



HUMAN RIGHTS
IN THE INTER-AMERICAN
SYSTEM

COMPILATION OF INSTRUMENTS

EDITION 2011

CEJIL

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INTER-AMERICAN SYSTEM

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Centro por la Justicia y el Derecho Internacional
Center for Justice and International Law
Centro pela Justiça e o Direito Internacional
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Center for Justice and International Law, CEJIL

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PRESENTATION

In its twentieth anniversary year, the Center for Justice and International Law (CEJIL) is pleased to introduce the seventh and updated edition of *Human Rights in the Inter-American System: Compilation of Instruments*.

Historically, this publication compiles the Declarations, Treaties, Protocols and Principles that constitute the fundamental normative body of the International Law of Human Rights in the Inter-American field. It is complemented with those texts that regulate the composition and functioning of the Inter-American Commission and Court (Statutes and Rules of procedure). This edition includes the last modifications to the proceedings of the Commission and the Court introduced in 2009, which affect central aspects of the System such as the rules applicable in the admissibility procedure, the precautionary measures of protection, the role of the victims in the litigation before the Inter-American Court, and issues of legal representation, among others. Additionally, you can find in these pages the recent Rules governing the functioning of the Legal Assistance Fund of the Inter-American Human Rights System issued by the Permanent Council of the OAS, the Inter-American Court and Commission of Human Rights, respectively.

The main source of information for the publication has been the Organization of the American States. Websites of the Department of the International Law, the General Assembly, the Permanent Council, the Inter-American Commission of Women, the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights were also consulted.

Since the foundation of the organization in 1991, CEJIL has been involved in the evolution of the Inter-American System and, has worked together with key actors for the protection of human rights, promoting the maintenance of the international commitments in this field. The aim of the publication of this compendium of Inter-American regulation on protection and defense of human rights remains the same as that of its first version edited in 1997. CEJIL hopes it serves as a tool to make more accessible to different audiences the international law of human rights developed in the Americas, that complements

with other books produced by CEJIL through the years which are available in our website: www.cejil.org/en.

We hope that this new edition keeps contributing to the diffusion of the norms and institutions that constitute the Inter-American System of protection of human rights. Moreover, we wish that it facilitates for different stakeholders - from civil society, academicians, and public officials - the understanding of the inalienable rights of everyone who lives in the continent and the corresponding state obligations. In this regards, we aspire to contribute to a more effective system of protection, able to guarantee the fundamental rights of everybody.

Viviana Krsticevic
Executive Director

CEJIL'S LAW DATABASE

The Law Database is a compilation of the full texts of all the instruments of inter-American System of human rights such as the various declarations, conventions and protocols, providing an update on its entry into force and the corresponding status of ratification.

<http://cejil.org/en/derecho-y-jurisprudencia/instrumentos>

OTHER USEFUL LINKS

Inter-American Commission on Human Rights

<http://www.cidh.oas.org>

Inter-American Court of Human Rights

<http://www.corteidh.or.cr>

Organization of American States

<http://www.oas.org/>

Department of International Law - OAS

<http://www.oas.org/dil/treaties.htm>

General Assembly - OAS

http://www.oas.org/en/about/general_assembly.asp

Permanent Council - OAS

<http://www.oas.org/consejo/>

Inter-American Commission of Women

<http://www.oas.org/en/cim/>



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STATUS OF RATIFICATION OF THE INSTRUMENTS OF THE INTER-AMERICAN SYSTEM OF HUMAN RIGHTS

In this edition we introduce a table that provides a complete panorama of the status of ratification of the instruments of the Inter-American System of Human Rights (IAS). Additionally, the table shows the degree of involvement of each State member of the OAS in the IAS.

The **shady** boxes represent the States accession, acceptance or ratification to the different conventional instruments of human rights.

The boxes marked with a dot (**symbol ■**) indicate that, in those cases, there is additional information, meaning that the State has done some declaration, reservation, denunciation and / or withdrawal.

More details about the dates and the status of signature and ratification of each instrument are available in the publication, in the indicated pages.

States with particular situation require a special mention:

1. The Resolution VI, adopted on January 31, 1962 at the time of the Eighth Meeting of Consultation of Ministers of Foreign Affairs, excluded the Government of **Cuba** of its participation in the Inter-American System. It ceased to have effect according to the disposition of the Resolution AG/RES.2438 (XXXIX-O/09), approved in San Pedro Sula, Honduras, on June 3, 2009, during the 39th regular session.

2. On May 26, 1998, **Trinidad and Tobago** denounced the American Convention on Human Rights. In consequence, the State was part of the Convention and accepted the compulsory jurisdiction of the Court between May 28, 1991 and May 26, 1999.

STATUS OF RATIFICATION OF THE INSTRUMENTS OF THE INTER-AMERICAN SYSTEM OF HUMAN RIGHTS

OAS Member States	American Convention on Human Rights (page 47)	Recognition of the compulsory jurisdiction of the Court (page 47)	Protocol of San Salvador (page 73)	Protocol to abolish the death penalty (page 77)
Antigua and Barbuda				
Argentina	■			
Bahamas				
Barbados	■			
Belize				
Bolivia	■			
Brazil	■			■
Canada				
Chile	■			■
Colombia	■			
Costa Rica	■			
Cuba ¹				
Dominica	■			
Dominican Republic	■			
Ecuador	■			
El Salvador	■			
Grenada				
Guatemala	■			
Guyana				
Haiti	■			
Honduras	■			
Jamaica	■			
Mexico	■		■	
Nicaragua	■		■	
Panama	■			
Paraguay	■			
Peru	■			
St. Kitts and Nevis				
Santa Lucia				
St. Vincent and the Grenadines				
Suriname	■			
Trinidad and Tobago ²	■			
United States of America				
Uruguay	■			
Venezuela	■			

Inter-American Convention to prevent and punish torture (page 85)	Inter-American Convention on forced disappearance of persons (page 94)	Convention of Belém do Pará (page 105)	Inter-American Convention on the elimination of all forms of discrimination against persons with disabilities (page 139)	OAS Member States
				Antigua and Barbuda
				Argentina
		■		Bahamas
				Barbados
				Belize
				Bolivia
				Brazil
				Canada
■				Chile
				Colombia
				Costa Rica
				Cuba ¹
				Dominica
				Dominican Republic
				Ecuador
				El Salvador
				Grenada
■	■			Guatemala
				Guyana
				Haiti
				Honduras
				Jamaica
	■			Mexico
				Nicaragua
				Panama
				Paraguay
				Peru
				St. Kitts and Nevis
				Santa Lucia
				St. Vincent and the Grenadines
				Suriname
				Trinidad and Tobago ²
				United States of America
				Uruguay
				Venezuela

AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN*

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

* Adopted by the Ninth International Conference of American States, Bogotá, Colombia, 1948.

AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN

PREAMBLE

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

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

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

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

Since culture is the highest social and historical expression of that spiritual development, it is the duty of man to preserve, practice and foster culture by every means within his power.

And, since moral conduct constitutes the noblest flowering of culture, it is the duty of every man always to hold it in high respect.

CHAPTER ONE

RIGHTS

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

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

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

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

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

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

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

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

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

Article XIII. Every person has the right to take part in the cultural life of the community, to enjoy the arts, and to participate in the benefits that result from intellectual progress, especially scientific discoveries. *Right to the benefits of culture.*

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

Article XIV. Every person has the right to work, under proper conditions, and to follow *Right to work and to fair remuneration.*

his vocation freely, insofar as existing conditions of employment permit.

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

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

Right to leisure time and to the use thereof.

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.

Right to social security.

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

Right to recognition of juridical personality and 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 be tried without undue delay

or, otherwise, to be released. He also has the right to humane treatment during the time he is in custody.

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

Right to due process of law.

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

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

Right of asylum.

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

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, and, in case of public disaster; to render such services as may be in his power. *Duty to serve the community and the nation.*
It is likewise his duty to hold any public office to which he may be elected by

popular vote in the state of which he is a national.

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

Duties with respect to social security and welfare.

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

Duty to pay taxes.

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

Duty to work.

Article XXXVIII. It is the duty of every person to refrain from taking part in political activities that, according to law, are reserved exclusively to the citizens of the state in which he is an alien.

Duty to refrain from political activities in a foreign country.

INTER-AMERICAN DEMOCRATIC CHARTER*

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 de-

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

velopment 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;

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 demo-

cratic 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. I (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.

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 expres-

sion 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 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 steward-

ship 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.

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.

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 observations 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.

AMERICAN CONVENTION ON HUMAN RIGHTS

“PACT OF SAN JOSÉ, COSTA RICA”*

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

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

Came into force on 18 July, 1978, in accordance with Article 74.2 of the Convention.

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

CHAPTER II

CIVIL AND POLITICAL RIGHTS

Article 3. Right to Juridical Personality.

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

Article 4. Right to Life

1. Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall

be arbitrarily deprived of his life.

2. In countries that have not abolished the death penalty, it may be imposed only for the most serious crimes and pursuant to a final judgment rendered by a competent court and in accordance with a law establishing such punishment, enacted prior to the commission of the crime. The application of such punishment shall not be extended to crimes to which it does not presently apply.

3. The death penalty shall not be reestablished in states that have abolished it.

4. In no case shall capital punishment be inflicted for political offenses or related common crimes.

5. Capital punishment shall not be imposed upon persons who, at the time the crime was committed, were under 18 years of age or over 70 years of age; nor shall it be applied to pregnant women.

6. Every person condemned to death shall have the right to apply for amnesty, pardon, or commutation of sentence, which may be granted in all cases. Capital punishment shall not be imposed while such a petition is pending decision by the competent authority.

Article 5. Right to Humane Treatment

1. Every person has the right to have his physical, mental, and moral integrity respected.

2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.

3. Punishment shall not be extended to any person other than the criminal.

4. Accused persons shall, save in exceptional circumstances, be segregated from convicted persons, and shall be subject to separate treatment appropriate to their status as unconvicted persons.

5. Minors while subject to criminal proceedings shall be separated from adults and brought before specialized tribunals, as speedily as possible, so that they may be treated in accordance with their status as minors.

6. Punishments consisting of deprivation of liberty shall have as an essential aim the reform and social readaptation of the prisoners.

Article 6. Freedom from Slavery

1. No one shall be subject to slavery or to involuntary servitude, which are prohibited in all their forms, as are the slave trade and traffic in women.

2. No one shall be required to perform forced or compulsory labor. This provision shall not be interpreted to mean that, in those countries in which the penalty established for certain crimes is deprivation of liberty at forced labor, the carrying out of such a sentence imposed by a competent court is pro-

hibited. Forced labor shall not adversely affect the dignity or the physical or intellectual capacity of the prisoner.

3. For the purposes of this article, the following do not constitute forced or compulsory labor:

- a. work or service normally required of a person imprisoned in execution of a sentence or formal decision passed by the competent judicial authority. Such work or service shall be carried out under the supervision and control of public authorities, and any persons performing such work or service shall not be placed at the disposal of any private party, company, or juridical person;
- b. military service and, in countries in which conscientious objectors are recognized, national service that the law may provide for in lieu of military service;
- c. service exacted in time of danger or calamity that threatens the existence or the well-being of the community; or
- d. work or service that forms part of normal civic obligations.

Article 7. Right to Personal Liberty

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

Article 8. Right to a Fair Trial

1. Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.

2. Every person accused of a criminal offense has the right to be presumed innocent so long as his guilt has not been proven according to law. During the proceedings, every person is entitled, with full equality, to the following minimum guarantees:

- a. the right of the accused to be assisted without charge by a translator or interpreter; if he does not understand or does not speak the language of the tribunal or court;
- b. prior notification in detail to the accused of the charges against him;
- c. adequate time and means for the preparation of his defense;
- d. the right of the accused to defend himself personally or to be assisted by legal counsel of his own choosing, and to communicate freely and privately with his counsel;
- e. the inalienable right to be assisted by counsel provided by the state, paid or not as the domestic law provides, if the accused does not defend himself personally or engage his own counsel within the time period established by law;
- f. the right of the defense to examine witnesses present in the court and to obtain the appearance, as witnesses, of experts or other persons who may throw light on the facts;
- g. the right not to be compelled to be a witness against himself or to plead guilty; and
- h. the right to appeal the judgment to a higher court.

3. A confession of guilt by the accused shall be valid only if it is made without coercion of any kind.

4. An accused person acquitted by a nonappealable judgment shall not be subjected to a new trial for the same cause.

5. Criminal proceedings shall be public, except insofar as may be necessary to protect the interests of justice.

Article 9. Freedom from Ex Post Facto Laws

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

the offense the law provides for the imposition of a lighter punishment, the guilty person shall benefit therefrom.

Article 10. Right to Compensation

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

Article 11. Right to Privacy

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

Article 12. Freedom of Conscience and Religion

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

Article 13. Freedom of Thought and Expression

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

3. The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.

4. Notwithstanding the provisions of paragraph 2 above, public entertainments may be subject by law to prior censorship for the sole purpose of regulating access to them for the moral protection of childhood and adolescence.

5. Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.

Article 14. Right of Reply

1. Anyone injured by inaccurate or offensive statements or ideas disseminated to the public in general by a legally regulated medium of communication has the right to reply or to make a correction using the same communications outlet, under such conditions as the law may establish.

2. The correction or reply shall not in any case remit other legal liabilities that may have been incurred.

3. For the effective protection of honor and reputation, every publisher, and every newspaper, motion picture, radio, and television company, shall have a person responsible who is not protected by immunities or special privileges.

Article 15. Right of Assembly

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

Article 16. Freedom of Association

1. Everyone has the right to associate freely for ideological, religious, political, economic, labor, social, cultural, sports, or other purposes.

2. The exercise of this right shall be subject only to such restrictions established by law as may be necessary in a democratic society, in the interest of national security, public safety or public order, or to protect public health or morals or the rights and freedoms of others.

3. The provisions of this article do not bar the imposition of legal restric-

tions, including even deprivation of the exercise of the right of association, on members of the armed forces and the police.

Article 17. Rights of the Family

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.

2. The right of men and women of marriageable age to marry and to raise a family shall be recognized, if they meet the conditions required by domestic laws, insofar as such conditions do not affect the principle of nondiscrimination established in this Convention.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. The States Parties shall take appropriate steps to ensure the equality of rights and the adequate balancing of responsibilities of the spouses as to marriage, during marriage, and in the event of its dissolution. In case of dissolution, provision shall be made for the necessary protection of any children solely on the basis of their own best interests.

5. The law shall recognize equal rights for children born out of wedlock and those born in wedlock.

Article 18. Right to a Name

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

Article 19. Rights of the Child

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

Article 20. Right to Nationality

1. Every person has the right to a nationality.

2. Every person has the right to the nationality of the state in whose territory he was born if he does not have the right to any other nationality.

3. No one shall be arbitrarily deprived of his nationality or of the right to change it.

Article 21. Right to Property

1. Everyone has the right to the use and enjoyment of his property. The law may subordinate such use and enjoyment to the interest of society.

2. No one shall be deprived of his property except upon payment of just

compensation, for reasons of public utility or social interest, and in the cases and according to the forms established by law.

3. Usury and any other form of exploitation of man by man shall be prohibited by law.

Article 22. Freedom of Movement and Residence

1. Every person lawfully in the territory of a State Party has the right to move about in it, and to reside in it subject to the provisions of the law.

2. Every person has the right to leave any country freely, including his own.

3. The exercise of the foregoing rights may be restricted only pursuant to a law to the extent necessary in a democratic society to prevent crime or to protect national security, public safety, public order, public morals, public health, or the rights or freedoms of others.

4. The exercise of the rights recognized in paragraph 1 may also be restricted by law in designated zones for reasons of public interest.

5. No one can be expelled from the territory of the state of which he is a national or be deprived of the right to enter it.

6. An alien lawfully in the territory of a State Party to this Convention may be expelled from it only pursuant to a decision reached in accordance with law.

7. Every person has the right to seek and be granted asylum in a foreign territory, in accordance with the legislation of the state and international conventions, in the event he is being pursued for political offenses or related common crimes.

8. In no case may an alien be deported or returned to a country, regardless of whether or not it is his country of origin, if in that country his right to life or personal freedom is in danger of being violated because of his race, nationality, religion, social status, or political opinions.

9. The collective expulsion of aliens is prohibited.

Article 23. Right to Participate in Government

1. Every citizen shall enjoy the following rights and opportunities:

a. to take part in the conduct of public affairs, directly or through freely chosen representatives;

b. to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and

c. to have access, under general conditions of equality, to the public service of his country.

2. The law may regulate the exercise of the rights and opportunities referred to in the preceding paragraph only on the basis of age, nationality, residence,

language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings.

Article 24. Right to Equal Protection

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

Article 25. Right to Judicial Protection

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

2. The States Parties undertake:

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

CHAPTER III ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

Article 26. Progressive Development

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

CHAPTER IV SUSPENSION OF GUARANTEES, INTERPRETATION, AND APPLICATION

Article 27. Suspension of Guarantees

1. In time of war, public danger, or other emergency that threatens the independence or security of a State Party, it may take measures derogating from its obligations under the present Convention to the extent and for the peri-

od of time strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law and do not involve discrimination on the ground of race, color, sex, language, religion, or social origin.

2. The foregoing provision does not authorize any suspension of the following articles: Article 3 (Right to Juridical Personality), Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 6 (Freedom from Slavery), Article 9 (Freedom from Ex Post Facto Laws), Article 12 (Freedom of Conscience and Religion), Article 17 (Rights of the Family), Article 18 (Right to a Name), Article 19 (Rights of the Child), Article 20 (Right to Nationality), and Article 23 (Right to Participate in Government), or of the judicial guarantees essential for the protection of such rights.

3. Any State Party availing itself of the right of suspension shall immediately inform the other States Parties, through the Secretary General of the Organization of American States, of the provisions the application of which it has suspended, the reasons that gave rise to the suspension, and the date set for the termination of such suspension.

Article 28. Federal Clause

1. Where a State Party is constituted as a federal state, the national government of such State Party shall implement all the provisions of the Convention over whose subject matter it exercises legislative and judicial jurisdiction.

2. With respect to the provisions over whose subject matter the constituent units of the federal state have jurisdiction, the national government shall immediately take suitable measures, in accordance with its constitution and its laws, to the end that the competent authorities of the constituent units may adopt appropriate provisions for the fulfillment of this Convention.

3. Whenever two or more States Parties agree to form a federation or other type of association, they shall take care that the resulting federal or other compact contains the provisions necessary for continuing and rendering effective the standards of this Convention in the new state that is organized.

Article 29. Restrictions Regarding Interpretation

No provision of this Convention shall be interpreted as:

- a. permitting any State Party, group, or person to suppress the enjoyment or exercise of the rights and freedoms recognized in this Convention or to restrict them to a greater extent than is provided for herein;
- b. restricting the enjoyment or exercise of any right or freedom recognized by virtue of the laws of any State Party or by virtue of another

- convention to which one of the said states is a party;
- c. precluding other rights or guarantees that are inherent in the human personality or derived from representative democracy as a form of government; or
 - d. excluding or limiting the effect that the American Declaration of the Rights and Duties of Man and other international acts of the same nature may have.

Article 30. Scope of Restrictions

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

Article 31. Recognition of Other Rights

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

CHAPTER V PERSONAL RESPONSIBILITIES

Article 32. Relationship between Duties and Rights

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

PART II MEANS OF PROTECTION

CHAPTER VI COMPETENT ORGANS

Article 33

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

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

b. the Inter-American Court of Human Rights, referred to as “The Court.”

CHAPTER VII INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

SECTION I. ORGANIZATION

Article 34

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

Article 35

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

Article 36

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

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

Article 37

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

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

Article 38

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

Article 39

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

Article 40

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

SECTION 2. FUNCTIONS

Article 41

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

- a. to develop an awareness of human rights among the peoples of America;
- b. to make recommendations to the governments of the member states, when it considers such action advisable, for the adoption of progressive measures in favor of human rights within the framework of their domestic law and constitutional provisions as well as appropriate measures to further the observance of those rights;
- c. to prepare such studies or reports as it considers advisable in the performance of its duties;
- d. to request the governments of the member states to supply it with information on the measures adopted by them in matters of human rights;
- e. to respond, through the General Secretariat of the Organization of American States, to inquiries made by the member states on matters related to human rights and, within the limits of its possibilities, to provide those states with the advisory services they request;
- f. to take action on petitions and other communications pursuant to its authority under the provisions of Articles 44 through 51 of this Convention; and
- g. to submit an annual report to the General Assembly of the Organization of American States.

Article 42

The States Parties shall transmit to the Commission a copy of each of the

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

Article 43

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

SECTION 3. COMPETENCE

Article 44

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

Article 45

1. Any State Party may, when it deposits its instrument of ratification of or adherence to this Convention, or at any later time, declare that it recognizes the competence of the Commission to receive and examine communications in which a State Party alleges that another State Party has committed a violation of a human right set forth in this Convention.

2. Communications presented by virtue of this article may be admitted and examined only if they are presented by a State Party that has made a declaration recognizing the aforementioned competence of the Commission. The Commission shall not admit any communication against a State Party that has not made such a declaration.

3. A declaration concerning recognition of competence may be made to be valid for an indefinite time, for a specified period, or for a specific case.

4. Declarations shall be deposited with the General Secretariat of the Organization of American States, which shall transmit copies thereof to the member states of that Organization.

Article 46

1. Admission by the Commission of a petition or communication lodged in ac-

cordance with Articles 44 or 45 shall be subject to the following requirements:

- a. that the remedies under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law;
- b. that the petition or communication is lodged within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgment;
- c. that the subject of the petition or communication is not pending in another international proceeding for settlement; and
- d. that, in the case of Article 44, the petition contains the name, nationality, profession, domicile, and signature of the person or persons or of the legal representative of the entity lodging the petition.

2. The provisions of paragraphs 1.a and 1.b of this article shall not be applicable when:

- a. the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated;
- b. the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; or
- c. there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.

Article 47

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

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

SECTION 4. PROCEDURE

Article 48

1. When the Commission receives a petition or communication alleging violation of any of the rights protected by this Convention, it shall proceed as follows:

- a. If it considers the petition or communication admissible, it shall request information from the government of the state indicated as being responsible for the alleged violations and shall furnish that government a transcript of the pertinent portions of the petition or communication. This information shall be submitted within a reasonable period to be determined by the Commission in accordance with the circumstances of each case.
 - b. After the information has been received, or after the period established has elapsed and the information has not been received, the Commission shall ascertain whether the grounds for the petition or communication still exist. If they do not, the Commission shall order the record to be closed.
 - c. The Commission may also declare the petition or communication inadmissible or out of order on the basis of information or evidence subsequently received.
 - d. If the record has not been closed, the Commission shall, with the knowledge of the parties, examine the matter set forth in the petition or communication in order to verify the facts. If necessary and advisable, the Commission shall carry out an investigation, for the effective conduct of which it shall request, and the states concerned shall furnish to it, all necessary facilities.
 - e. The Commission may request the states concerned to furnish any pertinent information and, if so requested, shall hear oral statements or receive written statements from the parties concerned.
 - f. The Commission shall place itself at the disposal of the parties concerned with a view to reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention.
2. However, in serious and urgent cases, only the presentation of a petition or communication that fulfills all the formal requirements of admissibility shall be necessary in order for the Commission to conduct an investigation with the prior consent of the state in whose territory a violation has allegedly been committed.

Article 49

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

Article 50

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

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

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

Article 51

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

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

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

CHAPTER VIII INTER-AMERICAN COURT OF HUMAN RIGHTS

SECTION I. ORGANIZATION

Article 52

1. The Court shall consist of seven judges, nationals of the member states of the Organization, elected in an individual capacity from among jurists of the highest moral authority and of recognized competence in the field of human rights, who possess the qualifications required for the exercise of the highest judicial functions in conformity with the law of the state of which they are nationals or of the state that proposes them as candidates.

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

Article 53

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

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

Article 54

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

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

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

Article 55

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

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

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

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

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

Article 56

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

Article 57

The Commission shall appear in all cases before the Court.

Article 58

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

2. The Court shall appoint its own Secretary.

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

Article 59

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

Article 60

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

SECTION 2. JURISDICTION AND FUNCTIONS

Article 61

1. Only the States Parties and the Commission shall have the right to submit a case to the Court.

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

Article 62

1. A State Party may, upon depositing its instrument of ratification or adherence to this Convention, or at any subsequent time, declare that it recognizes as binding, ipso facto, and not requiring special agreement, the jurisdiction of the Court on all matters relating to the interpretation or application of this Convention.

2. Such declaration may be made unconditionally, on the condition of reciprocity, for a specified period, or for specific cases. It shall be presented to the Secretary General of the Organization, who shall transmit copies thereof to the other member states of the Organization and to the Secretary of the Court.

3. The jurisdiction of the Court shall comprise all cases concerning the interpretation and application of the provisions of this Convention that are submitted to it, provided that the States Parties to the case recognize or have recognized such jurisdiction, whether by special declaration pursuant to the preceding paragraphs, or by a special agreement.

Article 63

1. If the Court finds that there has been a violation of a right or freedom protected by this Convention, the Court shall rule that the injured party be ensured the enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party.

2. In cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

Article 64

1. The member states of the Organization may consult the Court regarding the interpretation of this Convention or of other treaties concerning the protection of human rights in the American states. Within their spheres of competence, the organs listed in Chapter X of the Charter of the Organization of American States, as amended by the Protocol of Buenos Aires, may in like manner consult the Court.

2. The Court, at the request of a member state of the Organization, may provide that state with opinions regarding the compatibility of any of its domestic laws with the aforesaid international instruments.

Article 65

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

SECTION 3. PROCEDURE

Article 66

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

Article 67

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

Article 68

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

Article 69

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

CHAPTER IX COMMON PROVISIONS

Article 70

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

Article 71

The position of judge of the Court or member of the Commission is incom-

patible with any other activity that might affect the independence or impartiality of such judge or member; as determined in the respective statutes.

Article 72

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

Article 73

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

PART III

GENERAL AND TRANSITORY PROVISIONS

CHAPTER X

SIGNATURE, RATIFICATION, RESERVATIONS, AMENDMENTS, PROTOCOLS, AND DENUNCIATION

Article 74

1. This Convention shall be open for signature and ratification by or adherence of any member state of the Organization of American States.

2. Ratification of or adherence to this Convention shall be made by the deposit of an instrument of ratification or adherence with the General Secretariat of the Organization of American States. As soon as eleven states have deposited their instruments of ratification or adherence, the Convention shall enter into force. With respect to any state that ratifies or adheres thereafter, the Convention shall enter into force on the date of the deposit of its instru-

ment of ratification or adherence.

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

Article 75

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

Article 76

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

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

Article 77

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

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

Article 78

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

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

CHAPTER XI TRANSITORY PROVISIONS

SECTION I. 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.

SIGNATORIES AND RATIFICATIONS

COUNTRY	SIGNATURE	DEPOSIT	RECOGNITION OF THE JURISDICTION OF THE COURT	
Antigua & Barbuda	-	-		-
Argentina ^{▪*}	02 / 02 / 1984	09 / 05 / 1984	RA	09 / 05 / 1984
Bahamas	-	-		-
Barbados [▪]	06 / 20 / 1978	11 / 27 / 1982	RA	06 / 04 / 2000
Belize	-	-		-
Bolivia [▪]	-	07 / 19 / 1979	AC	07 / 27 / 1993
Brazil [▪]	-	09 / 25 / 1992	AC	12 / 10 / 1998
Canada	-	-		-
Chile ^{▪*}	11 / 22 / 1969	08 / 21 / 1990	RA	08 / 21 / 1990
Colombia ^{▪*}	11 / 22 / 1969	07 / 31 / 1973	RA	06 / 21 / 1985
Costa Rica ^{▪*}	11 / 22 / 1969	04 / 08 / 1970	RA	07 / 02 / 1980
Dominica [▪]	-	06 / 11 / 1993	RA	-
Dominican Rep. [▪]	09 / 07 / 1977	04 / 19 / 1978	RA	03 / 25 / 1999
Ecuador ^{▪*}	11 / 22 / 1969	12 / 28 / 1977	RA	08 / 13 / 1984
El Salvador [▪]	11 / 22 / 1969	06 / 23 / 1978	RA	06 / 06 / 1995
Grenada	07 / 14 / 1978	07 / 18 / 1978	RA	-
Guatemala [▪]	11 / 22 / 1969	05 / 25 / 1978	RA	03 / 09 / 1987
Guyana	-	-		-
Haiti [▪]	-	09 / 27 / 1977	AC	03 / 20 / 1998
Honduras [▪]	11 / 22 / 1969	08 / 09 / 1977	RA	09 / 09 / 1981
Jamaica ^{▪*}	09 / 16 / 1977	08 / 07 / 1978	RA	-
Mexico [▪]	-	03 / 24 / 1981	AC	12 / 16 / 1998
Nicaragua ^{▪*}	11 / 22 / 1969	09 / 25 / 1979	RA	02 / 12 / 1991
Panama [▪]	11 / 22 / 1969	06 / 22 / 1978	RA	05 / 09 / 1990
Paraguay [▪]	11 / 22 / 1969	08 / 24 / 1989	RA	03 / 26 / 1993
Peru ^{▪*}	07 / 27 / 1977	07 / 28 / 1978	RA	01 / 21 / 1981
St. Kitts y Nevis	-	-		-
St. Lucia	-	-		-
St. Vincent and the Grenadines	-	-		-
Suriname [▪]	-	11 / 12 / 1987	AC	11 / 12 / 1987
Trinidad & Tobago [▪]	-	05 / 28 / 1991	AC	05 / 28 / 1991
United States	06 / 01 / 1977	-		-
Uruguay ^{▪*}	11 / 22 / 1969	04 / 19 / 1985	RA	04 / 19 / 1985
Venezuela ^{▪*}	11 / 22 / 1969	08 / 09 / 1977	RA	06 / 24 / 1981

RA Ratification

* Additional information

AC Accession

Argentina

Reservation and interpretative declarations made at the time of ratification:

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

Reservation:

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

Interpretative Declarations:

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

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

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

Recognition of Competence:

In the instrument of ratification dated August 14, 1984, and deposited with the General Secretariat of the OAS on September 5, 1984, the Government of Argentina recognizes the competence of the Inter-American Commission

* States that recognized the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State Party alleges that another State Party has committed a violation of a human right set forth in the Convention. Argentina (5 September, 1984); Chile (21 August, 1990); Colombia (21 June, 1985); Costa Rica (2 July, 1980); Ecuador (13 August, 1984); Jamaica (7 August, 1978); Nicaragua (6 February, 2006); Perú (21 January, 1981); Uruguay (19 April, 1985) y Venezuela (9 August, 1977).

on Human Rights and on the jurisdiction of the Inter-American Court of Human Rights. This recognition is for an indeterminate period and on condition of reciprocity on all cases related to the interpretation or application of the Convention cited, with the partial reservation and bearing in mind the interpretative statements contained in the instrument of ratification.

The instrument of ratification further notes that the obligations undertaken by virtue of the Convention shall only be effective as regards acts that have occurred after the ratification of the above-mentioned instrument.

Barbados

Reservations made at the time of ratification:

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

The text of the reservations with respect to Articles 4(4), 4(5) and 8(2) (e), is the following: "In respect of 4(4) the criminal code of Barbados provides for death by hanging as a penalty for murder and treason. The Government is at present reviewing the whole matter of the death penalty which is only rarely inflicted but wishes to enter a reservation on this point inasmuch as treason in certain circumstances might be regarded as a political offence and falling within the terms of section 4(4).

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

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

Declaration of recognition of the compulsory jurisdiction of the Inter-American Court of Human Rights pursuant the article 62.I of the American Convention (June 4, 2000).

Bolivia

Recognition of competence:

The Government of Bolivia declares in that instrument:

I. The Constitutional Government of the Republic, under Article 59, paragraph 12, of the State Constitution, by Law 1430 of February 11, approved and ratified the American Convention on Human Rights "Pact of San José", signed at San José, Costa Rica, on November 22, 1969, and recognized the competence of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, under Articles 45 and 62 of the Convention.

II. By virtue of the power vested in me under Article 96, paragraph 2, Constitution of the State, I issue this instrument ratifying the American Convention on Human Rights "Pact of San José", recognizing the competence of the Inter-American Commission on Human Rights, and recognizing as binding, ipso facto, unconditionally and indefinitely the jurisdiction of the Inter-American Court of Human Rights, under Article 62 of the Convention. The Government of Bolivia in letter OAS/262/93, of July 22, 1993, made an interpretative declaration at the time of deposit of the instrument of recognition of the competence of the Inter-American Court of Human Rights. The text of the declaration is as follows:

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

Brazil

Interpretative declaration made at the time of accession:

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

Recognition of Competence:

"The Government of the Federative Republic of Brazil declares its recognition as binding, for an indefinite period of time, ipso jure, of the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the American Convention on Human Rights, according to Article 62 of that Convention, on the condition of reciprocity, for matters arising after the time of this Declaration." (date: December 10, 1998).

Chile

Declaration made at the time of signature:

The Delegation of Chile signs this Convention, subject to its subsequent par-

liamentary approval and ratification, in accordance with the constitutional rules in force.

Reservations made at the time of ratification:

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

b) The Government of Chile declares that it recognizes as binding, ipso facto, the jurisdiction of the Court on all matters relating to the interpretation or application of the Convention in accordance with its Article 62.

In making these declarations, the Government of Chile places on record that this recognition of the competence and jurisdiction of the Commission applies to events subsequent to the date of deposit of this instrument of ratification or, in any case, to events which began subsequent to March 11, 1990. Moreover, in acknowledging the competence and jurisdiction of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, the Government of Chile declares that, when these bodies apply the provisions of Article 21.2 of the Convention, they may not make statements concerning the reasons of public utility or social interest taken into account in depriving a person of his property.

Colombia

Recognition of Competence:

On June 21, 1985, presented an Instrument of acceptance by which recognizes the competence of the Inter-American Commission on Human Rights for an indefinite time, on the condition of strict reciprocity and non-retroactivity, for the cases involving the interpretation or application of the Convention, and reserves the right to withdraw its recognition of competence should it deem this advisable. The same instrument recognizes the jurisdiction of the Inter-American Court of Human Rights, for an indefinite time, on the condition of reciprocity and non-retroactivity, for cases involving the interpretation or application of the Convention, and reserves the right to withdraw its recognition of competence should it deem this advisable.

Costa Rica

Recognition of Competence:

Presented on July 2, 1980, at the General Secretariat of the OAS an instru-

ment recognizing the competence of the Inter-American Commission on Human Rights and the jurisdiction of the Inter-American Court of Human Rights, in accordance with Articles 45 and 62 of the Convention.

Declaration and reservations made at the time of ratification:

1) That Costa Rica declares that it recognizes, without conditions and while the American Convention on Human Rights remains in effect, the competence of the Inter-American Commission to receive and examine communications in which a State Party alleges that another State Party has committed a violation of human rights established by the cited Convention.

2) That Costa Rica declares that it recognizes, without conditions and while the American Convention on Human Rights remains in effect, the mandatory jurisdiction of the Court, as a matter of law and without a specific convention on the Inter-American Court on Human Rights, on all cases relating to the interpretation or application of such multilateral treaty.

Dominica

Reservation made at the time of ratification:

In the instrument of ratification, the Government of the Commonwealth of Dominica presented the following reservations concerning the American Convention on Human Rights.

Whereas the American Convention on Human Rights was opened for signature and ratification by or adherence of any member state of the Organization of American States:

And Whereas ratification of or adherence to the Convention shall be made by the deposit of an instrument of ratification or adherence with the General Secretariat of the Organization of American States.

And Whereas Article 75 of the said Convention provides that the 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.

Now Therefore the Commonwealth of Dominica hereby ratifies the American Convention on Human Rights subject to the following reservations:

1) Article 5. This should not be read as prohibiting corporal punishment administered in accordance with the Corporal Punishment Act of Dominica or the Juvenile Offenders Punishment Act.

2) Article 4.4. Reservation is made in respect of the words "or related common crimes".

3) Article 8.2.(e) This Article shall not apply in respect of Dominica.

4) Article 21.2. This must be interpreted in the light of the provisions of the Constitution of Dominica and is not to be deemed to extend or limit the rights declared in the Constitution.

5) Article 27.1. This must also be read in the light of our Constitution and is not to be deemed to extend or limit the rights declared by the Constitution.

6) Article 62. The Commonwealth of Dominica does not recognize the jurisdiction of the Court.

Dominican Republic

Declaration made at the time of signature:

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

Recognition of jurisdiction:

“The Government of the Dominican Republic, by way of this instrument, declares that it recognizes as binding, as a matter of law, and not requiring special agreement, the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the American Convention on Human Rights, of November 22, 1969” (date: February 19, 1999).

Ecuador

Declaration made at the time of signature:

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

Recognition of Competence:

On July 24, 1984 recognized the applicability of Articles 45 and 62 of the American Convention on Human Rights, by Decree N° 2768 of July 24, 1984, published in the Registro Oficial N° 795 on July 27 of said month and year. In addition, the Minister of Foreign Affairs of Ecuador made the following declaration on July 30, 1984, in conformity with Articles 45(4) and 62(2) of the above-mentioned Convention:

“In keeping with the provisions of Article 45, paragraph 1, of the American Convention on Human Rights -‘Pact of San José, Costa Rica’- (ratified by Ecuador on October 21, 1977, and in force since October 27, 1977), the Government of Ecuador recognizes the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State Party alleges that another State Party has committed a violation of the human rights set forth in the Convention, under the terms provided for in paragraph 2 of that Article.

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

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

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

El Salvador

Declaration and reservations made at the time of ratification:

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

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

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

Recognition of Competence (deposited on June 6, 1995):

In its instrument of recognition the Government of El Salvador declares: "The Honorable Legislative Assembly of the Republic of El Salvador ratified in Legislative Decree N° 319 dated March 30, 1995, the Republic of El Salvador's Declaration on the Recognition of the Jurisdiction of the Inter-American Court of Human Rights, in conformity with Article 62 of the Inter-American Convention on Human Rights, "Pact of San José, Costa Rica." This declaration was published in Official Register N° 82, Book 327, on May 5, 1995.

I. The Government of El Salvador recognizes as binding, ipso facto, and not requiring special agreement, the jurisdiction of the Inter-American Court of Human Rights, in accordance with Article 62 of the American Convention on Human Rights, "Pact of San José."

II. The Government of El Salvador, in recognizing that competence, expressed that its recognition is for an indefinite period and on condition of reciprocity, and that it retains the right to include exclusively subsequent deeds or juridical acts or deeds or juridical acts began subsequent to the date of deposit of this declaration of acceptance, by reserving the right to withdraw its recognition of competence whenever it may deem it advisable to do so.

III. The Government of El Salvador recognizes the competence of the Court, insofar as this recognition is compatible with the provisions in the constitution of the Republic of El Salvador:

Guatemala

Reservation made at the time of ratification:

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

The instrument of ratification was received at the General Secretariat of the OAS on May 25, 1978, with a reservation. The notification procedure of the reservation was taken in conformity with the Vienna Convention on the Law of Treaties signed on May 23, 1969.

Withdrawal of Guatemala's reservation:

The Government of Guatemala, by Government Agreement N° 281-86, dated May 20 1986, has withdrawn the above-mentioned reservation, which was included in its instrument of ratification dated April 27, 1978, considering

that it is no longer supported by the Constitution in the light of the new legal system in force. The withdrawal of the reservation will become effective as of August 12, 1986, in conformity with Article 22 of the Vienna Convention on the Law of Treaties of 1969, in application of Article 75 of the American Convention on Human Rights.

Recognition of Competence:

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

“(Article 1) To declare that it recognizes as binding, ipso facto, and not requiring special agreement, the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the American Convention on Human Rights. (Article 2) To accept the competence of the Inter-American Court of Human Rights for an indefinite period of time, such competence being general in nature, under terms of reciprocity and with the reservation that cases in which the competence of the Court is recognized are exclusively those that shall have taken place after the date that this declaration is presented to the Secretary General of the Organization of American States.”

Haiti

Recognition of Competence:

Having seen the Constitution of the Republic of 1987,

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

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

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

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

Honduras

Recognition of Competence:

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

Jamaica

Recognition of Competence:

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

Mexico

Declarations and reservation made at the time of ratification:

The instrument of accession was received at the General Secretariat of the OAS on March 24, 1981, with two interpretative declarations and one reservation. Notification of the reservation submitted was given in conformity with the provisions of the Vienna Convention on the Law of Treaties, signed on May 23, 1969. The twelve-month period from the notification of said reservation expired on April 2, 1982, without any objection being raised to the reservation.

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

Interpretative declarations:

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

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

Reservation:

The Government of Mexico makes express reservation to Article 23, para-

graph 2, since the Mexican Constitution provides, in Article 130, that ministers of denominations shall not have an active or passive vote, nor the right to associate for political purposes.

On April 9, 2002, the Government of Mexico notified the General Secretariat of its intention to partially withdraw its interpretative declarations and reservation, which now read as follows:

Interpretative declaration:

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

Reservation:

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

Declaration for recognition of the jurisdiction of the Inter-American court of Human Rights:

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

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

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

(date of signature: December 16, 1998)

Nicaragua

Recognition of Competence:

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

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

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

On February 6, 2006, Nicaragua delivered a note to the General Secretariat in which it reported that the Government of the Republic of Nicaragua had added a third paragraph to the Declaration N° 49 of January 15, 1991 regarding the American Convention on Human Rights, in which it declares that it recognizes the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State Party alleges that another State Party has committed a violation of a human right set forth in the Convention, pursuant the article 45.

Panama

Recognition of Competence:

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

Paraguay

Recognition of Competence:

The aforementioned instrument of the Government of Paraguay states:

I. That, by virtue of the enactment of Decree N° 16.078 of January 8, 1993, which recognizes the competence of the Inter-American Court of Human Rights for the interpretation and application of the American Convention on

Human Rights or “Pact of San José, Costa Rica”.

II. This recognition is for an indefinite period, and should be interpreted in keeping with the guiding principles of international law, in the sense that this recognition pertains expressly to events occurring after this declaration and only on the condition of reciprocity.

Peru

Recognition of Competence:

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

On July 9, 1999 the Republic of Peru submitted to the General Secretariat of the Organization of the American States (OAS) a Declaration withdrawing the Declaration of recognition of the optional clause of submission to the jurisdiction of the Inter-American Court of Human Rights.

The Inter-American Court of Human Rights, in its judgments of competence number 54 and 55, of September 24, 1999, indicated that the above mentioned withdrawal was not appropriate, in conformity with the regulations of the American Convention on Human Rights.

On January 29, 2001, the Republic of Peru reported that the Congress of Republic, on January 12, 2000 had agreed, by the way of the Legislative Resolution N° 27401, to repeal the Legislative Resolution N° 27152 which approved the withdrawal of the recognition of the jurisdiction of the Inter-American Court of Human Rights. Thus, entrusting the Executive Power to carry on the necessary formalities to leave without effect the results that such device would had generated.

In consequence, it declared that:

“The recognition of the contentious jurisdiction of the Inter American Court of Human Rights issued by Peru on October 20, 1980, is in full effect and binding in all legal respects on the Peruvian state. Such effect should be understood as having been uninterrupted since the deposit of the declaration with the General Secretariat of the Organization of American States on January 21, 1981.

The Government of the Republic of Peru proceeds to withdraw the Declaration deposited on July 9, 1999, with the intent to withdraw the declaration of rec-

ognition of the contentious jurisdiction of the Inter-American Court of Human Rights under the optional clause pertaining to such recognition.”

Suriname

Recognition of Competence:

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

Trinidad and Tobago

Reservations made at the time of accession:

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

Recognition of Competence:

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

Denunciation:

On May 26, 1998 the Republic of Trinidad and Tobago notified the General Secretariat of the Organization of the American States (OAS) its resolution to denounce the American Convention on Human Rights. The denunciation entered into force a year after the date of notification pursuant to article 78 (I) of the American Convention.

Uruguay

Reservation made at the time of signature:

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

Reservation made at the time of ratification:

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

Recognition of Competence:

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

Venezuela

Reservation and declaration made at the time of ratification:

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

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

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

Recognition of Competence:

On August 9, 1977 recognized the competence of the Inter-American

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

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

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;

* Adopted at San Salvador, El Salvador on November 17, 1988, At the eighteenth regular session of the General Assembly.

Came into force on 16 November, 1999.

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 in the area of Economic, Social and Cultural Rights "Protocol Of San Salvador"

Article 1. Obligation to Adopt Measures

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

Article 2. Obligation to Enact Domestic Legislation

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

Article 3. Obligation of nondiscrimination

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

Article 4. Inadmissibility of Restrictions

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

Article 5. Scope of Restrictions and Limitations

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

Article 6. Right to Work

1. Everyone has the right to work, which includes the opportunity to secure the means for living a dignified and decent existence by performing a freely elected or accepted lawful activity.

2. The State Parties undertake to adopt measures that will make the right to work fully effective, especially with regard to the achievement of full employment, vocational guidance, and the development of technical and vocational training projects, in particular those directed to the disabled. The States Parties also undertake to implement and strengthen programs that help to ensure suitable family care, so that women may enjoy a real opportunity to exercise the right to work.

Article 7. Just, Equitable, and Satisfactory Conditions of Work

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

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

- b. The right of every worker to follow his vocation and to devote himself to the activity that best fulfills his expectations and to change employment in accordance with the pertinent national regulations;
- c. The right of every worker to promotion or upward mobility in his employment, for which purpose account shall be taken of his qualifications, competence, integrity and seniority;
- d. Stability of employment, subject to the nature of each industry and occupation and the causes for just separation. In cases of unjustified dismissal, the worker shall have the right to indemnity or to reinstatement on the job or any other benefits provided by domestic legislation;
- e. Safety and hygiene at work;
- f. The prohibition of night work or unhealthy or dangerous working conditions and, in general, of all work which jeopardizes health, safety, or morals, for persons under 18 years of age. As regards minors under the age of 16, the work day shall be subordinated to the provisions regarding compulsory education and in no case shall work constitute an impediment to school attendance or a limitation on benefiting from education received;
- g. A reasonable limitation of working hours, both daily and weekly. The days shall be shorter in the case of dangerous or unhealthy work or of night work;
- h. Rest, leisure and paid vacations as well as remuneration for national holidays.

Article 8. Trade Union Rights

1. The States Parties shall ensure:
 - a. The right of workers to organize trade unions and to join the union of their choice for the purpose of protecting and promoting their interests. As an extension of that right, the States Parties shall permit trade unions to establish national federations or confederations, or to affiliate with those that already exist, as well as to form international trade union organizations and to affiliate with that of their choice. The States Parties shall also permit trade unions, federations and confederations to function freely;
 - b. The right to strike.
2. The exercise of the rights set forth above may be subject only to restrictions established by law, provided that such restrictions are characteristic of a democratic society and necessary for safeguarding public order or for protecting public health or morals or the rights and freedoms of others. Members of the armed forces and the police and of other essential pub-

lic services shall be subject to limitations and restrictions established by law.
3. No one may be compelled to belong to a trade union.

Article 9. Right to Social Security

1. Everyone shall have the right to social security protecting him from the consequences of old age and of disability which prevents him, physically or mentally, from securing the means for a dignified and decent existence. In the event of the death of a beneficiary, social security benefits shall be applied to his dependents.

2. In the case of persons who are employed, the right to social security shall cover at least medical care and an allowance or retirement benefit in the case of work accidents or occupational disease and, in the case of women, paid maternity leave before and after childbirth.

Article 10. Right to Health

1. Everyone shall have the right to health, understood to mean the enjoyment of the highest level of physical, mental and social well-being.

2. In order to ensure the exercise of the right to health, the States Parties agree to recognize health as a public good and, particularly, to adopt the following measures to ensure that right:

- a. Primary health care, that is, essential health care made available to all individuals and families in the community;
- b. Extension of the benefits of health services to all individuals subject to the State's jurisdiction;
- c. Universal immunization against the principal infectious diseases;
- d. Prevention and treatment of endemic, occupational and other diseases;
- e. Education of the population on the prevention and treatment of health problems, and
- f. Satisfaction of the health needs of the highest risk groups and of those whose poverty makes them the most vulnerable.

Article 11. Right to a Healthy Environment

1. Everyone shall have the right to live in a healthy environment and to have access to basic public services.

2. The States Parties shall promote the protection, preservation, and improvement of the environment.

Article 12. Right to Food

1. Everyone has the right to adequate nutrition which guarantees the possi-

bility of enjoying the highest level of physical, emotional and intellectual development.

2. In order to promote the exercise of this right and eradicate malnutrition, the States Parties undertake to improve methods of production, supply and distribution of food, and to this end, agree to promote greater international cooperation in support of the relevant national policies.

Article 13. Right to Education

1. Everyone has the right to education.

2. The States Parties to this Protocol agree that education should be directed towards the full development of the human personality and human dignity and should strengthen respect for human rights, ideological pluralism, fundamental freedoms, justice and peace. They further agree that education ought to enable everyone to participate effectively in a democratic and pluralistic society and achieve a decent existence and should foster understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups and promote activities for the maintenance of peace.

3. The States Parties to this Protocol recognize that in order to achieve the full exercise of the right to education:

a. Primary education should be compulsory and accessible to all without cost;

b. Secondary education in its different forms, including technical and vocational secondary education, should be made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education;

c. Higher education should be made equally accessible to all, on the basis of individual capacity, by every appropriate means, and in particular, by the progressive introduction of free education;

d. Basic education should be encouraged or intensified as far as possible for those persons who have not received or completed the whole cycle of primary instruction;

e. Programs of special education should be established for the handicapped, so as to provide special instruction and training to persons with physical disabilities or mental deficiencies.

4. In conformity with the domestic legislation of the States Parties, parents should have the right to select the type of education to be given to their children, provided that it conforms to the principles set forth above.

5. Nothing in this Protocol shall be interpreted as a restriction of the freedom of individuals and entities to establish and direct educational institutions in accordance with the domestic legislation of the States Parties.

Article 14. Right to the Benefits of Culture

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

Article 15. Right to the Formation and the Protection of Families

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

Article 16. Rights of Children

Every child, whatever his parentage, has the right to the protection that his status as a minor requires from his family, society and the State. Every child

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

Article 17. Protection of the Elderly

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

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

Article 18. Protection of the Handicapped

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

- a. Undertake programs specifically aimed at providing the handicapped with the resources and environment needed for attaining this goal, including work programs consistent with their possibilities and freely accepted by them or their legal representatives, as the case may be;
- b. Provide special training to the families of the handicapped in order to help them solve the problems of coexistence and convert them into active agents in the physical, mental and emotional development of the latter;
- c. Include the consideration of solutions to specific requirements arising from needs of this group as a priority component of their urban development plans;
- d. Encourage the establishment of social groups in which the handicapped can be helped to enjoy a fuller life.

Article 19. Means of Protection

I. Pursuant to the provisions of this article and the corresponding rules to be

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

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

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

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

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

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

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

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

Article 20. Reservations

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

Article 21. Signature, Ratification or Accession. Entry into Effect

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

2. Ratification of or accession to this Protocol shall be effected by depositing an instrument of ratification or accession with the General Secretariat of the Organization of American States.

3. The Protocol shall enter into effect when eleven States have deposited their respective instruments of ratification or accession.

4. The Secretary General shall notify all the member states of the Organization of American States of the entry of the Protocol into effect.

Article 22. Inclusion of other Rights and Expansion of those Recognized

1. Any State Party and the Inter-American Commission on Human Rights may submit for the consideration of the States Parties meeting on the occasion of the General Assembly proposed amendments to include the recognition of other rights or freedoms or to extend or expand rights or freedoms recognized in this Protocol.

2. Such amendments shall enter into effect for the States that ratify them on the date of deposit of the instrument of ratification corresponding to the number representing two thirds of the States Parties to this Protocol. For all other States Parties they shall enter into effect on the date on which they deposit their respective instrument of ratification.

SIGNATORIES AND RATIFICATIONS

COUNTRY	SIGNATURE	DEPOSIT
Antigua & Barbuda	-	-
Argentina	11 / 17 / 1988	10 / 23 / 2003 RA
Bahamas	-	-
Barbados	-	-
Belize	-	-
Bolivia	11 / 17 / 1988	10 / 05 / 2006 RA
Brazil	08 / 08 / 1996	08 / 21 / 1996 AC
Canada	-	-
Chile	06 / 05 / 2001	-
Colombia	10 / 22 / 1997	12 / 23 / 1997 AC
Costa Rica	11 / 17 / 1988	11 / 16 / 1999 RA
Dominica	-	-
Dominican Republic	11 / 17 / 1988	-
Ecuador	11 / 17 / 1988	03 / 25 / 1993 RA
El Salvador	11 / 17 / 1988	06 / 06 / 1995 RA
Granada	-	-
Guatemala	11 / 17 / 1988	10 / 05 / 2000 RA
Guyana	-	-
Haiti	11 / 17 / 1988	-
Honduras	-	-
Jamaica	-	-
Mexico ^a	11 / 17 / 1988	04 / 16 / 1996 RA
Nicaragua	11 / 17 / 1988	-
Panama	11 / 17 / 1988	02 / 18 / 1993 RA
Paraguay	08 / 26 / 1996	06 / 03 / 1997 RA
Peru	11 / 17 / 1988	06 / 04 / 1995 RA
St. Kitts & Nevis	-	-
St. Lucia	-	-
St. Vincent and the Grenadines	-	-
Suriname	02 / 28 / 1990	07 / 10 / 1990 AC
Trinidad & Tobago	-	-
United States	-	-
Uruguay	11 / 17 / 1988	04 / 02 / 1996 RA
Venezuela	01 / 27 / 1989	-
RA Ratification	* Additional information	AC Accession

Mexico

Declaration made at the time of ratification:

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

Nicaragua

Declaration made at the time of ratification:

The State of the Republic of Nicaragua, in depositing the Instrument of Ratification of the Additional Protocol to American Declaration on Human Rights, in the area of Economic, Social and Cultural Rights, (Protocol of San Salvador), in relation to Articles 6 (Right to Work), 13 (Right to Education), and 18 (Protection of the Handicapped), declares as follows:

That the term “DISABLED/HANDICAPPED,” as used in Articles 6 and 13 as well as in the heading and body of Article 18 of this Protocol, in no way shall be understood or applied in the State of Nicaragua in its strictly etymological sense, but instead shall be considered and implemented in the current, internationally-accepted sense, that of “persons with disability”.

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

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

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

Came into force on 28 August, 1991, in accordance with Article 4..

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.

SIGNATORIES AND RATIFICATIONS

COUNTRY	SIGNATURE	DEPOSIT
Antigua & Barbuda	-	-
Argentina	12 / 12 / 2006	09 / 05 / 2008 RA
Bahamas	-	-
Barbados	-	-
Belize	-	-
Bolivia	-	-
Brazil *	06 / 07 / 1994	08 / 13 / 1996 RA
Canada	-	-
Chile *	09 / 10 / 2001	10 / 16 / 2008 RA
Colombia	-	-
Costa Rica	10 / 28 / 1991	05 / 26 / 1998 RA
Dominica	-	-
Dominican Republic	-	-
Ecuador	08 / 27 / 1990	04 / 15 / 1998 RA
El Salvador	-	-
Grenada	-	-
Guatemala	-	-
Guyana	-	-
Haiti	-	-
Honduras	-	-
Jamaica	-	-
Mexico	-	08 / 28 / 2007 AC
Nicaragua	08 / 30 / 1990	11 / 09 / 1999 RA
Panama	11 / 26 / 1990	08 / 28 / 1991 RA
Paraguay	06 / 08 / 1999	12 / 07 / 2000 RA
Peru	-	-
St. Kitts & Nevis	-	-
St. Lucia	-	-
St. Vincent and the Grenadines	-	-
Suriname	-	-
Trinidad & Tobago	-	-
United States	-	-
Uruguay	10 / 02 / 1990	04 / 04 / 1994 RA
Venezuela	09 / 25 / 1990	10 / 06 / 1993 RA
RA Ratification	* Additional information	AC Accession

Brazil

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

Chile

The State of Chile makes the reservation authorized under Article 2.1 of the Protocol to the American Convention on Human Rights to Abolish the Death Penalty and may, therefore, apply the death penalty in wartime in accordance with international law, for extremely serious crimes of a military nature.

INTER-AMERICAN CONVENTION TO PREVENT AND PUNISH TORTURE*

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:

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

Came into force on 28 February, 1987, in accordance with Article 22 of the Convention.

Article 1

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

Article 2

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

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

Article 3

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

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

Article 4

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

Article 5

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

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

Article 6

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

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

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

Article 7

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

Article 8

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

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

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

Article 9

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

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

Article 10

No statement that is verified as having been obtained through torture shall

be admissible as evidence in a legal proceeding, except in a legal action taken against a person or persons accused of having elicited it through acts of torture, and only as evidence that the accused obtained such statement by such means.

Article 11

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

Article 12

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

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

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

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

Article 13

The crime referred to in Article 2 shall be deemed to be included among the extraditable crimes in every extradition treaty entered into between States Parties. The States Parties undertake to include the crime of torture as an extraditable offence in every extradition treaty to be concluded between them. Every State Party that makes extradition conditional on the existence of a treaty may, if it receives a request for extradition from another State Party with which it has no extradition treaty, consider this Convention as the legal basis for extradition in respect of the crime of torture. Extradition shall be subject to the other conditions that may be required by the law of the requested State.

States Parties which do not make extradition conditional on the existence of a treaty shall recognize such crimes as extraditable offences between themselves, subject to the conditions required by the law of the requested State. Extradition shall not be granted nor shall the person sought be returned

when there are grounds to believe that his life is in danger; that he will be subjected to torture or to cruel, inhuman or degrading treatment, or that he will be tried by special or *ad hoc* courts in the requesting State.

Article 14

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

Article 15

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

Article 16

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

Article 17

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

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

Article 18

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

Article 19

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

Article 20

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

Article 21

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

Article 22

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

Article 23

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

Article 24

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

SIGNATORIES AND RATIFICATIONS

COUNTRY	SIGNATURE	DEPOSIT
Antigua & Barbuda	-	-
Argentina	02 / 10 / 1986	03 / 31 / 1989 RA
Bahamas	-	-
Barbados	-	-
Belize	-	-
Bolivia	12 / 09 / 1985	11 / 21 / 2006 RA
Brazil	01 / 24 / 1986	07 / 20 / 1989 RA
Canada	-	-
Chile ^a	09 / 24 / 1987	09 / 30 / 1988 RA
Colombia	12 / 09 / 1985	01 / 19 / 1999 RA
Costa Rica	07 / 31 / 1986	02 / 08 / 2000 RA
Dominica	-	-
Dominican Republic	03 / 31 / 1986	01 / 29 / 1987 RA
Ecuador	05 / 30 / 1986	11 / 09 / 1999 RA
El Salvador	10 / 16 / 1987	12 / 05 / 1994 RA
Grenada	-	-
Guatemala ^a	10 / 27 / 1986	01 / 29 / 1987 RA
Guyana	-	-
Haiti	06 / 13 / 1986	-
Honduras	03 / 11 / 1986	-
Jamaica	-	-
Mexico	02 / 10 / 1986	06 / 22 / 1987 RA
Nicaragua	09 / 29 / 1987	11 / 23 / 2009 AC
Panama	02 / 10 / 1986	08 / 28 / 1991 RA
Paraguay	10 / 25 / 1989	03 / 09 / 1990 RA
Peru	01 / 10 / 1986	03 / 28 / 1991 RA
St. Kitts & Nevis	-	-
St. Lucia	-	-
St. Vincent and the Grenadines	-	-
Suriname	11 / 12 / 1987	11 / 12 / 1987 RA
Trinidad & Tobago	-	-
United States	-	-
Uruguay	12 / 09 / 1985	11 / 10 / 1992 RA
Venezuela	12 / 09 / 1985	08 / 26 / 1991 RA
RA Ratification	* Additional information	AC Accession

Chile

Reservations made at the time of ratification:

- a) To Article 4, to the effect that, inasmuch as it alters the principle of “automatic obedience” established in Chile’s domestic law, the government of Chile will enforce the provisions of that international rule in respect of subordinate personnel subject to the jurisdiction of the Code of Military Justice, provided that execution of an order whose obvious intent is the perpetration of the acts stipulated in Article 2, is not demanded by the superior over the subordinate’s representation.
- b) With regard to the final paragraph of Article 13, because of the discretionary and subjective way in which the rule is drafted.
- c) The government of Chile states that in its relations with the countries of the Americas that are Parties to the present Convention, it will apply this Convention in those cases where there is incompatibility between its provisions and those of the Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, adopted by the United Nations in 1984.
- d) With regard to the third paragraph of Article 8, since a case may only be submitted to the international fora whose competence has been recognized by the state of Chile.

Withdrawal of Reservations:

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

Guatemala

Reservation made at the time of signature

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

Reservation made at the time of ratification:

With the reservation made at the time of the signature.

Withdrawal of Reservation:

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

INTER-AMERICAN CONVENTION ON FORCED DISAPPEARANCE OF PERSONS*

The Member States of the Organization of American States signatory to the present Convention,

Disturbed by the persistence of the forced disappearance of persons;

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

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

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

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

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

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

Came into force on 28 March, 1996, in accordance with Article XX of the Convention.

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

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

Article I

The States Parties to this Convention undertake:

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

Article II

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

Article III

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

The States Parties may establish mitigating circumstances for persons who have participated in acts constituting forced disappearance when they help

to cause the victim to reappear alive or provide information that sheds light on the forced disappearance of a person.

Article IV

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

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

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

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

Article V

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

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

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

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

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

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

Article VI

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

Article VII

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

However, if there should be a norm of a fundamental character preventing application of the stipulation contained in the previous paragraph, the period of limitation shall be equal to that which applies to the gravest crime in the domestic laws of the corresponding State Party.

Article VIII

The defense of due obedience to superior orders or instructions that stipulate, authorize, or encourage forced disappearance shall not be admitted. All persons who receive such orders have the right and duty not to obey them. The States Parties shall ensure that the training of public law-enforcement personnel or officials includes the necessary education on the offense of forced disappearance of persons.

Article IX

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

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

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

Article X

In no case may exceptional circumstances such as a state of war, the threat of war, internal political instability, or any other public emergency be invoked to justify the forced disappearance of persons. In such cases, the right to ex-

peditious and effective judicial procedures and recourse shall be retained as a means of determining the whereabouts or state of health of a person who has been deprived of freedom, or of identifying the official who ordered or carried out such deprivation of freedom.

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

Article XI

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

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

Article XII

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

Article XIII

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

Article XIV

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

whereabouts of the allegedly disappeared person together with any other information it considers pertinent, and such request shall be without prejudice as to the admissibility of the petition.

Article XV

None of the provisions of this Convention shall be interpreted as limiting other bilateral or multilateral treaties or other agreements signed by the Parties. This Convention shall not apply to the international armed conflicts governed by the 1949 Geneva Conventions and their Protocols, concerning protection of wounded, sick, and shipwrecked members of the armed forces; and prisoners of war and civilians in time of war.

Article XVI

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

Article XVII

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

Article XVIII

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

Article XIX

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

Article XX

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

Article XXI

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

Article XXII

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

SIGNATORIES AND RATIFICATIONS

COUNTRY	SIGNATURE	DEPOSIT
Antigua & Barbuda	-	-
Argentina	06 / 10 / 1994	02 / 28 / 1996 RA
Bahamas	-	-
Barbados	-	-
Belize	-	-
Bolivia	09 / 14 / 1994	05 / 05 / 1999 RA
Brazil	06 / 10 / 1994	-
Canada	-	-
Chile	06 / 10 / 1994	-
Colombia	08 / 05 / 1994	04 / 12 / 2005 RA
Costa Rica	06 / 10 / 1994	06 / 02 / 1996 RA
Dominica	-	-
Dominican Republic	-	-
Ecuador	02 / 08 / 2000	07 / 27 / 2006 RA
El Salvador	-	-
Grenada	-	-
Guatemala ^a	06 / 24 / 1994	02 / 25 / 2000 RA
Guyana	-	-
Haiti	-	-
Honduras	06 / 10 / 1994	07 / 11 / 2005 RA
Jamaica	-	-
Mexico ^a	05 / 04 / 2001	04 / 09 / 2002 RA
Nicaragua	06 / 10 / 1994	-
Panama	10 / 05 / 1994	02 / 28 / 1996 RA
Paraguay	11 / 08 / 1995	11 / 26 / 1996 RA
Peru	01 / 08 / 2001	02 / 13 / 2002 RA
St. Kitts & Nevis	-	-
St. Lucia	-	-
St. Vincent and the Grenadines	-	-
Suriname	-	-
Trinidad & Tobago	-	-
United States	-	-
Uruguay	06 / 30 / 1994	04 / 02 / 1996 RA
Venezuela	06 / 10 / 1994	01 / 19 / 1999 RA

RA Ratification

^a Additional information

Guatemala

Reservation made at the time of ratification:

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

Withdrawal of the reservation regarding the application of article V made at the time of the reservation (September 7, 2001).

Mexico

Reservation made when depositing the instrument of ratification (April 9, 2002):

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

Interpretative declaration made when depositing the instrument of ratification (April 9, 2002):

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

INTER-AMERICAN CONVENTION ON THE PREVENTION,
PUNISHMENT AND ERADICATION OF VIOLENCE AGAINST
WOMEN “CONVENTION OF BELEM DO PARA”*

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

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

Came into force on 5 March, 1995, in accordance with Article 21 of the Convention.

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 pro-

tection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others:

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

Article 5

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

Article 6

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

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

CHAPTER III DUTIES OF THE STATES

Article 7

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

- a. refrain from engaging in any act or practice of violence against wom-

- en and to ensure that their authorities, officials, personnel, agents, and institutions act in conformity with this obligation;
- b. apply due diligence to prevent, investigate and impose penalties for violence against women;
 - c. include in their domestic legislation penal, civil, administrative and any other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures where necessary;
 - d. adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity, or damages her property;
 - e. take all appropriate measures, including legislative measures, to amend or repeal existing laws and regulations or to modify legal or customary practices which sustain the persistence and tolerance of violence against women;
 - f. establish fair and effective legal procedures for women who have been subjected to violence which include, among others, protective measures, a timely hearing and effective access to such procedures;
 - g. establish the necessary legal and administrative mechanisms to ensure that women subjected to violence have effective access to restitution, reparations or other just and effective remedies; and
 - h. adopt such legislative or other measures as may be necessary to give effect to this Convention.

Article 8

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

- a. to promote awareness and observance of the right of women to be free from violence, and the right of women to have their human rights respected and protected;
- b. to modify social and cultural patterns of conduct of men and women, including the development of formal and informal educational programs appropriate to every level of the educational process, to counteract prejudices, customs and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on the stereotyped roles for men and women which legitimize or exacerbate violence against women;
- c. to promote the education and training of all those involved in the administration of justice, police and other law enforcement officers as well as other personnel responsible for implementing policies for the

- prevention, punishment and eradication of violence against women;
- d. to provide appropriate specialized services for women who have been subjected to violence, through public and private sector agencies, including shelters, counseling services for all family members where appropriate, and care and custody of the affected children;
 - e. to promote and support governmental and private sector education designed to raise the awareness of the public with respect to the problems of and remedies for violence against women;
 - f. to provide women who are subjected to violence access to effective readjustment and training programs to enable them to fully participate in public, private and social life;
 - g. to encourage the communications media to develop appropriate media guidelines in order to contribute to the eradication of violence against women in all its forms, and to enhance respect for the dignity of women;
 - h. to ensure research and the gathering of statistics and other relevant information relating to the causes, consequences and frequency of violence against women, in order to assess the effectiveness of measures to prevent, punish and eradicate violence against women and to formulate and implement the necessary changes; and
 - i. to foster international cooperation for the exchange of ideas and experiences and the execution of programs aimed at protecting women who are subjected to violence.

Article 9

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

CHAPTER IV INTER-AMERICAN MECHANISMS OF PROTECTION

Article 10

In order to protect the rights of every woman to be free from violence, the States Parties shall include in their national reports to the Inter-American Commission of Women information on measures adopted to prevent and

prohibit violence against women, and to assist women affected by violence, as well as on any difficulties they observe in applying those measures, and the factors that contribute to violence against women.

Article 11

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

Article 12

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

CHAPTER V GENERAL PROVISIONS

Article 13

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

Article 14

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

Article 15

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

Article 16

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

Article 17

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

Article 18

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

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

Article 19

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

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

Article 20

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

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

Article 21

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

Article 22

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

Article 23

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

Article 24

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

Article 25

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

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

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

SIGNATORIES AND RATIFICATIONS

COUNTRY	SIGNATURE	DEPOSIT	
Antigua & Barbuda	-	11 / 19 / 1998	AC
Argentina	06 / 10 / 1994	07 / 05 / 1996	RA
Bahamas ^a	05 / 16 / 1995	05 / 16 / 1995	AC
Barbados	05 / 16 / 1995	05 / 16 / 1995	RA
Belize	11 / 15 / 1996	11 / 25 / 1996	AC
Bolivia	09 / 14 / 1994	12 / 05 / 1994	RA
Brazil	06 / 09 / 1994	11 / 27 / 1995	RA
Canada	-	-	
Chile	10 / 17 / 1994	11 / 15 / 1996	RA
Colombia	-	11 / 15 / 1996	AC
Costa Rica	06 / 09 / 1994	07 / 12 / 1995	RA
Dominica	-	06 / 06 / 1995	RA
Dominican Republic	06 / 09 / 1994	03 / 07 / 1996	RA
Ecuador	01 / 10 / 1995	09 / 15 / 1995	RA
El Salvador	08 / 14 / 1995	01 / 26 / 1996	RA
Grenada	-	02 / 15 / 2001	RA
Guatemala	06 / 24 / 1994	04 / 04 / 1995	RA
Guyana	01 / 10 / 1995	02 / 28 / 1996	RA
Haiti	-	06 / 02 / 1997	AC
Honduras	06 / 10 / 1994	07 / 12 / 1995	RA
Jamaica	12 / 14 / 2005	12 / 14 / 2005	RA
Mexico	06 / 04 / 1995	11 / 12 / 1998	RA
Nicaragua	06 / 09 / 1994	12 / 12 / 1995	RA
Panama	10 / 05 / 1994	07 / 12 / 1995	RA
Paraguay	10 / 17 / 1995	10 / 18 / 1995	RA
Peru	07 / 12 / 1995	06 / 04 / 1996	RA
St. Kitts & Nevis	06 / 09 / 1994	06 / 12 / 1995	RA
St. Lucia	11 / 11 / 1994	04 / 04 / 1995	RA
St. Vincent and the Grenadines	03 / 05 / 1996	05 / 31 / 1996	RA
Suriname	-	03 / 08 / 2002	RA
Trinidad & Tobago	11 / 03 / 1995	05 / 08 / 1996	RA
United States	-	-	
Uruguay	06 / 30 / 1994	04 / 02 / 1996	RA
Venezuela	06 / 09 / 1994	02 / 03 / 1995	RA

RA Ratification

* Additional information

AC Accession

Bahamas

Declaration:

“Article 7(g) of the Convention imports no obligation upon the Government of the Commonwealth of The Bahamas to provide any form of compensation from public funds to any woman who has been subjected to violence in circumstances in which liability would not normally have been incurred under existing Bahamian law” (May 3, 1995)

STATUTE OF THE MECHANISM TO FOLLOW UP
ON IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION ON THE PREVENTION, PUNISHMENT,
AND ERADICATION OF VIOLENCE AGAINST WOMEN,
“CONVENTION OF BELÉM DO PARÁ” (MESECVI)*

PREAMBLE

Taking into account that the purpose of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, “Convention of Belém do Pará,” is to protect women’s human rights and eliminate violent situations that may affect them, because every woman has the right to a life free from violence in both public and private spheres, and that it is necessary to strengthen cooperation among the states parties to develop the necessary mechanisms, policies, programs, and plans to prevent, punish, and eradicate violence against women;

Recognizing that there has already been significant progress in the implementation of the provisions of the Convention of Belém do Pará, at both the international and national levels, through progress in the internal legal systems of the states parties and the development of policies, programs, and plans implemented by the national agencies for women and other state institutions and agencies;

Stressing that the existence of a mechanism to permit follow-up and analysis of the ways in which the Convention is being applied, and to facilitate cooperation among the states parties and among all OAS member states, would contribute to fulfillment of its objectives; and

Carrying out the mandates adopted by the Thirty-first Assembly of Delegates of the CIM [CIM/RES. 224 (XXXI-O/02)] to begin a process to establish

* Adopted on October 26, 2004, by the Organization of American States.

the most appropriate way to follow up on the Convention of Belém do Pará, and by the General Assembly of the OAS in its “Third Biennial Report on Fulfillment of Resolution AG/RES. 1456 (XXVII-O/97), “Promotion of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, ‘Convention of Belém do Pará’”;

The Conference of States Parties agrees upon the following mechanism to follow up on implementation of the Convention of Belém do Pará:

Article 1. Purposes/objectives

1.1. The purposes of the mechanism shall be:

- a. To follow up on the commitments undertaken by the states parties to the Convention and review how they are being implemented;
- b. To promote the implementation of the Convention and contribute to achievement of the objectives established therein;
- c. To establish a system of technical cooperation among the states parties, which shall be open to other member states and permanent observer states, for the exchange of information, experiences, and best practices as a means to update and harmonize their domestic legislation, as appropriate, and attain other common objectives associated with the Convention.

Article 2. Basic principles

2.1. The mechanism to follow up on the commitments assumed by the states parties to the Convention will be developed within the framework of the purposes and principles established in the Charter of the Organization of American States. In this regard, the functions of this mechanism and the procedures used must take into account the principles of sovereignty, nonintervention, the juridical equality of states, and the need to respect the constitution and basic principles of the legal system of each state party.

Article 3. Nature

3.1. The Mechanism to Follow Up on Implementation of the Convention is intergovernmental, and has the following characteristics:

- a. It shall be impartial and objective in its functioning and in the conclusions and recommendations it issues.
- b. It shall guarantee fair application and equal treatment for the states parties.
- c. It may issue recommendations to the states parties and follow up on their implementation.

- d. It shall operate on the basis of consensus and the principle of cooperation among the states parties.
- e. It shall establish an appropriate balance between the confidentiality of the evaluation and the transparency of the process.

Article 4. Members

4.1. All the states parties to the Convention shall be members and shall be represented and participate in the follow-up mechanism. Member states of the OAS that are not parties to the Convention may take part as observers, if they so request.

Article 5. Structure

5.1. The follow-up mechanism shall consist of two organs: the Conference of States Parties (hereinafter “the Conference”) and the Committee of Experts (hereinafter “the Committee”).

5.2. The Conference is the political organ of the Mechanism, shall be comprised of representatives of all states parties to the Convention, and shall hold a regular meeting every two years and special meetings as often as it deems necessary.

5.3. The Committee is the technical organ of the Mechanism and shall be comprised of experts in the area covered by the Convention, who shall perform their functions in their personal capacity. They shall be appointed by each state party to the Convention from among its nationals. The Committee shall meet in accordance with its own work plan and procedures.

5.4. The Secretariat of the Conference and of the Committee shall be the OAS General Secretariat, through the Permanent Secretariat of the CIM, and with advisory services, when appropriate, from the Inter-American Commission on Human Rights (IACHR).

Article 6. Responsibilities

6.1. The responsibilities of the Conference are:

- a. Establish overall guidelines for the work of the Committee and serve as its advisory body;
- b. Receive, analyze, and evaluate the reports of the Committee;
- c. Publish and disseminate the final report of the Mechanism, in coordination with the OAS General Secretariat;
- d. Settle any matter relating to the operations of the Mechanism.

6.2. The responsibilities of the Committee are:

- a. Draft its own rules of procedure;

- b. Define its working methods and work calendar;
- c. Receive and evaluate the reports of the states parties and issue its recommendations;
- d. Present its reports to the Conference.

Article 7. Headquarters

7.1. The follow-up mechanism shall have its headquarters at the Organization of American States, in the Permanent Secretariat of the CIM.

Article 8. Operations

8.1. Selection of provisions and methodology:

- a. The Secretariat shall submit to the Committee, for its consideration, a document in which it will select the Convention provisions whose application by the states parties could be the subject of the review and, in keeping with available financial resources, shall determine the duration of a session it will devote to this task--to be called a round--and the number of reports to be considered at each meeting.
- b. During each round, the Secretariat shall prepare a questionnaire on the provisions it has selected. The questionnaire, once approved by the Committee, shall be transmitted to the states parties, who undertake to reply to it by the deadline set by the Committee. Replies to the questionnaire shall be circulated to all members of the Committee.
- c. At the start of each round, the Committee shall examine the information on each state party and establish a calendar for the review, in a predetermined, impartial manner; such as alphabetical order; the drawing of lots, or chronological order of ratification of the Convention. The Secretariat shall make this information public.
- d. In order to fulfill its functions, the Committee shall determine the appropriate method for carrying out its work plan.

8.2. Final report:

- a. After reviewing the reports of all the states parties in each round, the Committee shall issue a final report with the corresponding recommendations; this report shall include the observations of each state party that has been reviewed and shall be submitted to the Conference and, once published, to the Assembly of Delegates of the CIM.

8.3. Follow-up of recommendations:

- a. The Committee shall determine the necessary means to follow up on fulfillment of the recommendations made in the final report on each state party.

Article 9. Equal treatment

9.1. To ensure that the Mechanism is efficient and consists of an evaluation between equals, the objective of which is to strengthen communication and exchange of experiences among the states parties, the Committee shall take into account that:

- a. All states parties shall be reviewed in the framework of the round, in accordance with identical criteria and procedures.
- b. The same questionnaire shall be used for all states parties.
- c. All the reports presented by states parties shall have the same format.

Article 10. Intergovernmental cooperation and participation of civil society

10.1. The Conference of States Parties and the Committee of Experts of the Convention follow-up mechanism are intergovernmental in nature. The Conference and the Committee may invite to their plenary meetings states that are not parties to the Convention.

10.2. In order to secure more input for its reviews, the Committee shall include, in its rules of procedure, provisions that ensure participation by civil society organizations, in particular those that deal with the subject of the Convention of Belém do Pará, in keeping with the principles set forth in the Guidelines for the Participation of Civil Society Organizations in OAS Activities [CP/RES. 759 (1217/99)] and the definition of civil society contained in resolution AG/RES. 1661 (XXIX-O/99).

10.3. Bearing in mind the objectives of the follow-up mechanism, and in the framework of the Inter-American Program on the Promotion of Women's Human Rights and Gender Equity and Equality, the Committee shall cooperate with all OAS member states that so request, taking into account OAS activities in progress, and shall report to the Conference on this matter.

10.4. The states parties shall establish mechanisms that facilitate cooperation and technical assistance for the exchange of information, experiences, and best practices to bring about the implementation of the Convention.

Article 11. Resources

11.1. The activities of the follow-up mechanism shall be financed by a specific fund established for this purpose, consisting of contributions from states parties to the Convention, states that are not parties to the Convention, permanent observer states, and international financial agencies, other external resources, and any other contribution it may receive in accordance with the General Standards to Govern the Operations of the General Secretariat of

the Organization of American States. These contributions may include offers from states parties to organize and host meetings of the Mechanism's organs. 11.2. The Conference of States Parties may establish criteria for determining regular contributions.

Article 12. Periodic review of the Mechanism

12.1. The Conference shall periodically review the Mechanism's operation, taking into account the observations of the Committee, and may introduce any changes it deems appropriate.

Article 13. Report to the OAS General Assembly

13.1. The Conference, in collaboration with the Secretariat, shall report every two years to the OAS General Assembly on work done during that period concerning progress, challenges, and best practices that emerge from the final reports and, if appropriate, shall issue general recommendations, if it sees fit.

Article 14. Transitory provision

14.1. This Statute shall enter into force on the date of its adoption by those states that have deposited their instruments of ratification of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, "Convention of Belém do Pará."

RULES OF PROCEDURE OF THE COMMITTEE OF EXPERTS OF THE FOLLOW-UP MECHANISM FOR THE IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION ON THE PREVENTION, PUNISHMENT, AND ERADICATION OF VIOLENCE AGAINST WOMEN, “CONVENTION OF BELÉM DO PARÁ (CEVI)*

I. SCOPE OF THE RULES OF PROCEDURE

Article 1. Scope of the Rules of Procedure

The Rules of Procedure shall prescribe the structure and workings of the Committee of Experts (hereafter, the Committee) of the Mechanism for Follow-up on the Implementation of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, “Convention of Belém do Pará” (hereafter, MESECVI) (hereafter, the Convention).

As the technical organ of the Mechanism, the Committee shall have undertake its activities within the framework of the purposes, basic principles, characteristics and other provisions established in the “Statute of the Mechanism for Follow-up on the Implementation of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, ‘Convention of Belém do Pará’” (hereafter, the Statute), of the decisions adopted by the Conference of States Parties (hereafter, the Conference) and, as appropriate, of the Charter of the Organization of American States (OAS). The Committee may resolve those matters not addressed by these Rules, the Statute or the OAS Charter in consultation with the Conference.

II. STRUCTURE AND WORKINGS OF THE COMMITTEE OF EXPERTS

Article 2. Composition of the Committee.

* Adopted on August 23, 2005; by the OAS.

The Committee shall be composed of experts in the matters encompassed by the Convention. The experts shall be appointed by each of the States Parties to said Convention and shall exercise their responsibilities in a manner that is independent and autonomous and in an individual capacity. Experts will not participate in the evaluation of their own countries.

The principal and alternate Committee experts should have solid technical expertise and experience in the various matters addressed by the Convention.

The expert shall serve for a term of at least three years by attending meetings of the Committee in person, or from his or her country, when so required.

In order to facilitate the progress of activities, States Parties shall ensure the stability and continuity of the experts throughout the evaluation process. Each State Party shall be responsible for the participation of its expert.

The States Parties shall notify the Secretariat of MESECVI of the name or names and personal information (address, e-mail address, and telephone and fax numbers) of one expert and at least one alternate. Each State Party shall notify the Secretariat immediately of any changes in the designation of its experts on the Committee.

Article 3. Responsibilities of the Committee.

In accordance with the Statute, the Committee shall be responsible for the technical analysis of the implementation of the Convention by the States Parties. In performing this function, the Committee shall undertake the following:

Adopt its annual work plan and methodology for each multilateral evaluation round, for which the Secretariat will develop a draft in conformity with the provisions contained in Article 7.a of these Rules.

- a. Select, from among the provisions of the Convention, those whose implementation by all of the States Parties shall be reviewed, in particular in Articles 7 and 8.
- b. Determine the length of time it shall devote to this task, which shall be known as a “round”. /
- c. Adopt a questionnaire on the provisions selected for review in each round and in accordance with Article 18 of these Rules.

¹ In line with practice in other inter-American evaluation mechanisms, the rounds last two years, the third year being devoted to follow-up of implementation of the recommendations arising out of each round.

- d. Determine the composition of subgroups to analyze the information received from the States Parties they have been assigned to review, pursuant to Article 20 of these Rules. Coordinators and Alternate Coordinators of subgroups shall be elected as necessary.
- e. Adopt evaluation reports in regard to each of the States Parties (country reports) and a hemispheric report at the end of each round, in accordance with the procedures established in Articles 19 to 24 of these Rules, and submit them to the Conference, pursuant to Article 6.2 of the Statute.
- f. Promote and facilitate cooperation among the States Parties and civil society organizations and with international organizations and cooperation agencies, within the framework of the Convention and in accordance with Article 10 of the Statute and Article 7.n of these Rules.
- g. Adopt a yearly activity report, which shall be forwarded to the Conference.
- h. Review periodically the operation of the MESECVI and propose such recommendations as it deems pertinent to the Conference.
- i. Request assistance and guidance from the Conference when it considers it necessary in order to fulfill its responsibilities.
- j. Approve the form to be used for follow-up of implementation of the recommendations to countries.

Article 4. Committee Coordinator.

The Committee shall elect by consensus from among its members a Coordinator and an Alternate Coordinator, with regard for the principle of geographical representation. If no consensus is reached, election shall be by simple majority of the Committee members. The Alternate Coordinator shall assist the Coordinator in the performance of his or her activities. The Coordinator and Alternate Coordinator shall serve for a two-year term and may be reelected for one additional term. In the temporary absence, or impediment, of the Coordinator, the Alternate Coordinator shall assume the responsibilities of the Coordinator and the Committee shall elect a new Alternate Coordinator.

Article 5. Responsibilities of the Coordinator.

- a. Open and adjourn plenary meetings and direct the discussions.
- b. Submit the items on the agenda for consideration by the Committee, including a topic that he or she considers to be of collective interest, together with a methodology for addressing it.
- c. Coordinate with the Secretariat the activities related to the workings of the Committee.

- d. Represent the Committee before the Conference and OAS organs.
- e. Submit to the Committee for its consideration proposals on the composition and tasking of the subgroups that will analyze the information received from the States Parties.
- f. All other responsibilities conferred by these Rules.

Article 6. Secretariat of the Committee.

Pursuant to Article 5.4 of the Statute, the OAS General Secretariat, through the Permanent Secretariat of the CIM, shall serve as the Secretariat of the Committee, with advisory services provided, as appropriate, by the Inter-American Commission on Human Rights (IACHR) or other relevant areas of the General Secretariat.

Article 7. Responsibilities of the Secretariat of the Committee.

The Secretariat shall have the following responsibilities:

- a. Prepare an annual draft work plan of the Committee and submit it to the Committee for consideration.
- b. Prepare the methodology and questionnaire proposals for the evaluation of the implementation of the provisions of the Convention to be considered in each round, and submit them to the Committee for consideration, in accordance with Article 17 and following articles, especially Article 27, of these Rules.
- c. Send simultaneous convocation notices for Committee meetings to the experts and, through the permanent missions, to the competent national authorities and/or principal delegates to the CIM.
- d. Prepare the draft agenda for each Committee meeting and submit it to the Coordinators for approval.
- e. Serve as Secretariat to the Committee and the subgroups of experts throughout the evaluation process, including preparation of the hemispheric report at the end of each round.
- f. Prepare, together with the Coordinator of the Committee and the Coordinators of the subgroups, the draft final report to be submitted to the Committee, pursuant to Article 24.
- g. Prepare the draft Annual Report on the activities of the Committee and, once said Report is adopted by the Committee, forward it to the Conference.
- h. Serve as a custodian for all the documents and files of the Committee.
- i. Disseminate, by electronic mail, the Internet, or any other means of communication, information and public documents related to the

MESECVI, as well as the country and hemispheric reports at the end of each round, once they are made public in accordance with these Rules and the Statute.

- j. Serve as the central coordinating and contact point for the delivery and exchange of documents and communications among the experts, as individuals or as a Committee, with the Conference, OAS organs, and other organizations or institutions.
- k. Notify the Committee members of communications received for their consideration.
- l. Prepare the minutes of Committee meetings and maintain its files.
- m. Provide advice to the Committee members on the performance of their responsibilities, when requested.
- n. Promote and organize technical cooperation programs in conjunction with other international organizations and cooperation agencies to support the States Parties in their efforts to implement recommendations of the Committee.
- o. Prepare the draft form to be used for follow-up on implementation of the recommendations to countries and present it to the Committee for approval.
- p. Any other responsibilities that the Committee may assign to it or that pertain to the Secretariat for the effective fulfillment of its responsibilities.

Article 8. Headquarters.

Pursuant to provision 7.1 of the Statute, the Committee shall have its headquarters at the Permanent Secretariat of the CIM.

The Committee may hold meetings in a State Party other than the country where the headquarters is located, in accordance with Article 11.1 of the Statute.

Article 9. Competent National Authority.

Each State Party shall appoint a competent national authority to liaise with the Secretariat of the MESECVI.

Article 10. Observers.

Pursuant to provisions 4.1 and 10.1 of the Statute, OAS Member States not party to the Convention may be invited to observe plenary meetings of the Committee if they so request.

Article 11. Special guests.

Experts may propose to the Committee, through the Coordinator, that spe-

cial guests participate in the meetings for the exchange of information, experiences, and best practices.

Article 12. Financing. Voluntary contributions and solidarity subfund.

Committee activities shall be financed in accordance to Article 11.1 of the Statute, which establishes a specific fund.

In the framework of Article 11.1 of the Statute, a solidarity subfund shall be set up to ensure the participation of experts from countries that, owing to special circumstances, are unable to finance their participation. Said solidarity subfund will be managed by the Secretariat of MESECVI.

States and/or organizations making voluntary financial and technical contributions, and contributions in kind, should clearly indicate what those funds should be used for. Also, additional resources will be identified with the support of international cooperation agencies and/or multilateral organizations.

Article 13. Languages.

The working languages of the Committee are the languages of the States Parties, which are also the official languages of the OAS.

Article 14. Quorum.

Quorum for meeting shall be constituted by the presence of one half plus one of the experts on the Committee.²

Article 15. Decisions.

As a general rule, the Committee shall adopt its decisions by consensus. In those cases where there is a controversy with regard to a decision, the Coordinator shall use his or her good offices and all means at his or her disposal to try to reach a consensus. If this path has been exhausted and a decision by consen-

² The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women currently has 31 States Parties, so, for the Committee to meet, 16 of those states have to be present.

³ Decisions on the adoption of the final report of a country or on amendments to these Rules of Procedure require the vote in favor of two thirds of the experts present at the meeting. Since there are currently 31 States Parties to the Convention, and assuming that the meeting has the minimum quorum required under the foregoing Article (16 experts), two-thirds is presently equivalent to 11 votes.

Other decisions shall be taken by the vote of a simple majority of the experts present at the meeting.

sus is not possible, the issue shall be put to a vote. Decisions that concern the adoption of a country's final report or amendment of these Rules shall be taken with a vote in favor of two thirds of the experts present at the meeting.³

In all other cases, the decision shall be taken by half plus one of the experts present at the meeting. In this latter case, votes may be in favor, against, or abstentions.

No expert may participate in the voting on the draft report of his or her country.

Article 16. Communications and distribution of documents.

In order to ensure their prompt distribution and reduce the respective costs, all communications between the Secretariat and the experts and vice-versa, as well as documents to be considered by the latter, as individuals, in review subgroups, or in plenary meetings of the Committee, shall be transmitted via electronic mail, with a copy to the Permanent Mission to the OAS of the respective State Party.

Replies of States Parties to questionnaires as well as any other document or information arising out of the evaluation process should be sent to the Secretariat of the Committee, via the permanent missions, using e-mail, fax, or the post office.

III. MULTILATERAL EVALUATION PROCEDURE

Article 17. General aspects.

Reports of all States Parties shall be analyzed simultaneously in an initial multilateral evaluation round, which may be followed by further evaluation rounds, the methodology and content for which shall be determined subsequently by the Committee.

The duration of the rounds shall be two years, with the third year being devoted to follow-up of the recommendations arising out of each round.

Article 18. Questionnaire, Work Plan, and Evaluation Methodology.

The Committee Secretariat shall prepare the draft questionnaire, draft work plan, and draft methodology for evaluating implementation of the provisions of the Convention and shall forward them to the experts of all the States Parties.

The Committee shall adopt the final versions of the questionnaire, work plan, and the method for evaluating.

The Secretariat of the Committee shall remit the questionnaires to the competent national authority responsible for coordinating the reply of each State Party and to the permanent missions.

Article 19. Replies of States Parties to the questionnaire.

The States Parties shall forward the responses to the questionnaire to the Committee Secretariat on the established date, via the permanent missions, together with an executive summary report on the status of violence against women in the respective country, and the achievements, difficulties, and areas in which they consider that cooperation could be strengthened.

Article 20. Subgroups to review information and prepare preliminary reports.

The Committee, based on the proposal prepared by the Secretariat in collaboration with the Coordinator, shall determine the composition of review subgroups and assign tasks randomly, bearing in mind the legal tradition of the country reviewed, regional representation, language considerations, and the equitable distribution of work among all the experts.

Subgroups shall prepare preliminary country reports to be submitted subsequently to the Committee plenary for consideration.

No expert may take part in the preparation of the preliminary report of his or her own country.

Article 21. Review of information and preparation of the preliminary report.

Once the responses to the questionnaire are received, the procedure shall be as follows:

a. With the support of the Secretariat, each expert in each of the review subgroups will, prior to the meeting of the Committee, receive and analyze the information provided by the States Parties assigned to his or her subgroup and prepare a draft preliminary report for a country that will be assigned to him/her, for subsequent review by the subgroup.

b. Once the meetings of the review subgroups have concluded, the draft preliminary reports will be discussed by the plenary in accordance with Article 23 of these Rules. The Secretariat shall send the preliminary report to the competent national authority and to the corresponding Permanent Mission in order for the latter to submit such comments and clarifications as it deems pertinent to the Secretariat within the time period established by the Committee. This information

shall be sent to the experts of the review subgroup for discussion at its next meeting.

c. Based on the responses of the State Party to the preliminary report, the expert assigned to study it will prepare a revised version of the preliminary report and forward it to the experts who comprise the review subgroup, at least thirty (30) days in advance of the next meeting of the Committee, which will consider it in plenary session.

Article 22. Length and format of country reports.

The Committee shall consider and approve the structure of country reports in accordance with the modalities approved for each round. All country reports shall have the same structure. They must be concise and no more than 20 pages in length.

Article 23. Consideration and adoption of country reports.

For the consideration and adoption of country reports, the following procedures shall be followed:

a. All of the experts shall have access to the questionnaire responses and comments submitted by the States Parties.

b. The review subgroups shall examine the revised version of the corresponding preliminary reports and prepare the draft country reports, which the assigned expert shall submit to the plenary of the Committee for its consideration.

c. The plenary of the Committee may make any changes it considers necessary to the draft country reports, which shall contain the conclusions and recommendations deemed to be pertinent.

d. The Secretariat shall correct the draft country reports in the manner agreed upon by the Committee and present them for approval.

e. Once the country reports are approved, they shall be sent to the competent national authority and the corresponding Permanent Mission. The States Parties may submit additional observations within the time allowed by the Committee.

Article 24. Final report.

Upon conclusion of a complete evaluation round, the Committee shall adopt a final report, which shall include the country reports and observations of the States Parties. Likewise, it shall include an overall and comprehensive review (hemispheric report) that identifies strengths and weaknesses in implementation of the Convention.

The hemispheric report shall contain, among other things, the conclusions

and recommendations of the Committee based on the country reports, to strengthen hemispheric cooperation in implementing the Convention, especially the provisions considered in said round.

The Coordinator of the Committee shall present the final report to the Conference. Subsequently it shall be made public and submitted to the Assembly of Delegates of the CIM and the OAS General Assembly.

IV. FOLLOW-UP

Article 25. Follow-Up.

Follow up on implementation of recommendations shall be carried out in the calendar year following approval of the country reports.

The MESECVI Secretariat shall send each State Party the form approved by the Committee for follow-up on implementation of recommendations to countries in order for them to describe progress in implementation of such recommendations on the date set by the Committee, in accordance with the provisions of Article 7.o of these Rules.

The replies of countries shall include specific measures adopted to move forward in the implementation of each recommendation. Countries may indicate their needs for technical or other assistance related to the implementation of recommendations.

The Secretariat shall compile the replies in a preliminary document, which will be used by the Committee to prepare its draft report on implementation of recommendations, in accordance with the provisions of Article 7.o of these Rules.

The draft report on implementation of recommendations shall be submitted to the Conference for approval and, following its publication, shall be referred to the Assembly of Delegates of the CIM and the OAS General Assembly.

Article 26. Reports in the framework of plenary meetings of the Committee.

At the beginning of each Committee meeting each of the States Parties may present, in writing, information on the measures it has adopted between the previous meeting and the present one aimed at making progress in implementing the Convention. The Secretariat shall always include this issue in the draft agenda for each Committee meeting.

V. PARTICIPATION OF CIVIL SOCIETY ORGANIZATIONS

Article 27. Participation of civil society organizations.

Upon the publication of the documents containing the draft question-

naires and working procedures and any other public documents which the Committee deems appropriate for dissemination, civil society organizations, taking into account the Guidelines for the Participation of Civil Society Organizations in OAS activities [CP/RES. 759 (12/17/99) corr. 1], may:

a. Present, through the Secretariat, specific proposals to be considered in the drafting process referred to in the foregoing paragraph. These proposals should be presented with a copy in electronic format, within a time frame established by the Secretariat, and they shall be made available to the public.

b. Present, through the Secretariat, specific information directly related to the questionnaire and to implementation of the analyzed provisions of the Convention during the round. This information shall be presented, with a copy in an electronic format, within the same time period allowed for States Parties to respond to the questionnaire.

The Secretariat shall forward the information that complies with the terms and conditions referred to in this Article both to the State Party under analysis and to the experts in the corresponding review subgroup.

c. Present proposals related to the collective interest issues to be addressed at the Committee meetings. These proposals shall be presented, through the Secretariat, with a copy in electronic format, no later than one month before the date of the meeting in which the Committee shall consider these issues.

The Secretariat shall forward these proposals to the States Parties and to the experts.

Article 28. Distribution of information and proposals put forward by civil society organizations.

The information and proposals presented by civil society organizations, in accordance with the provisions in the foregoing article, shall be distributed in the language in which they were presented.

The information and proposals presented by civil society organizations that are not in electronic format shall only be distributed at the Committee meeting when they are no more than ten (10) pages long. If they are longer, civil society organizations shall provide the Secretariat with copies for distribution.

Article 29. Participation of civil society organizations in Committee meetings.

The Committee may accept requests from civil society organizations to give a verbal presentation, prior to the start of the formal meeting of the

Committee, of any information and proposals they have submitted pursuant to Article 28 of these Rules. The Committee shall decide how long the verbal presentation may last.

VI. ENTRY INTO FORCE AND AMENDMENT OF THESE RULES OF PROCEDURE

Article 30. Entry into force and amendment of the Rules.

These Rules shall enter into force upon their adoption by the Committee and the Committee may amend them in accordance with Article 15 of these Rules. Once they have been adopted, the Rules shall be distributed by the Secretariat among the States Parties.

RULES OF PROCEDURE FOR THE CONFERENCE OF
STATES PARTIES TO THE MECHANISM TO FOLLOW UP
ON IMPLEMENTATION OF THE
“CONVENTION OF BELÉM DO PARÁ”*

I. SCOPE OF THE RULES OF PROCEDURE

Article 1. Scope of the Rules of Procedure.

These Rules of Procedure shall govern the organization and operations of the Conference of States Party to the Follow-up Mechanism on Implementation of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, the “Convention of Belém do Pará” (MESECVI), hereinafter the Conference, and the Mechanism, respectively. The Conference shall carry out its functions within the framework of the purposes, basic principles, characteristics and other provisions established in the Statute of the Mechanism, hereinafter the Statute, as well as in the Charter of the Organization of American States (OAS).

Situations not provided for in these Rules of Procedure, in the Statute or the OAS Charter may be resolved by the Conference, or when the Conference is not in session, by the President in consultation with the Vice-Presidents and the States Parties.

II. NATURE, ORGANIZATION AND OPERATION

Article 2. Nature.

The Conference, as the political body of the Mechanism, has the authority and the general responsibility for implementing the Mechanism and adopting decisions or procedures it deems necessary to the attainment of its objectives.

* Adopted at the First Plenary Session of the Second Conference of States Party held on July 09, 2008.

Article 3. Composition.

The Conference is made up of representatives from all the States Parties of the Mechanism. The States Parties shall appoint a head of delegation and any delegates they deem necessary.

Article 4. Functions.

The functions of the Conference are:

- a. To establish overall guidelines for the work of the Committee of Experts (CEVI) of the Mechanism and to serve as its advisory body;
- b. To receive, analyze and evaluate the reports of the CEVI;
- c. To publish and disseminate the final report of the Mechanism, in coordination with the OAS General Secretariat;
- d. To settle any matter relating to the operations of the Mechanism;
- e. To report every two years to the OAS General Assembly on work done during that period concerning progress, challenges, and best practices emanating from the final reports and, if appropriate, shall issue any general recommendations it deems appropriate;
- f. To periodically review the operations of the Mechanism, taking into account the observations of the CEVI, and introducing any changes it deems appropriate; and
- g. To establish criteria for determining regular contributions.

III. PRESIDENT AND VICEPRESIDENTS

Article 5. President and Vice-Presidents.

The Conference shall have a President and two Vice-Presidents, which shall be elected at the beginning of each regular meeting. Said officials shall carry out their functions until the next meeting of the Conference, including any special meetings that need to be held. In the absence of the President, the first Vice President shall take his/her place, and in his/her absence, the second Vice President will do so.

Article 6. Functions.

The functions of the President are:

- a. To propose, in collaboration with the host country, if any, the draft agenda and calendar for the Meeting of the Conference;
- b. To open and close the sessions as well as to direct and moderate the discussions;
- c. To submit for consideration and approval of the Conference, the draft agenda and calendar of the Meeting of the Conference, as well as

any issues in the debate that require decision-making, and to announce the results;

d. To follow up on decisions made by the Conference and inform the States Parties, as applicable;

e. To coordinate the work of the bodies of the Mechanism and present any proposals he/she deems appropriate to ensure optimal operation thereof

f. To decide on points of order that raised during the deliberations;

g. To represent the Conference before the CEVI;

h. To represent the Mechanism before the Organs of the OAS and participate in acts, conferences or activities to which he/she is invited;

i. To install commissions at the Meetings of the Conference, as required; and

j. To perform other responsibilities as may arise from the Rules of Procedure and as entrusted by the Conference.

IV. SECRETARIAT OF THE CONFERENCE

Article 7. Secretariat.

The Permanent Secretariat of the Inter-American Commission of Women (CIM) is the Technical Secretariat of the Conference and shall have the following functions:

a. To prepare the documents for each Meeting of the Conference and present them to the Presidency for approval;

b. To ensure the safe-keeping of all Conference documents and files;

c. To disseminate by any adequate means of communication, including the CIM website, information and public documents relating to the Mechanism, as well as the final report of the CEVI issued at the end of each multilateral evaluation round, once they have been made public in accordance with the provisions of the Statute, and the Final Report of the Conference;

d. To act as the nexus for coordination and contacts for sending and exchanging documents and communication for the Conference, the CEVI, the OAS organs, and other organizations or institutions;

e. To present the Final Report of the Meeting of the Conference and the Hemispheric Report to the Assembly of CIM Delegates and the OAS General Assembly;

f. To prepare summary minutes of the Meetings of the Conference;

g. To submit financial reports to donors as required;

h. To perform functions for the effective fulfillment of its functions; and

- i. To perform other functions as may be entrusted to it by the Conference.

V. MEETINGS OF THE CONFERENCE

Article 8. Venue.

The Conference may hold meetings in any State Party that offers to host them, or otherwise, at the headquarters of the OAS General Secretariat. Said offer, if not made at the preceding meeting of the Conference, should be communicated in writing to the Secretary General of the OAS, who will then inform all States Parties on the matter through their Permanent Missions to the OAS.

Article 9. Convocation.

As set forth in Article 5 of the Statute, the Conference will hold a regular meeting every two years and special meetings as often as it deems necessary. The OAS Secretary General will convene the regular and special meetings of the Conference by way of written communication directed to the Ministries of Foreign Affairs of the States Parties, through their Permanent Missions to the OAS, with copy to their respective Competent National Authorities (CNA).

Article 10. Preparatory Meetings.

The State which presides over the Conference will convene the preparatory meetings of States Parties of the Mechanism to for the Meeting of the Conference. The purposes for the preparatory meetings will be, among others:

- a. To determine the venue and date of the next Meeting in case these were not established in the preceding meeting of the Conference;
- b. To consider the draft agenda and calendar of the Meeting of the Conference;
- c. To agree on the documents which will be presented for the consideration of the Conference;
- d. To establish the work methodology and the working commissions;
- e. To establish the order of precedence, in accordance with Article 17 of this Rules of Procedure; and
- f. To decide upon the approximate duration of the meeting of the Conference.

Article 11. Delegations.

Accreditation of the delegations appointed by the States Parties shall be ef-

fected through written communication sent to the OAS Secretary General through the Technical Secretariat of the Conference.

VI. GUESTS

Article 12. Non-party States.

Member States of the OAS which are not party to the Convention may be invited as Observers to the Meeting of the Conference and its preparatory meetings if they so request.

Artículo 13. Permanent Observers

The Permanent Observers to the OAS may be invited to attend the Meeting of the Conference, if they so request.

Article 14. Organs and Organizations.

Inter-American, sub-regional and hemispheric organs and entities as well as international organizations may be invited to the Meeting of the Conference. They may intervene in accordance with the manner that the President of the Conference deems appropriate.

Article 15. Civil Society.

If it is deemed convenient, the Presidency may, in joint consultation with States Party in the preparatory meetings, invite representatives of civil society organizations related to the matters of the Convention to attend the meetings of the Conference, in accordance with the principles contained in the Guidelines for the Participation of Civil Society Organizations in OAS Activities [CP/RES. 759 (1217/99)].

Article 16. Special Guests.

Special guests deemed appropriate by the President may be invited to attend the Meeting of the Conference.

Article 17. Precedence.

The order of precedence of the delegations shall be established by drawing lots in a preparatory meeting. To this end, the alphabetical order of the States in Spanish will be followed

Article 18. Languages.

The official languages of the Meeting of the Conference are Spanish, French, English and Portuguese.

VII. SESSIONS OF THE MEETING OF THE CONFERENCE

Article 19. Sessions.

The Meeting of the Conference shall comprise an opening session, plenary sessions, and a closing session. These sessions shall be public. However, they may be private if so ruled by the President or requested by any of the representatives.

Article 20. Rapporteur.

The Conference will elect Rapporteurs as needed. These Rapporteurs will provide written reports which will be presented verbally prior to the conclusion of the Meeting of the Conference and will be included in its Final Report.

Article 21. Adoption of Decisions.

In the deliberations of the Conference, each State Party will have the right to one vote. Decisions will require the affirmative vote of the majority of the States Parties that are participating in the meeting of the Conference, except as set forth in Article 26 of the Rules of Procedure.

Article 22. Quorum.

A simple majority of the States Parties to the Conference shall constitute a quorum for holding sessions.

VIII. MINUTES AND FINAL REPORT

Article 23. Minutes.

Summary minutes shall be recorded of the plenary and working sessions and must contain a summary of the discussions and the full text of agreements reached.

The Secretariat shall distribute to the delegations as soon as possible, the provisional draft of the minutes from each session in all the official languages of the Conference. Delegations may submit to the Conference Secretariat any corrections they consider necessary within a period of 15 days following the distribution of that text.

Article 24. Final report of the Meeting of the Conference.

A final Report of the Meeting of the Conference will be produced which will include, in addition to the conclusions and agreements reached, background information on the organization of the Conference, the list of participants, and basic information on the development of the Conference as well as reports from the respective Rapporteurs.

IX. ON THE RULES OF PROCEDURE

Article 25. Adoption and Entering into Effect of the Rules of Procedure.

These Rules of Procedure shall be adopted by the Second Meeting of the Conference of States Parties and shall enter into force upon their adoption

Article 26. Amendments to the Rules of Procedure.

The Rules of Procedure can be amended only by a motion supported by an absolute majority of the States Parties.

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

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);

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

Came into force on 14 September, 2001, in accordance with Article VIII.3 of the Convention.

the Declaration of Caracas of the Pan American Health Organization; resolution AG/RES. 1249 (XXIII-O/93), "Situation of Persons with Disabilities in the American Hemisphere"; the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (UN General Assembly resolution 48/96 of December 20, 1993); the Declaration of Managua (December 1993); the Vienna Declaration and Programme of Action, adopted by the UN World Conference on Human Rights (157/93); resolution AG/RES. 1356 (XXV-O/95), "Situation of Persons with Disabilities in the American Hemisphere"; and AG/RES. 1369 (XXVI-O/96), "Panama Commitment to Persons with Disabilities in the American Hemisphere"; and

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

Have agreed as follows:

Article I

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

1. Disability

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

2. Discrimination against persons with disabilities

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

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

Article II

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

Article III

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

1. To adopt the legislative, social, educational, labor-related, or any other measures needed to eliminate discrimination against persons with disabilities and to promote their full integration into society, including, but not limited to:

- a. Measures to eliminate discrimination gradually and to promote integration by government authorities and/or private entities in providing or making available goods, services, facilities, programs, and activities such as employment, transportation, communications, housing, recreation, education, sports, law enforcement and administration of justice, and political and administrative activities;
- b. Measures to ensure that new buildings, vehicles, and facilities constructed or manufactured within their respective territories facilitate transportation, communications, and access by persons with disabilities;
- c. Measures to eliminate, to the extent possible, architectural, transportation, and communication obstacles to facilitate access and use by persons with disabilities; and
- d. Measures to ensure that persons responsible for applying this Convention and domestic law in this area are trained to do so.

2. To work on a priority basis in the following areas:

- a. Prevention of all forms of preventable disabilities;
- b. Early detection and intervention, treatment, rehabilitation, education, job training, and the provision of comprehensive services to ensure the optimal level of independence and quality of life for persons with disabilities; and
- c. Increasing of public awareness through educational campaigns aimed at eliminating prejudices, stereotypes, and other attitudes that jeopardize the right of persons to live as equals, thus promoting respect for and coexistence with persons with disabilities;

Article IV

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

1. Cooperate with one another in helping to prevent and eliminate discrimination against persons with disabilities;
2. Collaborate effectively in:

- a. Scientific and technological research related to the prevention of disabilities and to the treatment, rehabilitation, and integration into society of persons with disabilities; and
- b. The development of means and resources designed to facilitate or promote the independence, self-sufficiency, and total integration into society of persons with disabilities, under conditions of equality.

Article V

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

2. The states parties shall create effective communication channels to disseminate among the public and private organizations working with persons with disabilities the normative and juridical advances that may be achieved in order to eliminate discrimination against persons with disabilities.

Article VI

1. To follow up on the commitments undertaken in this Convention, a Committee for the Elimination of All Forms of Discrimination against Persons with Disabilities, composed of one representative appointed by each state party, shall be established.

2. The committee shall hold its first meeting within the 90 days following the deposit of the 11th instrument of ratification. Said meeting shall be convened by the General Secretariat of the Organization of American States and shall be held at the Organization's headquarters, unless a state party offers to host it.

3. At the first meeting, the states parties undertake to submit a report to the Secretary General of the Organization for transmission to the Committee so that it may be examined and reviewed. Thereafter, reports shall be submitted every four years.

4. The reports prepared under the previous paragraph shall include information on measures adopted by the member states pursuant to this Convention and on any progress made by the states parties in eliminating all forms of discrimination against persons with disabilities. The reports shall indicate any circumstances or difficulties affecting the degree of fulfillment of the obligations arising from this Convention.

5. The Committee shall be the forum for assessment of progress made in the application of the Convention and for the exchange of experience

among the states parties. The reports prepared by the committee shall reflect the deliberations; shall include information on any measures adopted by the states parties pursuant to this Convention, on any progress they have made in eliminating all forms of discrimination against persons with disabilities, and on any circumstances or difficulties they have encountered in the implementation of the Convention; and shall include the committee's conclusions, its observations, and its general suggestions for the gradual fulfillment of the Convention.

6. The committee shall draft its rules of procedure and adopt them by a simple majority.

7. The Secretary General shall provide the Committee with the support it requires in order to perform its functions.

Article VII

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

Article VIII

1. This Convention shall be open for signature by all member states in Guatemala City, Guatemala, on June 8, 1999, and, thereafter, shall remain open for signature by all states at the headquarters of the Organization of American States, until its entry into force.

2. This Convention is subject to ratification.

3. This Convention shall enter into force for the ratifying states on the 30th day following the date of deposit of the sixth instrument of ratification by a member state of the Organization of American States.

Article IX

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

Article X

1. The instruments of ratification and accession shall be deposited with the General Secretariat of the Organization of American States.

2. For each state that ratifies or accedes to the Convention after the sixth instrument of ratification has been deposited, the Convention shall enter into force on the 30th day following deposit by that state of its instrument of ratification or accession.

Article XI

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

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

Article XII

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

Article XIII

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

Article XIV

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

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

SIGNATORIES AND RATIFICATIONS

COUNTRY	SIGNATURE	DEPOSIT
Antigua & Barbuda	-	-
Argentina	06 / 08 / 1999	01 / 10 / 2001 RA
Bahamas	-	-
Barbados	-	-
Belize	-	-
Bolivia	06 / 08 / 1999	05 / 30 / 2003 RA
Brazil	06 / 08 / 1999	08 / 15 / 2001 RA
Canada	-	-
Chile	06 / 08 / 1999	02 / 26 / 2002 RA
Colombia	06 / 08 / 1999	02 / 11 / 2004 RA
Costa Rica	06 / 08 / 1999	02 / 08 / 2000 RA
Dominica	06 / 08 / 1999	-
Dominican Republic	06 / 08 / 1999	02 / 05 / 2007 RA
Ecuador	06 / 08 / 1999	03 / 18 / 2004 RA
El Salvador	06 / 08 / 1999	03 / 08 / 2002 RA
Grenada	-	-
Guatemala	06 / 08 / 1999	01 / 28 / 2003 RA
Guyana	-	-
Haiti	08 / 06 / 1999	09 / 03 / 2009 RA
Honduras	-	-
Jamaica	06 / 08 / 1999	-
Mexico	06 / 08 / 1999	01 / 25 / 2001 RA
Nicaragua	06 / 08 / 1999	11 / 25 / 2002 RA
Panama	06 / 08 / 1999	02 / 16 / 2002 RA
Paraguay	06 / 08 / 1999	10 / 22 / 2002 RA
Peru	06 / 08 / 1999	08 / 30 / 2001 RA
St. Kitts & Nevis	-	-
St. Lucia	-	-
St. Vincent and the Grenadines	-	-
Suriname	-	-
Trinidad & Tobago	-	-
United States	-	-
Uruguay	06 / 08 / 1999	07 / 20 / 2001 RA
Venezuela	06 / 08 / 1999	09 / 28 / 2006 RA

RA Ratification

RULES OF PROCEDURE OF THE COMMITTEE FOR THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST PERSONS WITH DISABILITIES (CEDDIS)*

Article 1. Scope of the Rules of Procedure

These Internal Rules of Procedure (hereinafter “Rule of Procedure”) shall govern the organization and modus operandi of the Committee for the Elimination of All Forms of Discrimination against Persons with Disabilities (hereinafter “the Committee”), established pursuant to Article VI, paragraph I, of the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities (hereinafter “the Convention”).

The Committee shall fulfill its functions in accordance with the Convention, these Rules of Procedure, and in any additional respects not covered by them, the Rules of Procedure of the Permanent Council.

The matters not provided for in these Rules of Procedure shall be resolved by the Committee itself.

Article 2. Composition of the Committee

The Committee shall comprise one representative and two alternates appointed by each state party to the Convention. The members shall serve in their personal capacity, perform their functions autonomously, and be technically well-versed and experienced in the various issues addressed in the Convention. The states parties shall promote the participation of persons with disabilities, pursuant to Article V of the Convention.

The states parties shall provide the OAS General Secretariat with the names and personal data of their representatives, such as their postal and e-mail addresses and their telephone and fax numbers, as soon as they have been ap-

* Document resulting from the negotiations conducted by the First Meeting of the Committee for the elimination of all forms of discrimination against persons with disabilities, between February 28 and March 1, 2007, Panama City, Republic of Panama. Some amendments were approved on the Second Meeting held in Brasilia, Brazil, between July 28 and August 1, 2008; but there is no official translation.

pointed. Each state party shall notify the OAS General Secretariat immediately of any change in the appointment of its representative on the Committee.

Article 3. Terms of reference of the Committee

The Committee shall consider and analyze the reports presented by the states parties and serve as the forum for assessing progress in the application of the Convention, for the exchange of experience among states parties, and for providing guidance on the uniform preparation of reports to be presented by the states, as provided in Article VI, paragraphs 3 and 5. In fulfillment of these mandates, the Committee shall have the following terms of reference:

- a. Adopt and amend its internal rules of procedure;
- b. Adopt its work schedule;
- c. Adopt guidelines for presentation of the reports referred to in Article VI, paragraphs 3 and 4, of the Convention, which, pursuant to that Article, shall include information on any measures adopted by the states parties pursuant to the Convention, especially Articles III, IV, V, and VII thereof, on any progress they have made in eliminating all forms of discrimination against persons with disabilities, and on any circumstances or difficulties that have affected the fulfillment of the Convention. Said guidelines may be altered periodically by the Committee, when it deems such changes necessary;
- d. Decide on the venue and the starting and ending dates of each meeting of the Committee;
- e. Determine the composition of any working groups it may decide to establish;
- f. Request the states parties to expand their reports, provide additional information on specific aspects or supplementary documentation, or address any other matter deemed advisable to achieve a better understanding of the contents of the reports presented and to facilitate their consideration with a view to assessing the progress made in fulfillment of the Convention's objectives.
- g. Ensure that the members of any groups it may decide to establish to consider and analyze the reports received from the states parties do not include any nationals of the state parties whose reports are to be considered;
- h. Ensure that civil society, in particular persons with disabilities and organizations that represent them, is included and fully participates in all levels of the monitoring process.
- i. Adopt its reports pursuant to Article VI, paragraphs 3 and 5, of the Convention, as provided in Article 20 of these Rules of Procedure;

- j. Promote and facilitate cooperation among states parties and civil society organizations, in particular organizations of persons with disabilities and their relatives, as well as with international organizations and cooperation agencies;
- k. Comply with such other terms of reference as may be necessary in pursuit of the mandate issued under the Convention.

Article 4. Officers of the Committee

The Committee shall elect a chair and two vice chairs from among its members, taking into account the principles of gender equity and equitable geographic representation. The chair and the vice chairs shall serve for a two-year term and may not be reelected for an additional term. If the chair is temporarily absent or prevented from serving, his or her place shall be taken by the first vice chair. If the chair and/or vice chairs are permanently absent or prevented from serving, the Committee shall elect new officers, as the case may be, to occupy those posts.

Article 5. Functions of the Chair

The chair shall have the following functions:

- a. To open and close plenary sessions and to direct debates;
- b. To submit to the Committee, for its consideration, a draft work schedule and a draft agenda for the Committee's meetings, together with the procedure for best addressing them and any other matter deemed relevant;
- c. To coordinate Committee-related activities with the General Secretariat;
- d. To represent the Committee before OAS organs, agencies, and entities;
- e. To submit to the Committee, for its consideration, proposals regarding the composition of any working groups established and the tasks to be assigned to them; and
- f. Any other functions assigned by the Committee.

Article 6. The Committee Technical Secretariat

The OAS General Secretariat shall serve as Technical Secretariat of the Committee, through the Office of International Law of the Department of International Legal Affairs, which shall lend the Committee the support it requires to perform its functions, pursuant to Article VI, paragraph 7, of the Convention.

Article 7. Functions of the Committee Secretariat

The Secretariat shall perform the following functions, under the supervision of the Committee chair:

- a. Support the preparation of a draft work schedule to be submitted to the chair for consideration;
- b. Support the preparation of the draft agenda and working procedures for each meeting, to be submitted to the chair for consideration;
- c. Distribute the notices convening Committee meetings, along with any other pertinent documents;
- d. Provide secretariat services to the Committee and any working groups established, including in the preparation of reports drawn up by the Committee pursuant to Article VI, paragraph 5, of the Convention;
- e. Keep custody of all the Committee's documents and archives;
- f. Disseminate, via e-mail, Internet, or any other channel, Committee-related information and public documents, as well as the reports of the states parties and the report referred to in Articles VI, paragraphs 3 and 5, of the Convention, once they are authorized for public use in accordance with these Rules of Procedure, in formats accessible to persons with disabilities;
- g. Serve as the central point of coordination and contact for dispatching and exchanging documents and communications among the representatives of the states parties on the Committee, via their respective permanent missions, the OAS organs, and other organizations or institutions;
- h. Apprise the chair of the communications it receives for submission to the Committee for its consideration;
- i. Prepare summary minutes of the Committee meetings and store them in its archives;
- j. Advise members of the Committee on the performance of their functions, when so requested;
- k. Foster and organize technical cooperation programs, in coordination with other international organizations and cooperation agencies, to support states parties in their efforts to implement the Committee's recommendations; and
- l. Any other functions assigned to it by the Committee, or which pertain to the OAS General Secretariat for the effective performance of its functions.

Article 8. Headquarters

The Committee shall be headquartered in Washington, D.C., in the United States of America.

Pursuant to Article VI, paragraph 2 of the Convention, the Committee's meetings shall be held at its headquarters, unless a state party offers to hold them elsewhere.

Article 9. Meetings

The Committee shall hold at least one session every two years. Plenary meetings of the Committee shall be public. Any groups formed shall hold closed meetings unless otherwise agreed.

Article 10. Observers

OAS member states that are not party to the Convention may be invited to attend plenary meetings of the Committee as observers, if they so request.

Article 11. Special Guests

Representatives of states parties may propose to the Committee, via the chair, that special guests, including the organs, agencies, and entities, as well as civil society organizations, in particular organizations of persons with disabilities and their families, take part in meetings, in order to exchange information and discuss experiences and best practices.

Article 12. Financing

States parties shall finance the participation of their representatives to the Committee. In addition, a specific fund shall be created to ensure the participation of representatives of countries that, due to special circumstances, cannot finance their participation or the Committee's activities. Said fund shall be administered by the OAS General Secretariat.

Article 13. Languages

The Committee shall use the languages of the states parties, which are also the official languages of the OAS.

Article 14. Quorum

One half plus one of the representatives of the states parties on the Committee shall constitute a quorum for meetings.

Article 15. Decisions

Each member of the Committee shall be entitled to one vote. The Committee shall reach decisions by consensus.

If consensus cannot be reached, the issue will be put to a vote. If the decision concerns adoption of the report referred to in Articles VI, paragraphs 3 and

5, of the Convention or amendment of these Rules of Procedure, the decision shall require the affirmative vote of two thirds of the Committee members present at the meeting.

In all other cases, a decision shall be reached by a simple majority of the Committee members present at the meeting.

Article 16. Communications and Distribution of Documents

Communications between the OAS General Secretariat and the Committee, including the dispatch of documents for the latter's consideration, shall be conducted via e-mail to and from the respective state party's permanent mission to the OAS.

The reports of the states parties referred to in Articles VI, paragraphs 3 and 6, of the Convention, as well as any other document or information, shall be remitted to the OAS Secretary General via the permanent missions, by e-mail, fax, or ordinary mail.

Article 17. First Report of the States Parties to the Committee

At its first meeting, the Committee will examine and analyze reports that have been submitted on time to the Secretary General by the states that are parties to the Convention at that time.

States that become parties to the Convention after the first meeting of the Committee shall submit their first report to the Secretary General within one year of their becoming parties to the Convention. Said report shall be analyzed as soon as the Committee meets again.

Thereafter, each state party shall submit reports in such a way that they can be examined and analyzed by the Committee every four years.

Article 18. Presentation of Reports to the Committee

States parties shall submit their respective reports to the Committee Secretariat, via the permanent missions, at least one month prior to the Committee's next meeting. In accordance with Article VI, paragraph 4, of the Convention, said reports shall include any measures adopted by the states parties pursuant to this Convention and any progress made by them in eliminating all forms of discrimination against persons with disabilities. The reports also are to indicate any circumstances or difficulties affecting the degree of fulfillment of the obligations arising from the Convention, as well as the opinion of persons with disabilities and their families.

Article 19. Format of the Reports to the Committee

The reports of the states parties shall follow the guidelines for the presentation of reports referred to in Article 3 of these Rules of Procedure.

In those reports, states parties may express needs for technical or other forms of assistance in connection with inadequate national capacity or additional necessary national capacity to meet the commitments assumed under the Convention.

Article 20. Reports of the Committee

Reports prepared by the Committee on the basis of its review of progress made in implementing the Convention, of the discussion by states parties of their experiences, and of the consideration and analysis of reports presented by states parties shall reflect the deliberations and include, inter alia, 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.

Such reports shall also include the Committee's conclusions, observations, and general suggestions for the gradual fulfillment of the Convention.

Said reports shall be remitted by the Committee chair to the OAS General Assembly, for its information, at the next regular session of the Assembly.

Article 21. Failure to Present Reports to the Committee

When a state party is at least four months behind schedule in submitting its report, the Committee may notify it of that fact. If the state party responds by presenting the report, the provisions of Article 18 shall be applied. If it does not respond within three months following such notice, the Committee shall indicate such noncompliance in its report to the General Assembly.

Article 22. Follow-up

Follow-up to the Committee's general suggestions for the gradual fulfillment of the Convention, contained in its report, shall be conducted at the Committee's next meeting. In their subsequent reports, the state parties shall include information on the ways in which they have acted on the Committee's suggestions. The countries may indicate any technical or other assistance they require in order to implement said suggestions.

Article 23. Participation of Civil Society Organizations

Participation by civil society organizations in the Committee's activities shall be governed by the "Guidelines for Participation by Civil Society Organizations

in OAS Activities," adopted by resolution CP/RES. 759 (12/17/99), for meetings of the Permanent Council and its committees, and the definition of civil society contained in resolution AG/RES. 1661 (XXIX-O/99).

Article 24. Accessibility

In its activities, the Committee shall adopt appropriate measures to ensure proper and full access by persons with disabilities to all reports, communications, services, and facilities, to enable it to better perform its functions.

Article 25. Entry into Force and Amendment of the Rules of Procedure

These Rules of Procedure shall enter into force as soon as they are adopted by an absolute majority of the Committee, and may be amended by the Committee in accordance with Article 15.

DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION*

PREAMBLE

Reaffirming the need to ensure respect for and full enjoyment of individual freedoms and fundamental rights of human beings under the rule of law;

Aware that consolidation and development of democracy depends upon the existence of freedom of expression;

Persuaded that the right to freedom of expression is essential for the development of knowledge and understanding among peoples, that will lead to a true tolerance and cooperation among the nations of the hemisphere;

Convinced that any obstacle to the free discussion of ideas and opinions limits freedom of expression and the effective development of a democratic process;

Convinced that guaranteeing the right to access to information held by the State will ensure greater transparency and accountability of governmental activities and the strengthening of democratic institutions;

Recalling that freedom of expression is a fundamental right recognized in the American Declaration on the Rights and Duties of Man and the American Convention on Human Rights, the Universal Declaration of Human Rights, Resolution 59 (1) of the United Nations General Assembly, Resolution 104 adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Covenant on Civil and Political Rights, as well as in other international documents and national constitutions;

* Approved by the Inter-American Commission on Human Rights during its 108 regular session, October 2000.

Recognizing that the member states of the Organization of American States are subject to the legal framework established by the principles of Article 13 of the American Convention on Human Rights;

Reaffirming Article 13 of the American Convention on Human Rights, which establishes that the right to freedom of expression comprises the freedom to seek, receive and impart information and ideas, regardless of borders and by any means of communication;

Considering the importance of freedom of expression for the development and protection of human rights, the important role assigned to it by the Inter-American Commission on Human Rights and the full support given to the establishment of the Office of the Special Rapporteur for Freedom of Expression as a fundamental instrument for the protection of this right in the hemisphere at the Summit of the Americas in Santiago, Chile;

Recognizing that freedom of the press is essential for the full and effective exercise of freedom of expression and an indispensable instrument for the functioning of representative democracy, through which individuals exercise their right to receive, impart and seek information;

Reaffirming that the principles of the Declaration of Chapultepec constitute a basic document that contemplates the protection and defense of freedom of expression, freedom and independence of the press and the right to information;

Considering that the right to freedom of expression is not a concession by the States but a fundamental right;

Recognizing the need to protect freedom of expression effectively in the Americas, the Inter-American Commission on Human Rights, in support of the Special Rapporteur for Freedom of Expression, adopts the following Declaration of Principles:

PRINCIPLES

I. Freedom of expression in all its forms and manifestations is a fundamental and inalienable right of all individuals. Additionally, it is an indispensable requirement for the very existence of a democratic society.

2. Every person has the right to seek, receive and impart information and opinions freely under terms set forth in Article 13 of the American Convention on Human Rights. All people should be afforded equal opportunities to receive, seek and impart information by any means of communication without any discrimination for reasons of race, color, sex, language, religion, political or other opinions, national or social origin, economic status, birth or any other social condition.

3. Every person has the right to access to information about himself or herself or his/her assets expeditiously and not onerously, whether it be contained in databases or public or private registries, and if necessary to update it, correct it and/or amend it.

4. Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.

5. Prior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression.

6. Every person has the right to communicate his/her views by any means and in any form. Compulsory membership or the requirement of a university degree for the practice of journalism constitute unlawful restrictions of freedom of expression. Journalistic activities must be guided by ethical conduct, which should in no case be imposed by the State.

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

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

9. The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.

10. Privacy laws should not inhibit or restrict investigation and dissemination of information of public interest. The protection of a person's reputation should only be guaranteed through civil sanctions in those cases in which the person offended is a public official, a public person or a private person who has voluntarily become involved in matters of public interest. In addition, in these cases, it must be proven that in disseminating the news, the social communicator had the specific intent to inflict harm, was fully aware that false news was disseminated, or acted with gross negligence in efforts to determine the truth or falsity of such news.

11. Public officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as "desacato laws", restrict freedom of expression and the right to information.

12. Monopolies or oligopolies in the ownership and control of the communication media must be subject to anti-trust laws, as they conspire against democracy by limiting the plurality and diversity which ensure the full exercise of people's right to information. In no case should such laws apply exclusively to the media. The concession of radio and television broadcast frequencies should take into account democratic criteria that provide equal opportunity of access for all individuals.

13. The exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans, the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law. The means of communication have the right to carry out their role in an independent manner. Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression.

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

The Inter-American Commission on Human Rights,

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

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

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 concerns 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 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

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.

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, com-

plemented 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.

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, indepen-

dent, 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 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 sub-

sequent 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.

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:

- a. 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;
- b. Information concerning the personal integrity and the state of health of the persons deprived of liberty;
- c. Reason or grounds for the deprivation of liberty;
- d. The authority that ordered or authorized the deprivation of liberty;
- e. The authority that conducted the person deprived of liberty to the institution;

- f. The authority legally responsible for supervising the deprivation of liberty;
- g. Time and date of admission and release;
- h. Time and date of transfers to another place and the destination;
- i. Identity of the authority who ordered the transfer and of the one who is responsible for it;
- j. Inventory of personal effects; and
- k. 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; implemen-

tation 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.

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.

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 de-

privation 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.

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 dis-

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;
- 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 1977, 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.

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

* 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.

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, the Secretary General shall request, in writing, each member state of the Organization to present its candidates within 90 days.

2. The Secretary General shall prepare a list in alphabetical order of the candidates nominated, and shall transmit it to the member states of the Organization at least thirty days prior to the next General Assembly.

Article 5

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

Article 6

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

Article 7

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

Article 8

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

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

¹ Modified by AG/RES. 1098 (XXI-0/90)

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

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

Article 9

The duties of the members of the Commission are:

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

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

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

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

Article 10

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

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

Article 11

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

2. In order to fill vacancies, each government may propose a candidate within a period of 30 days from the date of receipt of the Secretary General's communication that a vacancy has occurred.

3. The Secretary General shall prepare an alphabetical list of the candidates

and shall transmit it to the Permanent Council of the Organization, which shall fill the vacancy.

4. When the term of office is due to expire within six months following the date on which a vacancy occurs, the vacancy shall not be filled.

Article 12

1. In those member states of the Organization that are Parties to the American Convention on Human Rights, the members of the Commission shall enjoy, from the time of their election and throughout their term of office, such immunities as are granted to diplomatic agents under international law. While in office, they shall also enjoy the diplomatic privileges required for the performance of their duties.

2. In those member states of the Organization that are not Parties to the American Convention on Human Rights, the members of the Commission shall enjoy the privileges and immunities pertaining to their posts that are required for them to perform their duties with independence.

3. The system of privileges and immunities of the members of the Commission may be regulated or supplemented by multilateral or bilateral agreements between the Organization and the member states.

Article 13

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

Article 14

1. The Commission shall have a Chairman, a First Vice-Chairman and a Second Vice Chairman, who shall be elected by an absolute majority of its members for a period of one year; they may be re-elected only once in each four-year period.

2. The Chairman and the two Vice-Chairmen shall be the officers of the Commission, and their functions shall be set forth in the Regulations.

Article 15

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

III. HEADQUARTERS AND MEETINGS

Article 16

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

Article 17

1. An absolute majority of the members of the Commission shall constitute a quorum.
2. In regard to those States that are Parties to the Convention, decisions shall be taken by an absolute majority vote of the members of the Commission in those cases established by the American Convention on Human Rights and the present Statute. In other cases, an absolute majority of the members present shall be required.
3. In regard to those States that are not Parties to the Convention, decisions shall be taken by an absolute majority vote of the members of the Commission, except in matters of procedure, in which case, the decisions shall be taken by simple majority.

IV. FUNCTIONS AND POWERS

Article 18

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

- a. to develop an awareness of human rights among the peoples of the Americas;
- b. to make recommendations to the governments of the states on the adoption of progressive measures in favor of human rights in the framework of their legislation, constitutional provisions and international commitments, as well as appropriate measures to further observance of those rights;
- c. to prepare such studies or reports as it considers advisable for the performance of its duties;
- d. to request that the governments of the states provide it with reports on measures they adopt in matters of human rights;
- e. to respond to inquiries made by any member state through the

General Secretariat of the Organization on matters related to human rights in the state and, within its possibilities, to provide those states with the advisory services they request;

f. to submit an annual report to the General Assembly of the Organization, in which due account shall be taken of the legal regime applicable to those States Parties to the American Convention on Human Rights and of that system applicable to those that are not Parties;

g. to conduct on-site observations in a state, with the consent or at the invitation of the government in question; and

h. to submit the program-budget of the Commission to the Secretary General, so that he may present it to the General Assembly.

Article 19

With respect to the States Parties to the American Convention on Human Rights, the Commission shall discharge its duties in conformity with the powers granted under the Convention and in the present Statute, and shall have the following powers in addition to those designated in Article 18:

a. to act on petitions and other communications, pursuant to the provisions of Articles 44 to 51 of the Convention;

b. to appear before the Inter-American Court of Human Rights in cases provided for in the Convention;

c. to request the Inter-American Court of Human Rights to take such provisional measures as it considers appropriate in serious and urgent cases which have not yet been submitted to it for consideration, whenever this becomes necessary to prevent irreparable injury to persons;

d. to consult the Court on the interpretation of the American Convention on Human Rights or of other treaties concerning the protection of human rights in the American states;

e. to submit additional draft protocols to the American Convention on Human Rights to the General Assembly, in order to progressively include other rights and freedoms under the system of protection of the Convention, and

f. to submit to the General Assembly, through the Secretary General, proposed amendments to the American Convention on Human Rights, for such action as the General Assembly deems appropriate.

Article 20

In relation to those member states of the Organization that are not parties to the American Convention on Human Rights, the Commission shall have

the following powers, in addition to those designated in Article 18:

- a. to pay particular attention to the observance of the human rights referred to in Articles I, II, III, IV, XVIII, XXV, and XXVI of the American Declaration of the Rights and Duties of Man;
- b. to examine communications submitted to it and any other available information, to address the government of any member state not a Party to the Convention for information deemed pertinent by this Commission, and to make recommendations to it, when it finds this appropriate, in order to bring about more effective observance of fundamental human rights; and,
- c. to verify, as a prior condition to the exercise of the powers granted under subparagraph b. above, whether the domestic legal procedures and remedies of each member state not a Party to the Convention have been duly applied and exhausted.

V. SECRETARIAT

Article 21

1. The Secretariat services of the Commission shall be provided by a specialized administrative unit under the direction of an Executive Secretary. This unit shall be provided with the resources and staff required to accomplish the tasks the Commission may assign to it.

2. The Executive Secretary, who shall be a person of high moral character and recognized competence in the field of human rights, shall be responsible for the work of the Secretariat and shall assist the Commission in the performance of its duties in accordance with the Regulations.

3. The Executive Secretary shall be appointed by the Secretary General of the Organization, in consultation with the Commission. Furthermore, for the Secretary General to be able to remove the Executive Secretary, he shall consult with the Commission and inform its members of the reasons for his decision.

VI. STATUTE AND REGULATIONS

Article 22

1. The present Statute may be amended by the General Assembly.

2. The Commission shall prepare and adopt its own Regulations, in accordance with the present Statute.

Article 23

1. In accordance with the provisions of Articles 44 to 51 of the American

Convention on Human Rights, the Regulations of the Commission shall determine the procedure to be followed in cases of petitions or communications alleging violation of any of the rights guaranteed by the Convention, and imputing such violation to any State Party to the Convention.

2. If the friendly settlement referred to in Articles 44-51 of the Convention is not reached, the Commission shall draft, within 180 days, the report required by Article 50 of the Convention.

Article 24

1. The Regulations shall establish the procedure to be followed in cases of communications containing accusations or complaints of violations of human rights imputable to States that are not Parties to the American Convention on Human Rights.

2. The Regulations shall contain, for this purpose, the pertinent rules established in the Statute of the Commission approved by the Council of the Organization in resolutions adopted on May 25 and June 8, 1960, with the modifications and amendments introduced by Resolution XXII of the Second Special Inter-American Conference, and by the Council of the Organization at its meeting held on April 24, 1968, taking into account resolutions CP/RES. 253 (343/78), "Transition from the present Inter-American Commission on Human Rights to the Commission provided for in the American Convention on Human Rights," adopted by the Permanent Council of the Organization on September 20, 1979.

VII. TRANSITORY PROVISIONS

Article 25

Until the Commission adopts its new Regulations, the current Regulations (OEA/Ser.L/VII. 17, doc. 26) shall apply to all the member states of the Organization.

Article 26

1. The present Statute shall enter into effect 30 days after its approval by the General Assembly.

2. The Secretary General shall order immediate publication of the Statute, and shall give it the widest possible distribution.

RULES OF PROCEDURE OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS*

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.

* Approved by the Commission at its 137th regular period of sessions, held from October 28 to November 13, 2009

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.

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 disabil-

ity of the Second Vice-President, the member with the greatest seniority according to Article 3 shall serve as President.

Article 10. Powers of the President

1. The powers of the President shall be:

- a. to represent the Commission before the other organs of the Organization and other institutions;
- b. to convoke sessions of the Commission in accordance with the Statute and these Rules of Procedure;
- c. to preside over sessions of the Commission and submit to it for consideration all matters appearing on the agenda of the work program approved for the corresponding session; to decide the points of order raised during the deliberations; and to submit matters to a vote in accordance with the applicable provisions of these Rules of Procedure;
- d. to give the floor to the members in the order in which they have requested it;
- e. to promote the work of the Commission and oversee compliance with its program budget;
- f. to present a written report to the Commission at the beginning of its period of sessions on what he or she has done during its recesses to carry out the functions assigned to him or her by the Statute and these Rules of Procedure;
- g. to seek compliance with the decisions of the Commission;
- h. to attend the meetings of the General Assembly of the OAS and other activities related to the promotion and protection of human rights;
- i. to travel to the headquarters of the Commission and remain there for as long as he or she considers necessary to carry out his or her functions;
- j. to designate special committees, *ad hoc* committees and subcommittees composed of several members to carry out any mandate within his or her area of competence; and
- k. to perform any other functions that may be conferred upon him or her in these Rules of Procedure or other tasks entrusted to him or her by the Commission.

2. The President may delegate to one of the Vice Presidents or to another member of the Commission the powers specified in paragraphs a, h and k.

CHAPTER IV EXECUTIVE SECRETARIAT

Article 11¹

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:
 - 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;

¹ Approved by the Commission on September 2, 2011.

- 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 IACHR for a period of two years, counted from the time he or she ceases to discharge the functions of Executive Secretary.

Article 13. Functions of the Executive Secretariat

The Executive Secretariat shall prepare the draft reports, resolutions, studies and any other work entrusted to it by the Commission or by the President. In addition, it shall receive and process the correspondence, petitions and communications addressed to the Commission. The Executive Secretariat may also request that interested parties provide any information it deems relevant, in accordance with the provisions of these Rules of Procedure.

CHAPTER V

FUNCTIONING OF THE COMMISSION

Article 14. Periods of Sessions

1. The Commission shall hold at least two regular periods of sessions per year for the duration previously determined by it and as many special sessions as it deems necessary. Prior to the conclusion of each period of sessions, the date and place of the next period shall be determined.
2. The sessions of the Commission shall be held at its headquarters. However, the Commission may decide to meet elsewhere, pursuant to the vote of an absolute majority of its members and with the consent or at the invitation of the State concerned.
3. Each period of sessions shall consist of the number of sessions necessary to carry out its activities. The sessions shall be confidential, unless the Commission determines otherwise.
4. Any member who because of illness or for any other serious reason is unable to attend all or part of any session of the Commission, or to fulfill any other function, shall notify the Executive Secretary to this effect as soon as possible. The Executive Secretary shall so inform the President and ensure that those reasons appear in the record.

Article 15. Rapporteurships and Working Groups

1. The Commission may 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 IACHR 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 ex-

pressed 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:

- 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 IACHR 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.

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.

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 per-

son 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;
- 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:

- 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

I. The Commission, acting initially through the Executive Secretariat, shall receive and carry out the initial processing of the petitions presented as follows:

- a. it shall receive the petition, register it, record the date of receipt on the petition itself and acknowledge receipt to the petitioner;
- b. if the petition does not meet the requirements of these Rules of

- Procedure, it may request that the petitioner or his or her representative complete them in accordance with Article 26.2 of these Rules;
- c. if the petition sets forth distinct facts, or if it refers to more than one person or to alleged violations not interconnected in time and place, the claims may be divided and processed separately, so long as all the requirements of Article 28 of these Rules of Procedure are met;
 - d. if two or more petitions address similar facts, involve the same persons, or reveal the same pattern of conduct, they may be joined and processed together;
 - e. in the situations provided for in subparagraphs c and d, it shall give written notification to petitioners.
2. In serious or urgent cases, the Executive Secretariat shall immediately notify the Commission.

Article 30. Admissibility Procedure

1. The Commission, through its Executive Secretariat, shall process the petitions that meet the requirements set forth in Article 28 of these Rules of Procedure.
2. For this purpose, it shall forward the relevant parts of the petition to the State in question. The identity of the petitioner shall not be revealed without his or her express authorization. The request 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 for-

warded 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 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
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 admissibil-

ity 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.

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.

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 contin-

ue 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.

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
- 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 accept

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;
- 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 consid-

- er 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

I. The Annual Report presented by the Commission to the General Assembly of the OAS shall include the following:

- a. An analysis of the human rights situation in the hemisphere, along with recommendations to the States and organs of the OAS as to the measures necessary to strengthen respect for human rights;
- b. a brief account of the origin, legal bases, structure and purposes of the Commission, as well as the status of ratifications of the American Convention and all other applicable instruments;

- c. a summary of the mandates and recommendations conferred upon the Commission by the General Assembly and the other competent organs, and of the status of implementation of such mandates and recommendations;
 - d. a list of the periods of sessions held during the time period covered by the report and of other activities carried out by the Commission to achieve its purposes, objectives and mandates;
 - e. a summary of the activities of the Commission carried out in cooperation with other organs of the OAS and with regional or universal organs of the same type, and the results achieved;
 - f. the reports on individual petitions and cases whose publication has been approved by the Commission, as well as a list of the precautionary measures granted and extended, and of its activities before the Inter-American Court;
 - g. a statement on the progress made in attaining the objectives set forth in the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights and all other applicable instruments;
 - h. any general or special report the Commission considers necessary with regard to the situation of human rights in 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.

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.

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.

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 re-

- quested 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;
 - 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.

STATUTE OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS*

**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.

* Adopted by the General Assembly of the OAS at its Ninth Regular Session, held in La Paz Bolivia, October 1979 (Resolution N° 448).

CHAPTER II COMPOSITION OF THE COURT

Article 4. Composition

1. The Court shall consist of seven judges, nationals of the member states of the OAS, elected in an individual capacity from among jurists of the highest moral authority and of recognized competence in the field of human rights, who possess the qualifications required for the exercise of the highest judicial functions under the law of the State of which they are nationals or of the State that proposes them as candidates.

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

Article 5. Judicial Terms

1. The judges of the Court shall be elected for a term of six years and may be reelected only once. A judge elected to replace a judge whose term has not expired shall complete that term.

2. The terms of office of the judges shall run from January 1 of the year following that of their election to December 31 of the year in which their terms expire.

3. The judges shall serve until the end of their terms. Nevertheless, they shall continue to hear the cases they have begun to hear and that are still pending, and shall not be replaced by the newly elected judges in the handling of those cases.

Article 6. Election of the Judges – Date

1. Election of judges shall take place, insofar as possible, during the session of the OAS General Assembly immediately prior to the expiration of the term of the outgoing judges.

2. Vacancies on the Court caused by death, permanent disability, resignation or dismissal of judges shall, insofar as possible, be filled at the next session of the OAS General Assembly. However, an election shall not be necessary when a vacancy occurs within six months of the expiration of a term.

3. If necessary in order to preserve a quorum of the Court, the States Parties to the Convention, at a meeting of the OAS Permanent Council, and at the request of the President of the Court, shall appoint one or more interim judges who shall serve until such time as they are replaced by elected judges.

¹ Amended by Resolution 625 (XII-0/82) of the Twelfth Regular Session of the OAS General Assembly.

Article 7. Candidates

1. Judges shall be elected by the States Parties to the Convention, at the OAS General Assembly, from a list of candidates nominated by those States.
2. Each State Party may nominate up to three candidates, nationals of the state that proposes them or of any other member state of the OAS.
3. When a slate of three is proposed, at least one of the candidates must be a national of a state other than the nominating state.

Article 8. Election - Preliminary Procedures

1. Six months prior to expiration of the terms to which the judges of the Court were elected, the Secretary General of the OAS shall address a written request to each State Party to the Convention that it nominate its candidates within the next ninety days.
2. The Secretary General of the OAS shall draw up an alphabetical list of the candidates nominated, and shall forward it to the States Parties, if possible, at least thirty days before the next session of the OAS General Assembly.
3. In the case of vacancies on the Court, as well as in cases of the death or permanent disability of a candidate, the aforementioned time periods shall be shortened to a period that the Secretary General of the OAS deems reasonable.

Article 9. Voting

1. The judges shall be elected by secret ballot and by an absolute majority of the States Parties to the Convention, from among the candidates referred to in Article 7 of the present Statute.
2. The candidates who obtain the largest number of votes and an absolute majority shall be declared elected. Should several ballots be necessary, those candidates who receive the smallest number of votes shall be eliminated successively, in the manner determined by the States Parties.

Article 10. Ad Hoc Judges

1. If a judge is a national of any of the States Parties to a case submitted to the Court, he shall retain his right to hear that case.
2. If one of the judges called upon to hear a case is a national of one of the States Parties to the case, any other State Party to the case may appoint a person to serve on the Court as an *ad hoc* judge.

² Modified by AG/RES. 1098 (XXI-91).

3. If among the judges called upon to hear a case, none is a national of the States Parties to the case, each of the latter may appoint an *ad hoc* judge. Should several States have the same interest in the case, they shall be regarded as a single party for purposes of the above provisions. In case of doubt, the Court shall decide.

4. The right of any State to appoint an *ad hoc* judge shall be considered relinquished if the State should fail to do so within thirty days following the written request from the President of the Court.

5. The provisions of Articles 4, 11, 15, 16, 18, 19 and 20 of the present Statute shall apply to *ad hoc* judges.

Article 11. Oath

1. Upon assuming office, each judge shall take the following oath or make the following solemn declaration: "I swear" - or "I solemnly declare" - "that I shall exercise my functions as a judge honorably, independently and impartially and that I shall keep secret all deliberations."

2. The oath shall be administered by the President of the Court and, if possible, in the presence of the other judges.

CHAPTER III STRUCTURE OF THE COURT

Article 12. Presidency

1. The Court shall elect from among its members a President and Vice-President who shall serve for a period of two years; they may be reelected.

2. The President shall direct the work of the Court, represent it, regulate the disposition of matters brought before the Court, and preside over its sessions.

3. The Vice-President shall take the place of the President in the latter's temporary absence, or if the office of the President becomes vacant. In the latter case, the Court shall elect a new Vice-President to serve out the term of the previous Vice-President.

4. In the absence of the President and the Vice-President, their duties shall be assumed by other judges, following the order of precedence established in Article 13 of the present Statute.

Article 13. Precedence

1. Elected judges shall take precedence after the President and Vice-President according to their seniority in office.

2. Judges having the same seniority in office shall take precedence according to age.
3. *Ad hoc* and interim judges shall take precedence after the elected judges, according to age. However, if an *ad hoc* or interim judge has previously served as an elected judge, he shall have precedence over any other *ad hoc* or interim judge.

Article 14. Secretariat

1. The Secretariat of the Court shall function under the immediate authority of the Secretary, in accordance with the administrative standards of the OAS General Secretariat, in all matters that are not incompatible with the independence of the Court.
2. The Secretary shall be appointed by the Court. He shall be a full-time employee serving in a position of trust to the Court, shall have his office at the seat of the Court and shall attend any meetings that the Court holds away from its seat.
3. There shall be an Assistant Secretary who shall assist the Secretary in his duties and shall replace him in his temporary absence.
4. The Staff of the Secretariat shall be appointed by the Secretary General of the OAS, in consultation with the Secretary of the Court.

CHAPTER IV RIGHTS, DUTIES AND RESPONSIBILITIES

Article 15. Privileges and Immunities

1. The judges of the Court shall enjoy, from the moment of their election and throughout their term of office, the immunities extended to diplomatic agents under international law. During the exercise of their functions, they shall, in addition, enjoy the diplomatic privileges necessary for the performance of their duties.
2. At no time shall the judges of the Court be held liable for any decisions or opinions issued in the exercise of their functions.
3. The Court itself and its staff shall enjoy the privileges and immunities provided for in the Agreement on Privileges and Immunities of the Organization of American States, of May 15, 1949, *mutatis mutandis*, taking into account the importance and independence of the Court.
4. The provision of paragraphs 1, 2 and 3 of this article shall apply to the States Parties to the Convention. They shall also apply to such other member states of the OAS as expressly accept them, either in general or for specific cases.

5. The system of privileges and immunities of the judges of the Court and of its staff may be regulated or supplemented by multilateral or bilateral agreements between the Court, the OAS and its member states.

Article 16. Service

1. The judges shall remain at the disposal of the Court, and shall travel to the seat of the Court or to the place where the Court is holding its sessions as often and for as long a time as may be necessary, as established in the Regulations.

2. The President shall render his service on a permanent basis.

Article 17. Emoluments

1. The emoluments of the President and the judges of the Court shall be set in accordance with the obligations and incompatibilities imposed on them by Articles 16 and 18, and bearing in mind the importance and independence of their functions.

2. The *ad hoc* judges shall receive the emoluments established by Regulations, within the limits of the Court's budget.

3. The judges shall also receive per diem and travel allowances, when appropriate.

Article 18. Incompatibilities

1. The position of judge of the Inter-American Court of Human Rights is incompatible with the following positions and activities:

a. Members or high-ranking officials of the executive branch of government, except for those who hold positions that do not place them under the direct control of the executive branch and those of diplomatic agents who are not Chiefs of Missions to the OAS or to any of its member states;

b. Officials of international organizations;

c. Any others that might prevent the judges from discharging their duties, or that might affect their independence or impartiality, or the dignity and prestige of the office

2. In case of doubt as to incompatibility, the Court shall decide. If the incompatibility is not resolved, the provisions of Article 73 of the Convention and Article 20.2 of the present Statute shall apply.

3. Incompatibilities may lead only to dismissal of the judge and the imposition of applicable liabilities, but shall not invalidate the acts and decisions in which the judge in question participated.

Article 19. Disqualification

1. Judges may not take part in matters in which, in the opinion of the Court, they or members of their family have a direct interest or in which they have previously taken part as agents, counsel or advocates, or as members of a national or international court or an investigatory committee, or in any other capacity.
2. If a judge is disqualified from hearing a case or for some other appropriate reason considers that he should not take part in a specific matter; he shall advise the President of his disqualification. Should the latter disagree, the Court shall decide.
3. If the President considers that a judge has cause for disqualification or for some other pertinent reason should not take part in a given matter; he shall advise him to that effect. Should the judge in question disagree, the Court shall decide.
4. When one or more judges are disqualified pursuant to this article, the President may request the States Parties to the Convention, in a meeting of the OAS Permanent Council, to appoint interim judges to replace them.

Article 20. Disciplinary Regime

1. In the performance of their duties and at all other times, the judges and staff of the Court shall conduct themselves in a manner that is in keeping with the office of those who perform an international judicial function. They shall be answerable to the Court for their conduct, as well as for any violation, act of negligence or omission committed in the exercise of their functions.
2. The OAS General Assembly shall have disciplinary authority over the judges, but may exercise that authority only at the request of the Court itself, composed for this purpose of the remaining judges. The Court shall inform the General Assembly of the reasons for its request.
3. Disciplinary authority over the Secretary shall lie with the Court, and over the rest of the staff, with the Secretary, who shall exercise that authority with the approval of the President.
4. The Court shall issue disciplinary rules, subject to the administrative regulations of the OAS General Secretariat insofar as they may be applicable in accordance with Article 59 of the Convention.

Article 21. Resignation – Incapacity

1. Any resignation from the Court shall be submitted in writing to the President of the Court. The resignation shall not become effective until the Court has accepted it.
2. The Court shall decide whether a judge is incapable of performing his functions.

3. The President of the Court shall notify the Secretary General of the OAS of the acceptance of a resignation or a determination of incapacity, for appropriate action.

CHAPTER V THE WORKINGS OF THE COURT

Article 22. Session

1. The Court shall hold regular and special sessions.
2. Regular sessions shall be held as determined by the Regulations of the Court.
3. Special sessions shall be convoked by the President or at the request of a majority of the judges.

Article 23. Quorum

1. The quorum for deliberations by the Court shall be five judges.
2. Decisions of the Court shall be taken by a majority vote of the judges present
3. In the event of a tie, the President shall cast the deciding vote.

Article 24. Hearings, Deliberations, Decisions

1. The hearings shall be public, unless the Court, in exceptional circumstances, decides otherwise.
2. The Court shall deliberate in private. Its deliberations shall remain secret, unless the Court decides otherwise.
3. The decisions, judgments and opinions of the Court shall be delivered in public session, and the parties shall be given written notification thereof. In addition, the decisions, judgments and opinions shall be published, along with judges' individual votes and opinions and with such other data or background information that the Court may deem appropriate.

Article 25. Rules and Regulations

1. The Court shall draw up its Rules of Procedure
2. The Rules of Procedure may delegate to the President or to Committees of the Court authority to carry out certain parts of the legal proceedings, with the exception of issuing final rulings or advisory opinions. Rulings or decisions issued by the President or the Committees of the Court that are not purely procedural in nature may be appealed before the full Court.
3. The Court shall also draw up its own Regulations.

Article 26. Budget, Financial System

1. The Court shall draw up its own budget and shall submit it for approval to the General Assembly of the OAS, through the General Secretariat. The latter may not introduce any changes in it.
2. The Court shall administer its own budget.

CHAPTER VI RELATIONS WITH GOVERNMENTS AND ORGANIZATIONS

Article 27. Relations with the Host Country, Governments and Organizations

1. The relations of the Court with the host country shall be governed through a headquarters agreement. The seat of the Court shall be international in nature.
2. The relations of the Court with governments, with the OAS and its organs, agencies and entities and with other international governmental organizations involved in promoting and defending human rights shall be governed through special agreements.

Article 28. Relations with the Inter-American Commission on Human Rights

The Inter-American Commission on Human Rights shall appear as a party before the Court in all cases within the adjudicatory jurisdiction of the Court, pursuant to Article 2.1 of the present Statute.

Article 29. Agreements of Cooperation

1. The Court may enter into agreements of cooperation with such nonprofit institutions as law schools, bar associations, courts, academies and educational or research institutions dealing with related disciplines in order to obtain their cooperation and to strengthen and promote the juridical and institutional principles of the Convention in general and of the Court in particular.
2. The Court shall include an account of such agreements and their results in its Annual Report to the OAS General Assembly.

Article 30. Report to the OAS General Assembly

The Court shall submit a report on its work of the previous year to each regular session of the OAS General Assembly. It shall indicate those cases in which a State has failed to comply with the Court's ruling. It may also submit to the OAS General Assembly proposals or recommendations on ways to improve the inter-American system of human rights, insofar as they con-

cern the work of the Court.

CHAPTER VII FINAL PROVISIONS

Article 31. Amendments to the Statute

The present Statute may be amended by the OAS General Assembly, at the initiative of any member state or of the Court itself.

Article 32. Entry into Force

The present Statute shall enter into force on January 1, 1980.

RULES OF PROCEDURE OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS*

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;

* 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. 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;
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.

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
4 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.
2. 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.

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 reelected. 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;
- 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.

Article 16. Decisions and voting

1. The Presidency shall present, point by point, the matters to be voted up-

on. 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.

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.

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 intervener, 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 intervener 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 interveners. 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.

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.

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 intervener 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;
 - 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;
 - 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.
3. 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.

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.

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

- 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.
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 or-

der 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.

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 wellgrounded 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.

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.
2. 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.

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

I. 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;

- 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.

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 26 Convention shall indicate the following:
 - a. the provisions of domestic law and of the Convention or of other treaties concerning the protection of human rights to which the request relates;
 - b. the specific questions on which the opinion of the Court is being sought;
 - c. the name and address of the 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.

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 force¹. Statements shall be received with the aid of the Victim's Legal Assistance Fund, and the dispositions of these Rules of Procedure shall apply

1 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..

Done at the seat of the Inter-American Court of Human Rights in San José, Costa Rica, on this 24th day of November, 2009.

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 OF PROCEDURE FOR THE OPERATION OF THE LEGAL ASSISTANCE FUND OF THE INTER-AMERICAN HUMAN RIGHTS SYSTEM*

THE PERMANENT COUNCIL OF THE ORGANIZATION OF AMERICAN STATES,

HAVING SEEN:

Resolution AG/RES. 2426 (XXXVIII-O/08), "Establishment of the Legal Assistance Fund of the Inter-American Human Rights System";

Resolution AG/RES. 2075 (XXXV-O/05), "Strengthening of Human Rights Systems pursuant to the Plan of Action of the Third Summit of the Americas," and resolutions AG/RES. 2220 (XXXVI-O/06), AG/RES. 2291 (XXXVII-O/07), AG/RES. 2407 (XXXVIII-O/08), and AG/RES. 2521 (XXXIX-O/09), "Strengthening of Human Rights Systems pursuant to the Mandates Arising from the Fourth Summit of the Americas"; and

Resolutions AG/RES. 2128 (XXXV-O/05), AG/RES. 2227 (XXXVI-O/06), AG/RES. 2290 (XXXVII-O/07), AG/RES. 2409 (XXXVIII-O/08), and AG/RES. 2522 (XXXIX-O/09), "Observations and Recommendations on the Annual Report of the Inter-American Commission on Human Rights," and resolutions AG/RES. 2223 (XXXVI-O/06), AG/RES. 2292 (XXXVII-O/07), AG/RES. 2408 (XXXVIII-O/08), and AG/RES. 2500 (XXXIX-O/09), "Observations and Recommendations on the Annual Report of the Inter-American Court of Human Rights",

BEARING IN MIND:

That the Inter-American Commission on Human Rights is an organ of the OAS and included in its functions is oversight of the commitments and ob-

* Adopted at the meeting of November 11, 2009

ligations assumed by the member states under the American Declaration on the Rights and Duties of Man and the American Convention on Human Rights, as applicable; and

That the Inter-American Court of Human Rights is an autonomous judicial institution of the OAS, and by virtue of Article 26(2) of its Statute, it manages its own budget,

CONSIDERING:

That the General Assembly, through resolution AG/RES. 2426 (XXXVIII-O/08), requested the Secretary General to establish a specific fund for voluntary contributions to be called the “Legal Assistance Fund of the Inter-American Human Rights System” (hereinafter “the Legal Assistance Fund”), to facilitate access to the inter-American human rights system by persons who currently lack the resources needed to bring their cases before the system;

That, through operative paragraph 2.b of resolution AG/RES. 2426 (XXXVIII-O/08), the General Assembly agreed that financial management of the Legal Assistance Fund shall be entrusted to the General Secretariat of the OAS, and its operations shall be governed by rules of procedure adopted by the Permanent Council, which shall contain clear accountability procedures;

That, according to operative paragraph 7 of resolution AG/RES. 2426 (XXXVIII-O/08), the General Assembly established that the Legal Assistance Fund shall take effect once the Permanent Council adopted its rules of procedure, after consulting with the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights, taking into account the observations made by civil society; and

That the respective consultations have been held with the Inter-American Court of Human Rights and with the Inter-American Commission on Human Rights, and the observations of civil society have been taken into account,

RESOLVES:

I. To adopt the Rules of Procedure for the Operation of the “Legal Assistance Fund of the Inter-American Human Rights System” established in the Annex, which is part of this resolution.

2. To designate the Legal Assistance Fund of the Inter-American Human Rights System as a Humanitarian Fund pursuant to Article 80(i)(C) of the General Standards to Govern the Operations of the General Secretariat.

3. To instruct the Committee on Administrative and Budgetary Affairs (CAAP) to study, within its current process of program review, the possibility of establishing a mechanism which would allow enhanced funding of the inter-American human rights system, through the program-budget of the OAS, including the Legal Assistance Fund of the Inter-American Human Rights System.

4. To request the Secretary General to publicize the Legal Assistance Fund of the Inter-American Human Rights System as extensively as possible.

ANNEX

RULES OF PROCEDURE FOR THE OPERATION OF THE LEGAL ASSISTANCE FUND OF THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

Article 1. Purpose

1.1 The purpose of the Legal Assistance Fund of the Inter-American Human Rights system (hereinafter, the Fund) is to facilitate access to the inter-American system of human rights by persons who currently lack the resources needed to bring their cases before the system.

1.2 Operation of the Legal Assistance Fund of the Inter-American Human Rights System does not exonerate the OAS from its obligation to guarantee funding of the inter-American human rights system with resources from the Regular Fund.

1.3 Contributions to the Fund do not preclude other voluntary contributions or the establishment of other specific funds to finance the operation of the Inter-American Court of Human Rights (hereafter, the Court) and the Inter-American Commission on Human Rights (hereafter, the Commission), their programs, or the "Oliver Jackman Voluntary Capital Fund."

Article 2. Resources

2.1 The Fund shall be comprised of:

- a) Voluntary capital contributions from the member states of the OAS, the permanent observer states, and other states and donors that may wish to collaborate with the Fund, pursuant to the Article on "Specific

Funds” of the General Standards to Govern the Operations of the General Secretariat of the OAS;

b) Yields from investments and interest accrued on the capital contributions established in paragraph 2.1 (a).

Article 3. Distributions

3.1 The Fund shall maintain two separate accounts, which shall be called:

- a) Inter-American Court of Human Rights; and
- b) Inter-American Commission on Human Rights.

3.2 Contributions made to each of these two bodies in the inter-American system of human rights shall be deposited in the appropriate account. Contributions made without specifying which body they are for shall be construed as contributions to be split equally between the two.

3.3 The Secretary General of the OAS shall submit an annual report to the Permanent Council reflecting the activities of the Fund, the contributions received during the corresponding year, and the Fund’s financial position.

Article 4. Legal Assistance

4.1 Approval of legal assistance shall be determined by the Court and the Commission, as the case may be, in accordance with regulations that each of these institutions shall issue to that end.

4.2 To that end, the aforementioned regulations could take into account, *inter alia*, the following:

- a) Procedures that ensure that the potential beneficiaries receive support in due time and form.
- b) The establishment of a system for free defense counsel in both organs, for persons who need it, in accordance with the resources allocated by each Fondo
- c) Proven need for these resources by the potential beneficiaries.
- d) Consideration of mechanisms and procedures for the Court to reimburse costs to the Fund, in the event that the Fund has defrayed said costs.
- e) That assistance be provided to victims from all states based on criteria of objectivity in selection, and diversity and plurality in the representation of victims.

Article 5. Management of funds in the “Inter-American Court of Human Rights” Court

5.1 The Court shall administer funds received by the General Secretariat of the OAS from the “Inter-American Court of Human Rights” account of the

Legal Assistance Fund, according to the Agreement between the General Secretariat of the OAS and the Inter-American Court of Human Rights on the Administrative Functioning of the Secretariat of the Court, signed January 1, 1998 (hereinafter the Agreement).

5.2 The Court:

- a) Shall promote fundraising and, when appropriate, shall negotiate with donors the terms and conditions of donations and shall accept contributions to its account that are consistent with the purpose of the Fund and with the Charter of the OAS and the American Convention on Human Rights, without prejudice to the decisions, rules, and procedures of the General Secretariat of the OAS, and by virtue of the mandate received from the General Assembly for the financial management of the Fund.
- b) Shall administer funds in the “Inter-American Court of Human Rights” account separately from the funds for the operation of the Court itself. For this purpose it shall maintain separate accounting and shall conduct an independent audit of the account, similar to that which is defined in Article II.2 of the Agreement.
- c) Shall present to the Permanent Council, through its Committee on Juridical and Political Affairs, and the General Secretariat of the OAS, and separately from its Annual Report of activities, a specific annual report on the “Inter-American Court of Human Rights” account, which shall reflect the activities of the account, contributions received during the corresponding year, and the account’s financial position.

Article 6. Financial management of the “Inter American Commission on human Rights” account.

6.1 The General Secretariat of the OAS shall conduct financial management of the “Inter-American Commission on Human Rights” account of the Legal Assistance Fund, according to its rules and procedures.

Article 7. Financial management of the fund

7.1 The General Secretariat of the OAS shall conduct financial management of the Fund in accordance with its rules and procedures, including the Agreement.

7.2 The General Secretariat of the OAS:

- a) Shall accept contributions that are in keeping with the purpose of the Fund, in accordance with the Charter of the OAS and the American Convention on Human Rights.
- b) Shall negotiate the terms and conditions of donations with donors,

in consultation with the Commission or the Court, as the case may be, that are consistent with the purpose of the Fund and of the OAS.

c) Shall promote fundraising and the mobilization of resources for both accounts of the Fund, without prejudice to the Court and the Commission's own initiatives in this regard, and shall periodically report to the Permanent Council on the results of these efforts.

d) Shall submit an annual report to the General Assembly during each of its regular sessions, to reflect the activities of the Fund, contributions received during the corresponding year, and the Fund's financial position. This report shall be part of the Annual Audit Report of Accounts and Financial Statements.

e) The Fund's accounts shall be subject to the annual audit conducted by the General Secretariat of the OAS, and the results shall be included in the annual report of the Board of External Auditors.

Article 8. Entry into force, amendments, and revocation

8.1 These rules of procedure shall enter into force immediately upon their adoption by the Permanent Council.

8.2 These rules of procedure may be amended or revoked by the Permanent Council at its own initiative or by recommendation of the Secretary General who shall take into account the opinions of the Court and the Commission.

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' Legal Assistance Fund.

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.

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.

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.

HUMAN RIGHTS
IN THE INTER-AMERICAN
SYSTEM

COMPILATION OF INSTRUMENTS

EDITION 2011