questions they deem appropriate to all those who appear before the Court.

2. Alleged victims, witnesses, expert witnesses, and all other persons that the Court decides to hear may be interrogated by the alleged victims or their representatives, the respondent State, and, if applicable, the petitioning State. Interrogations shall be moderated by the Presidency.

3. The Commission may interrogate the expert witnesses that it has proposed in accordance with Article 35(1)(f) of these Rules of Procedure. It may also interrogate expert witnesses proposed by the alleged victims, the respondent State and, if applicable, the petitioning State, if authorized by the Court upon receiving a well-grounded request therefor, when the Inter-American public order of human rights is affected in a significant manner and the statement in question regards a topic included in the statement of an expert witness offered by the Commission.

4. The Presidency shall have the faculty of deciding the pertinence of questions posed and of excusing the party being questioned from answering, unless the Court deems otherwise. Leading questions shall not be admitted.

Article 53. Protection of Alleged Victims, Witnesses, Expert Witnesses, Representatives, and Legal Advisers

States may not institute proceedings against witnesses, expert witnesses, or alleged victims, or their representatives or legal advisers, nor exert pressure on them or on their families on account of statements, opinions, or legal defenses presented to the Court.

Article 54. Failure to Appear or False Testimony

When a person summoned to appear or declare before the Court fails to appear or refuses to render a statement without legitimate cause, or when, in the opinion of the Court, he or she has violated his or her oath or solemn declaration, the Court shall inform the State with jurisdiction over that witness so that appropriate action may be taken under the relevant domestic legislation.

Article 55. Minutes of the Hearings

1. At each hearing, the Secretariat will keep a record of:

- a. the names of the Judges present;
- b. the names of those intervening at the hearing;
- c. the names and personal information of the declarants who have rendered statements.

2. The Secretariat shall record the hearings and annex a copy of the recording to the case file.

3. The Agents, Delegates, and victims or alleged victims, or their representatives, shall receive a copy of the recording of the public hearing as soon as possible.

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Chapter IV FINAL WRITTEN PROCEEDINGS

Article 56. Final Written Arguments

1. The alleged victims or their representatives, the respondent State, and, if applicable, the petitioning State shall have the opportunity to present final written arguments within the term established by the Presidency.

The Commission may submit final written observations within the term established in the previous section.

Chapter V EVIDENCE

Article 57. Admission

1. Items of evidence tendered before the Commission will be incorporated into the case file as long as they have been received in adversarial proceedings, unless the Court considers it indispensable to duplicate them.

2. Exceptionally, and having heard the opinion of all those participating in the proceedings, the Court may admit evidence if the party that has offered it adequately explains that the evidence was not presented or offered at the procedural moments established in Articles 35(1), 36(1), 40(2), and 41(1) of these Rules of Procedure due to force majeure or serious impediment. Additionally, the Court may admit evidence that refers to an event which occurred after the procedural moments indicated.

Article 58. Procedure for Taking Evidence

The Court may, at any stage of the proceedings:

- a. Obtain, on its own motion, any evidence it considers helpful and necessary. In particular, it may hear, as an alleged victim, witness, expert witness, or in any other capacity, any person whose statement, testimony, or opinion it deems to be relevant.
- b. Request the Commission; the victims or alleged victims, or their representatives; the respondent State; and, if applicable, the petitioning State to submit any evidence that they may be able to provide or any explanation or statement that, in the Court's opinion, may be useful.
- c. 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. Such documents may not be published without the authorization of the Court.
- d. Commission one or more of its members to take steps in the advancement of the proceedings, including hearings at the seat of the Court or at a different location.
- e. If it is impossible to proceed according to the terms established in the previous paragraph, the Judges may commission the Secretariat to take necessary steps in the advancement of the proceedings.

Article 59. Incomplete or Illegible evidence

Any item of evidence submitted to the Court must be complete and intelligible. Otherwise, the Court shall grant the party that has offered the item of evidence a deadline within which to correct its defects or to submit relevant clarifications. Failure to submit the requested clarifications or corrections will result in the Court considering the evidence as not tendered.

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Article 60. Cost of Evidence

Whoever offers an item of evidence shall cover the costs generated by its production.

Chapter VI DISCONTINUANCE, ACQUIESCENCE, AND FRIENDLY SETTLEMENT

Article 61. Discontinuance of a Case

When the entity that has presented the case notifies the Court of its intention not to proceed with it, the Court shall, after hearing the opinions of all those participating in the proceedings, decide on the matter and determine the juridical effects of that decision.

Article 62. Acquiescence

If the respondent informs the Court of its acceptance of the facts or its total or partial acquiescence to the claims stated in the presentation of the case or the brief submitted by the alleged victims or their representatives, the Court shall decide, having heard the opinions of all those participating in the proceedings and at the appropriate procedural moment, whether to accept that acquiescence, and shall rule upon its juridical effects.

Article 63. Friendly Settlement

When the Commission; the victims or alleged victims, or their representatives; the respondent State; or, if applicable, the petitioning State in 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 shall rule upon its admissibility and juridical effects at the appropriate procedural time.

Article 64. Continuation of a Case

Bearing in mind its responsibility to protect human rights, the Court may decide to continue the consideration of a case notwithstanding the existence of the conditions indicated in the preceding Articles.

Chapter VII JUDGMENTS

Article 65. Contents of the Judgment

1. The judgment shall contain:
 - a. the names of the person who presides in the Court, the Judges who rendered the decision, the Secretary, and the Deputy Secretary;
 - b. the identity of those who participate in the proceedings and their representatives;
 - c. a description of the proceedings;
 - d. the facts of the case;
 - e. the submissions of the Commission, the victims or their representatives, the respondent State, and, if applicable, the petitioning State;
 - f. the legal arguments;
 - g. the ruling on the case;
 - h. the decision on reparations and costs, if applicable;

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- i. the result of the voting;
 - j. a statement indicating which text of the judgment is authentic.
2. Any Judge who has taken part in the consideration of a case is entitled to append a separate reasoned opinion to the judgment, concurring or dissenting. These opinions shall be submitted within a time limit to be fixed by the Presidency so that the other Judges may take cognizance thereof before notice of the judgment is served. Said opinions shall only refer to the issues covered in the judgment.

Article 66. Judgment on reparations and costs

1. When no specific ruling on reparations and costs has been made in the judgment on the merits, the Court shall set the date and determine the procedure for the deferred decision thereon.
2. If the Court is informed that the victims or their representatives, the respondent State, and, if applicable, the petitioning State have reached an agreement with respect to the execution of the judgment on the merits, it shall verify that the agreement accords with the Convention and rule accordingly.

Article 67. Delivery and Communication of the Judgment

1. When a case is ready for judgment, the Court shall deliberate in private and approve the judgment, which shall be notified by the Secretariat to the Commission; the victims or alleged victims, or their representatives; the respondent State; and, if applicable, the petitioning State.
2. Until notice of the judgment has been served, its text, legal arguments, and votes shall remain secret.
3. Judgments shall be signed by all of 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, concurring or dissenting, shall be signed by the Judges submitting them and by the Secretary.
5. The judgments shall conclude with an order, signed by the Presidency 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 Commission; the victims or alleged victims, or their representatives; the respondent State; the petitioning State, if applicable; the Permanent Council through its Presidency; the Secretary General of the OAS; and any other interested person who requests them.

Article 68. Request for Interpretation

1. The request for interpretation referred to in Article 67 of the Convention may be made in connection with judgments on preliminary objections, on the merits, or on reparations and costs, and shall be filed with the Secretariat. It shall state with precision questions relating to the meaning or scope of the judgment of which interpretation is requested.
2. The Secretary shall transmit the request for interpretation to all those participating in the case and shall invite them to submit any written comments they deem relevant within the time limit established by the Presidency.
3. When considering a request for interpretation, the Court shall be composed, whenever possible, of the same Judges who delivered the judgment whose interpretation is being sought. However, in the event of death, resignation, impediment, recusal, or disqualification, the judge in question shall be replaced pursuant to Article 17 of these Rules.

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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.

Article 69. Procedure for Monitoring Compliance with Judgments and Other Decisions of the Court

1. The procedure for monitoring compliance with the judgments and other decisions of the Court shall be carried out through the submission of reports by the State and observations to those reports by the victims or their legal representatives. The Commission shall present observations to the State's reports and to the observations of the victims or their representatives.
2. The Court may require from other sources of information relevant data regarding the case in order to evaluate compliance therewith. To that end, the Tribunal may also request the expert opinions or reports that it considers appropriate.
3. When it deems it appropriate, the Tribunal may convene the State and the victims' representatives to a hearing in order to monitor compliance with its decisions; the Court shall hear the opinion of the Commission at that hearing.
4. Once the Tribunal has obtained all relevant information, it shall determine the state of compliance with its decisions and issue the relevant orders.
5. These rules also apply to cases that have not been submitted by the Commission.

TITLE III ADVISORY OPINIONS

Article 70. 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 how it relates to the sphere of competence of the organ in question, in addition to the information listed in the preceding paragraph.

Article 71. Interpretation of Other Treaties

1. If, as provided for in Article 64(1) of the Convention, the interpretation requested refers to other treaties concerning the protection of human rights in the American States, the request shall indicate the name of the treaty and parties thereto, 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 its sphere of competence.

Article 72. Interpretation of Domestic Laws

1. A request for an advisory opinion presented pursuant to Article 64(2) of the Convention shall indicate the following:

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- 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 requesting party's Agent.
2. Copies of the domestic laws referred to in the request shall accompany the application.
- Article 73. Procedure
1. Upon receipt of a request for an advisory opinion, the Secretary shall transmit copies thereof to all of the Member States, the Commission, the Permanent Council through its Presidency, the Secretary General, and, if applicable, to the OAS organs whose sphere of competence is referred to in the request.
 2. The Presidency shall establish a time limit for the filing of written comments by the interested parties.
 3. The Presidency 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, the Presidency may do so after prior consultation with the Agent.
 4. At the conclusion of the written proceedings, the Court shall decide whether oral proceedings should take place and shall establish the date for a hearing, unless it delegates the latter task to the Presidency. Prior consultation with the Agent is required in cases governed by Article 64(2) of the Convention.

Article 74. 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 75. Delivery and Content of Advisory Opinions

1. The delivery of advisory opinions shall be governed by Article 67 of these Rules.
2. Advisory opinions shall contain:
 - a. the names of the person who presides in the Court, the Judges who rendered the opinion, the Secretary, and the 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 of the opinion is authentic.
3. Any judge who has taken part in the delivery of an advisory opinion is entitled to append a separate reasoned opinion, concurring or dissenting, to that of the Court. These opinions shall be submitted within a time limit to be fixed by the Presidency, so that the other Judges can take cognizance thereof before the advisory opinion is served. Advisory opinions shall be published in accordance with Article 32(1)(a) of these Rules.
4. Advisory opinions may be delivered in public.

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TITLE IV RECTIFICATION OF ERRORS

Article 76. Rectification of errors in judgments and other decisions

The Court may, on its own motion or at the request of any of the parties to the case, within one month of the notice of the judgment or order, rectify obvious mistakes, clerical errors, or errors in calculation. The Commission, the victims or their representatives, the respondent State, and, if applicable, the petitioning State shall be notified if an error is rectified.

TITLE V FINAL AND TEMPORARY PROVISIONS

Article 77. 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, earlier versions of the Rules of Procedure are repealed.

Article 78. Entering into force

These Rules of Procedure will enter into force on January 1, 2010.

Article 79. Application

1. Contentious cases which have been submitted for the consideration of the Court before January 1, 2010, will continue to be processed, until the issuance of a judgment, in accordance to the previous Rules of Procedure.
2. In cases in which the Commission has adopted a report under article 50 of the Convention before the these Rules of Procedure have come into force, the presentation of the case before the Court will be governed by Articles 33 and 34 of the Rules of Procedure previously in force.^[3] Statements shall be received with the aid of the Victim's Legal Assistance Fund, and the dispositions of these Rules of Procedure shall apply.

Done at the seat of the Inter-American Court of Human Rights in San José, Costa Rica, on this 24th day of November, 2009.

[1] Judge Leonardo A. Franco was present during all of the sessions in which the Court deliberated on these Rules of Procedure. Judge Leonardo A. Franco was not able to attend the last session, in which these Rules were adopted, due to circumstances beyond his control.

[2] The first Rules of Procedure of the Court were approved by the Tribunal in its III Regular Period of Sessions, held from June 30 to August 9, 1980; the second Rules of Procedure were approved during its XXIII Regular Period of Sessions, held from January 9 to 18, 1991; the third Rules of Procedure were approved during its XXXIV Regular Period of Sessions, held from September 9 to 20, 1996; the fourth Rules of Procedure were approved during its XLIX Regular Period of Sessions, held from November 16 to 25, 2000, and were amended during the Court's LXI Regular Period of Sessions, held from November 20 to December 4, 2003, and during the Court's LXXXII Regular Period of Sessions, held from January 19 to 31, 2009.

[3] Article 33. Institution of the Proceedings

For a case to be referred to the Court under Article 61(1) of the Convention, an application must be filed with the Secretariat of the Court in its working languages. Though the filing of an application in only one working language shall not suspend the proceeding, translations into the other language or languages must be submitted within 30 days.

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Article 34. 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, with an indication of the facts on which it will bear; the individualization of the witnesses and expert witnesses and the subject of their declarations; and the legal arguments and pertinent conclusions. In addition, the Commission shall include the name and address of the alleged victims, or of their duly accredited representatives, when this is possible.
2. the names of the Agents or the Delegates.
3. If this information is not provided in the application, the Commission, in its capacity as guarantor of the public interest under the American Convention, shall represent the alleged victims in order to ensure that they enjoy legal defense.

If the application is filed by the Commission, it shall be accompanied by the report referred to in Article 50 of the Convention.

Rules for the Operation of the Victims' Legal Assistance Fund of the Inter-American Court of Human Rights

CONSIDERING THAT:

- 1) The General Assembly of the Organization of American States (OAS), by way of Resolution AG/RES. 2426 of June 3, 2008, provided for the "Establishment of the Legal Assistance Fund of the Inter-American Human Rights System"; and
- 2) Resolution CP/RES. 963 of November 11, 2009, of the Permanent Council of the OAS, approved the "Rules of Procedure for the Operation of the Legal Assistance Fund of the Inter-American Human Rights System."

RESOLVES to adopt the following Rules:

Article 1. Purpose

These Rules regulate the operation of, and access to, the Victims' Legal Assistance Fund of the Inter-American Court of Human Rights for the litigation of cases before it.

Article 2. Requests for Access to the Victims' Legal Assistance Fund

Alleged victims who wish to access the Victims' Legal Assistance Fund shall so inform the Court in the brief containing pleadings, motions, and evidence. These alleged victims must indicate, by means of a sworn affidavit and other probative evidence that will satisfy the Tribunal, that they lack the economic resources necessary to cover the cost of litigation before the Inter-American Court, and state precisely the aspects of their participation in proceedings that require use of the resources of the Victims' Legal Assistance Fund.

Article 3. Determination of the Merits of the Request

The Secretariat of the Court shall conduct a preliminary review of the request for assistance and shall require the requesting party to present the background information necessary so that the request may be submitted to the consideration of the Presidency.

The Presidency of the Court shall evaluate each request submitted, determine whether it shall be granted, and indicate the aspects of the litigation that may be funded through the Victims' Legal Assistance Fund. The Presidency's decision shall be made within three months as of the date that the background information required is received.

The Secretariat of the Court shall serve notice of the Presidency's decision on the alleged victim or his or her representative, the respondent State, and the Inter-American Commission on Human Rights.

Article 4. Administration and Assignment of Resources

The Secretariat of the Court shall administer the Victims' Legal Assistance Fund.

Once the Presidency has determined the merits of the request and that decision has been served, the Secretariat of the Court shall open a file on the costs of that particular case, which shall contain records of all expenditures made in accordance with the parameters authorized by the Presidency.

Article 5. Reimbursement of Costs to the Victims' Legal Assistance Fund

The Secretariat of the Court shall inform the respondent State of the expenditures made from the Victims' Legal Assistance Fund so that the State may submit observations thereto by the established deadline.

The Tribunal shall evaluate in its judgment whether to order the respondent State to reimburse expenditures made from the Inter-American Court of Human Rights's Legal Assistance Fund.

ANNEX II: FOUNDATIONAL AND GOVERNING DOCUMENTS

Article 6. Interpretation

The Court shall decide matters not governed by these Rules and questions regarding their interpretation.

Article 7. Amendments to the Rules

These Rules may be amended by decision of an absolute majority of the judges of the Court.

Article 8. Entering into Force

These Rules shall enter into force on June 1, 2010.

Done at the seat of the Inter-American Court of Human Rights in San José, Costa Rica, on February 4, 2010.



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