

# AMERICAN CONVENTION ON HUMAN RIGHTS "PACT OF SAN JOSE, 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

Considering that the Third Special Inter-American Conference (Buenos Aires, 1967) approved the incorporation into the Charter of the Organization itself of broader standards with respect to economic, social, and educational rights and resolved that an inter-American convention on human rights should determine the structure, competence, and procedure of the organs responsible for these matters,

Have agreed upon the following:

## **PART I - STATE OBLIGATIONS AND**

### **RIGHTS PROTECTED**

#### **CHAPTER I - GENERAL OBLIGATIONS**

##### **Article 1. Obligation to Respect Rights**

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

2. For the purposes of this Convention, "person" means every human being.

## **Article 2. Domestic Legal Effects**

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

## **CHAPTER II - CIVIL AND POLITICAL RIGHTS**

### **Article 3. Right to Juridical Personality**

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

### **Article 4. Right to Life**

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

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

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

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

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

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

### **Article 5. Right to Humane Treatment**

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

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

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

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

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

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

#### **Article 6. Freedom from Slavery**

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

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

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

a. work or service normally required of a person imprisoned in execution of a sentence or formal decision passed by the competent judicial authority. Such work or service shall be carried out under the supervision and control of public authorities, and any persons performing such work or service shall not be placed at the disposal of any private party, company, or juridical person;

b. military service and, in countries in which conscientious objectors are recognized, national service that the law may provide for in lieu of military service;

c. service exacted in time of danger or calamity that threatens

the existence or the well-being of the community; or

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

### **Article 7. Right to Personal Liberty**

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

### **Article 8. Right to a Fair Trial**

1. Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.
2. Every person accused of a criminal offense has the right to be presumed innocent so long as his guilt has not been proven according to law. During the

proceedings, every person is entitled, with full equality, to the following minimum guarantees:

a. the right of the accused to be assisted without charge by a translator or interpreter, if he does not understand or does not speak the language of the tribunal or court;

b. prior notification in detail to the accused of the charges against him;

c. adequate time and means for the preparation of his defense;

d. the right of the accused to defend himself personally or to be assisted by legal counsel of his own choosing, and to communicate freely and privately with his counsel;

e. the inalienable right to be assisted by counsel provided by the state, paid or not as the domestic law provides, if the accused does not defend himself personally or engage his own counsel within the time period established by law;

f. the right of the defense to examine witnesses present in the court and to obtain the appearance, as witnesses, of experts or other persons who may throw light on the facts;

g. the right not to be compelled to be a witness against himself or to plead guilty; and

h. the right to appeal the judgment to a higher court.

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

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

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

#### **Article 9. Freedom from Ex Post Facto Laws**

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

#### **Article 10. Right to Compensation**

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

#### **Article 11. Right to Privacy**

1. Everyone has the right to have his honor respected and his dignity recognized.

2. No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation.

3. Everyone has the right to the protection of the law against such interference or attacks.

#### **Article 12. Freedom of Conscience and Religion**

1. Everyone has the right to freedom of conscience and of religion. This right includes freedom to maintain or to change one's religion or beliefs, and freedom to profess or disseminate one's religion or beliefs, either individually or together with others, in public or in private.

2. No one shall be subject to restrictions that might impair his freedom to maintain or to change his religion or beliefs.

3. Freedom to manifest one's religion and beliefs may be subject only to the limitations prescribed by law that are necessary to protect public safety, order, health, or morals, or the rights or freedoms of others.

4. Parents or guardians, as the case may be, have the right to provide for the religious and moral education of their children or wards that is in accord with their own convictions.

### **Article 13. Freedom of Thought and Expression**

1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.

2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:

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

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

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

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

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

### **Article 14. Right of Reply**

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

#### **Article 15. Right of Assembly**

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

#### **Article 16. Freedom of Association**

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

#### **Article 17. Rights of the Family**

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

shall be made for the necessary protection of any children solely on the basis of their own best interests.

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

#### **Article 18. Right to a Name**

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

#### **Article 19. Rights of the Child**

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

#### **Article 20. Right to Nationality**

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

#### **Article 21. Right to Property**

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

#### **Article 22. Freedom of Movement and Residence**

1. Every person lawfully in the territory of a State Party has the right to move about in it, and to reside in it subject to the provisions of the law.
2. Every person has the right to leave any country freely, including his own.
3. The exercise of the foregoing rights may be restricted only pursuant to a law to the extent necessary in a democratic society to prevent crime or to protect national security, public safety, public order, public morals, public health, or the rights or freedoms of others.

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

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

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

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

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

9. The collective expulsion of aliens is prohibited.

### **Article 23. Right to Participate in Government**

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

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

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

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

2. The law may regulate the exercise of the rights and opportunities referred to in the preceding paragraph only on the basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings.

### **Article 24. Right to Equal Protection**

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

**Article 25. Right to Judicial Protection**

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

2. The States Parties undertake:

a. to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state;

b. to develop the possibilities of judicial remedy; and

c. to ensure that the competent authorities shall enforce such remedies when granted.

**CHAPTER III - ECONOMIC, SOCIAL,**

**AND CULTURAL RIGHTS**

**Article 26. Progressive Development**

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

**CHAPTER IV - SUSPENSION OF GUARANTEES,**

**INTERPRETATION, AND APPLICATION**

## **Article 27. Suspension of Guarantees**

1. In time of war, public danger, or other emergency that threatens the independence or security of a State Party, it may take measures derogating from its obligations under the present Convention to the extent and for the period of time strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law and do not involve discrimination on the ground of race, color, sex, language, religion, or social origin.

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

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

## **Article 28. Federal Clause**

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

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

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

## **Article 29. Restrictions Regarding Interpretation**

No provision of this Convention shall be interpreted as:

- a. permitting any State Party, group, or person to suppress the enjoyment or exercise of the rights and freedoms recognized in this Convention or to restrict them

to a greater extent than is provided for herein;

b. restricting the enjoyment or exercise of any right or freedom recognized by virtue of the laws of any State Party or by virtue of another convention to which one of the said states is a party;

c. precluding other rights or guarantees that are inherent in the human personality or derived from representative democracy as a form of government; or

d. excluding or limiting the effect that the American Declaration of the Rights and Duties of Man and other international acts of the same nature may have.

### **Article 30. Scope of Restrictions**

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

### **Article 31. Recognition of Other Rights**

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

## **CHAPTER V - PERSONAL RESPONSIBILITIES**

### **Article 32. Relationship between Duties and Rights**

1. Every person has responsibilities to his family, his community, and mankind.

2. The rights of each person are limited by the rights of others, by the security of all, and by the just demands of the general welfare, in a democratic society.

## **PART II - MEANS OF PROTECTION**

### **CHAPTER VI - COMPETENT ORGANS**

#### **Article 33**

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

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

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

### **CHAPTER VII - INTER-AMERICAN COMMISSION**

#### **ON HUMAN RIGHTS**

##### **Section 1. Organization**

#### **Article 34**

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

#### **Article 35**

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

#### **Article 36**

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

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

### **Article 37**

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

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

### **Article 38**

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

### **Article 39**

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

### **Article 40**

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

## **Section 2. Functions**

### **Article 41**

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

a. to develop an awareness of human rights among the peoples of America;

b. to make recommendations to the governments of the member states, when it considers such action advisable, for the adoption

of progressive measures in favor of human rights within the framework of their domestic law and constitutional provisions as well as appropriate measures to further the observance of those rights;

c. to prepare such studies or reports as it considers advisable in the performance of its duties;

d. to request the governments of the member states to supply it with information on the measures adopted by them in matters of human rights;

e. to respond, through the General Secretariat of the Organization of American States, to inquiries made by the member states on matters related to human rights and, within the limits of its possibilities, to provide those states with the advisory services they request;

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

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

## **Article 42**

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

### **Article 43**

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

### **Section 3. Competence**

#### **Article 44**

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

#### **Article 45**

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

#### **Article 46**

1. Admission by the Commission of a petition or communication lodged in accordance with Articles 44 or 45 shall be subject to the following requirements:
  - a. that the remedies under domestic law have been pursued

and exhausted in accordance with generally recognized principles of international law;

b. that the petition or communication is lodged within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgment;

c. that the subject of the petition or communication is not pending in another international proceeding for settlement; and

d. that, in the case of Article 44, the petition contains the name, nationality, profession, domicile, and signature of the person or persons or of the legal representative of the entity lodging the petition.

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

a. the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated;

b. the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; or

c. there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.

#### **Article 47**

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

a. any of the requirements indicated in Article 46 has not been met;

b. the petition or communication does not state facts that tend to establish a violation of the rights guaranteed by this Convention;

c. the statements of the petitioner or of the state indicate that the petition or communication is manifestly groundless or obviously out of order; or

d. the petition or communication is substantially the same as one previously studied by the Commission or by another international organization.

#### **Section 4. Procedure**

##### **Article 48**

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

a. If it considers the petition or communication admissible, it shall request information from the government of the state indicated as being responsible for the alleged violations and shall furnish that government a transcript of the pertinent portions of the petition or communication. This information shall be submitted within a reasonable period to be determined by the Commission in accordance with the circumstances of each case.

b. After the information has been received, or after the period established has elapsed and the information has not been received, the Commission shall ascertain whether the grounds for the petition or communication still exist. If they do not, the Commission shall order the record to be closed.

c. The Commission may also declare the petition or communication inadmissible or out of order on the basis of information or evidence subsequently received.

d. If the record has not been closed, the Commission shall, with the knowledge of the parties, examine the matter set forth in the petition or communication in order to verify the facts. If necessary and advisable, the Commission shall carry out an investigation, for the effective conduct of which it shall request, and the states concerned shall furnish to it, all necessary facilities.

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

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

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

#### **Article 49**

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

#### **Article 50**

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

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

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

### **Article 51**

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

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

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

## **CHAPTER VIII - INTER-AMERICAN COURT OF HUMAN RIGHTS**

### **Section 1. Organization**

#### **Article 52**

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

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

#### **Article 53**

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

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

#### **Article 54**

1. The judges of the Court shall be elected for a term of six years and may be reelected only once. The term of three of the judges chosen in the first election shall expire at the end of three years. Immediately after the election, the names of the three judges shall be determined by lot in the General Assembly.
2. A judge elected to replace a judge whose term has not expired shall complete the term of the latter.
3. The judges shall continue in office until the expiration of their term. However, they shall continue to serve with regard to cases that they have begun to hear and that are still pending, for which purposes they shall not be replaced by the newly elected judges.

#### **Article 55**

1. If a judge is a national of any of the States Parties to a case submitted to the Court, he shall retain his right to hear that case.
2. If one of the judges called upon to hear a case should be a national of one of the States Parties to the case, any other State Party in the case may appoint a person of its choice to serve on the Court as an ad hoc judge.
3. If among the judges called upon to hear a case none is a national of any of the States Parties to the case, each of the latter may appoint an ad hoc judge.
4. An ad hoc judge shall possess the qualifications indicated in Article 52.
5. If several States Parties to the Convention should have the same interest in a case, they shall be considered as a single party for purposes of the above provisions. In case of doubt, the Court shall decide.

#### **Article 56**

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

#### **Article 57**

The Commission shall appear in all cases before the Court.

#### **Article 58**

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

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

### **Article 59**

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

### **Article 60**

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

## **Section 2. Jurisdiction and Functions**

### **Article 61**

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

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

### **Article 62**

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

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

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

### **Article 63**

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

breach of such right or freedom be remedied and that fair compensation be paid to the injured party.

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

#### **Article 64**

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

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

#### **Article 65**

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

### **Section 3. Procedure**

#### **Article 66**

1. Reasons shall be given for the judgment of the Court.

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

#### **Article 67**

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

#### **Article 68**

1. The States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties.

2. That part of a judgment that stipulates compensatory damages may be executed in the country concerned in accordance with domestic procedure governing the execution of judgments against the state.

#### **Article 69**

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

### **CHAPTER IX - COMMON PROVISIONS**

#### **Article 70**

1. The judges of the Court and the members of the Commission shall enjoy, from the moment of their election and throughout their term of office, the immunities extended to diplomatic agents in accordance with international law. During the exercise of their official function they shall, in addition, enjoy the diplomatic privileges necessary for the performance of their duties.

2. At no time shall the judges of the Court or the members of the Commission be held liable for any decisions or opinions issued in the exercise of their functions.

#### **Article 71**

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

#### **Article 72**

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

#### **Article 73**

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

### **PART III - GENERAL AND TRANSITORY PROVISIONS**

**CHAPTER X - SIGNATURE, RATIFICATION, RESERVATIONS,  
AMENDMENTS, PROTOCOLS, AND DENUNCIATION**

**Article 74**

1. This Convention shall be open for signature and ratification by or adherence of any member state of the Organization of American States.
2. Ratification of or adherence to this Convention shall be made by the deposit of an instrument of ratification or adherence with the General Secretariat of the Organization of American States. As soon as eleven states have deposited their instruments of ratification or adherence, the Convention shall enter into force. With respect to any state that ratifies or adheres thereafter, the Convention shall enter into force on the date of the deposit of its instrument of ratification or adherence.
3. The Secretary General shall inform all member states of the Organization of the entry into force of the Convention.

**Article 75**

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

**Article 76**

1. Proposals to amend this Convention may be submitted to the General Assembly for the action it deems appropriate by any State Party directly, and by the Commission or the Court through the Secretary General.
2. Amendments shall enter into force for the States ratifying them on the date when two-thirds of the States Parties to this Convention have deposited their respective instruments of ratification. With respect to the other States Parties, the amendments shall enter into force on the dates on which they deposit their respective instruments of ratification.

**Article 77**

1. In accordance with Article 31, any State Party and the Commission may submit proposed protocols to this Convention for consideration by the States Parties at the General Assembly with a view to gradually including other rights and freedoms within its system of protection.
2. Each protocol shall determine the manner of its entry into force and shall be applied only among the States Parties to it.

**Article 78**

1. The States Parties may denounce this Convention at the expiration of a five-year period from the date of its entry into force and by means of notice given one year

in advance. Notice of the denunciation shall be addressed to the Secretary General of the Organization, who shall inform the other States Parties.

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

## **CHAPTER XI - TRANSITORY PROVISIONS**

### **Section 1. Inter-American Commission on Human Rights**

#### **Article 79**

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

#### **Article 80**

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

### **Section 2. Inter-American Court of Human Rights**

#### **Article 81**

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

#### **Article 82**

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

**B-32: AMERICAN CONVENTION ON HUMAN RIGHTS "PACT OF SAN JOSE,  
COSTA RICA"**

ADOPTED AT: SAN JOSE, COSTA RICA

DATE: 11/22/69

CONF/ASSEM/MEETING: INTER-AMERICAN SPECIALIZED CONFERENCE ON  
HUMAN RIGHTS

ENTRY INTO FORCE: 07/18/78, IN ACCORDANCE WITH ARTICLE  
74.2 OF THE CONVENTION

DEPOSITORY: GENERAL SECRETARIAT, OAS (ORIGINAL  
INSTRUMENT AND

RATIFICATIONS)

TEXT: OAS, TREATY SERIES, NO. 36

UN REGISTRATION: 08/27/79 No. 17955 Vol.

OBSERVATIONS:

GENERAL INFORMATION OF THE TREATY: B-32

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SIGNATORY COUNTRIES	SIGNATURE REF	RA/AC/AD REF	DEPOSIT
INST	INFORMA REF		
=====			
=====			
Argentina .....	02/02/84	08/14/84 DR a	
09/05/84 RA 08/14/84	a		
Barbados .....	06/20/78	11/05/81 R b	
11/27/82 RA / /			
Bolivia .....	/ /	06/20/79 D	
07/19/79 AD / /			
Brazil .....	/ /	07/09/92 D T	
09/25/92 AD 12/10/98			
Chile .....	11/22/69 D 1	08/10/90 e	
08/21/90 RA / /			
Colombia .....	11/22/69	05/28/73	
07/31/73 RA 06/21/85	c		
Costa Rica .....	11/22/69	03/02/70	
04/08/70 RA 07/02/80	d		
Dominica (Commonwealth	/ /	06/03/93 R	
06/11/93 RA / /			
Dominican Republic ..	09/07/77 D 3	01/21/78	
04/19/78 RA 03/25/99			
Ecuador .....	11/22/69 D 2	12/08/77	
12/28/77 RA 07/24/84	f		
El Salvador .....	11/22/69	06/20/78 DR g	
06/23/78 RA 06/06/95 w			
Grenada .....	07/14/78	07/14/78	
07/18/78 RA / /			
Guatemala .....	11/22/69	04/27/78 R h	
05/25/78 RA 03/09/87	h		
Haiti .....	/ /	09/14/77	
09/27/77 AD 03/03/98 x			
Honduras .....	11/22/69	09/05/77	
09/08/77 RA 09/09/81	i		

Jamaica .....	09/16/77		07/19/78		
08/07/78 RA	07/19/78	j			
Mexico .....	/ /		03/02/81	DR	k
03/24/81 AD	12/16/98	z			
Nicaragua .....	11/22/69		09/25/79		
09/25/79 RA	02/12/91	l			
Panama .....	11/22/69		05/08/78		m
06/22/78 RA	/ /				
Paraguay .....	11/22/69		08/18/89		
08/24/89 RA	03/26/93				
Peru .....	07/27/77		07/12/78		
07/28/78 RA	01/21/81	n			
Suriname .....	/ /		11/12/87		m
11/12/87 AD	/ /	m			
Trinidad and Tobago .	/ /		04/03/91	R	s
05/28/91 AD	/ /				
United States .....	06/01/77		/ /		/ /
/ /					
Uruguay .....	11/22/69	R 4	03/26/85	R	p
04/19/85 RA	04/19/85	p			
Venezuela .....	11/22/69		06/23/77	DR	n
08/09/77 RA	06/24/81	n			

=====

REF = REFERENCE

TYPE OF INSTRUMENT

D = DECLARATION

RA = RATIFICATION

R = RESERVATION

AC = ACCEPTANCE

INFORMA = INFORMATION REQUIRED BY THE TREATY

AD = ACCESSION

INST =

**B-32. AMERICAN CONVENTION ON HUMAN RIGHTS  
"PACT OF SAN JOSE, COSTA RICA"**

1. Chile:

(Declaration made at the time of signature)

The Delegation of Chile signs this Convention, subject to its subsequent parliamentary approval and ratification, in accordance with the constitutional rules in force.

2. 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.

3. 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.

4. Uruguay:

(Reservation made at the time of signature)

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

a. Argentina:

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

The instrument of ratification was received at the General Secretariat of the OAS on 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:

I. Reservation:

Article 21 is subject to the following reservation:

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

II. Interpretative 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 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.

b. 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.

c. 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 nonretroactivity, 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 nonretroactivity, for cases involving the interpretation or application of the Convention, and reserves the right to withdraw its recognition of competence should it deem this advisable.

d. Costa Rica:

Recognition of Competence:

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

e. Chile:

(Reservations made at the time of ratification)  
Recognition of Competence:

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.

f. Ecuador:

Recognition of Competence:

On July 24, 1984 recognized the applicability of Articles 45 and 62 of the American Convention on Human Rights, by Decree No. 2768 of July 24, 1984, published in the Registro Oficial No. 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.

g. 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.

h. 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 thereof, since the Constitution of the Republic of Guatemala, in its Article 54, only excludes the application of the death penalty to political crimes, but not to common crimes related to political crimes.

The instrument of ratification was received at the General Secretariat of the OAS on 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 No. 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 No. 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.

i. 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.

j. 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.

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

1. Nicaragua:

Recognition of Competence:

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

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

II. The foregoing notwithstanding, the Government of Nicaragua states for the record that its acceptance of the competence of the Inter-American Court of Human Rights is given for an indefinite period, is general in character and grounded in reciprocity, and is subject to the 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.

m. 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.

n. 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.

o. Suriname:

Adhesion.

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.

p. Uruguay:

(Reservation made at the time of ratification)

With the reservation made at the time of signature. Notification of this reservation was given in conformity with the Vienna Convention on the Law of Treaties, signed on 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.  
q.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 human rights set forth in that Convention, in the terms stipulated in paragraph 2 of that article. This recognition of competence is made for an indefinite period of time.

The instrument of ratification was received at the General Secretariat of the OAS on 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.

r. Trinidad and Tobago:

(Reservations made at the time of adhesion)

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.

s. Brazil:

(Interpretative declaration made at the time of adhesion)

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

t. Paraguay:

Recognition of competence

The aforementioned instrument of the Government of Paraguay states:

I. That, by virtue of the enactment of Decree No. 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 Jose, 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.

u. 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 Organisation 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 Organisation 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.

v. 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 Constitutional, by Law 1430 of February 11, approved and ratified the American Convention on Human Rights "Pact of San Jose", signed at San Jose, 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 Jose", 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."

w.- El Salvador:

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 N0. 319 dated March 30, 1995, the 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 No. 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.

x.-HAITI

#### Recognition of Competence

DECLARATION OF RECOGNITION  
OF THE JURISDICTION OF THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS  
BY THE REPUBLIC OF HAITI

WE,  
RENE PREVAL,  
PRESIDENT OF THE REPUBLIC OF HAITI,

Having seen the Constitution of the Republic of 1987; and

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

Hereby declare that we recognize as binding, ipso facto, and not requiring special agreement, the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or

application of the Convention. This declaration has been issued for presentation to the General Secretariat of the Organization of American States, which shall transmit copies thereof to the other member states of the Organization and to the Secretary of the Court, pursuant to Article 62 of the Convention.

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

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

(signed)  
René Prével  
President of the Republic of Haiti

(signed)  
Minister of Foreign Affairs

y. TRINIDAD AND TOBAGO

#### DENUNCIATIONS

Pursuant to article 78 of the American Convention on Human Rights, The States Parties may denounce this Convention at the expiration of the 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.

Similarly, that article states that 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.

1. Trinidad and Tobago  
Denunciation notified May 26, 1998

Text of the denunciation:

MINISTRY OF FOREIGN AFFAIRS  
REPUBLIC OF TRINIDAD AND TOBAGO  
His Excellency Cesar Gaviria Trujillo  
Secretary General  
Organization of American States  
Washington D.C.

26 May, 1998

Excellency,

NOTICE TO DENOUNCE THE AMERICAN CONVENTION ON HUMAN RIGHTS

By its decision in Pratt and Morgan v. Attorney General for Jamaica (2.A.C.1, 1994) the Judicial Committee of the Privy Council decided that strict guidelines must be observed by states in the hearing and determination of appeals from convicted murderers who have been condemned to death. In any case in which execution was to take place more than five years after the sentence of death there would be strong grounds for believing that the delay was such as to constitute "inhuman or degrading punishment or other treatment". A State that wished to retain capital punishment must accept the responsibility of ensuring that execution followed as swiftly as practicable after sentence, allowing a reasonable time for appeal and consideration of reprieve. Capital appeals must be expedited. The aim should be to hear capital appeals within twelve months of conviction. It should be possible to complete the entire domestic appeal process (including an appeal to the Privy Council) within approximately two years. It should be possible for the International Human Rights bodies, such as the United Nations Human Rights Committee and the Inter-American Commission on Human Rights, to dispose of complaints to them in death penalty cases at most within eighteen months.

The effect of the decision of the Judicial Committee of the Privy Council in the case of Pratt and Morgan is that, notwithstanding the fact that the death penalty is the punishment for the crime of murder in Trinidad and Tobago, inordinate delay in carrying out the death penalty constitutes cruel and unusual punishment and is accordingly a contravention of section 5(2) (b) of the Constitution of Trinidad and Tobago. As the Court's ruling represents the constitutional standard for Trinidad and Tobago, the Government is mandated to ensure that the appellate process is expedited by the elimination of delays within the system in order that capital sentences imposed in accordance with the laws of Trinidad and Tobago can be enforced.

In the circumstances, and wishing to uphold its domestic law to subject no one to inhuman or degrading punishment or treatment and thereby to observe its obligations under article 5 of the American Convention on Human Rights, the Attorney General and Minister of Foreign Affairs, as representatives of the Government of Trinidad and Tobago, met with the Assistant Secretary-General of the Organization of American States and with the Inter-American Commission on Human Rights. The Attorney General and the Minister of Foreign Affairs presented to the Commission its case detailing the problems facing Trinidad and Tobago in complying with the timeframes laid down by the Judicial Committee of the Privy Council for the consideration of petitions by the International Human Rights Bodies in capital cases. The Attorney General sought the cooperation of the Commission in implementing the relevant timeframes for completion of the consideration of petitions to the Commission in capital cases so that the mandatory sentence of death for convicted murderers can be carried into effect. The Commission indicated that whilst it was sympathetic to the problem facing Trinidad and Tobago, the

Commission had its own established procedures for the termination of Petitions. Accordingly for reasons which the Government of Trinidad and Tobago respects, the Commission was unable to give any assurances that capital cases would be completed within the timeframe sought.

The Government of Trinidad and Tobago is unable to allow the inability of the Commission to deal with applications in respect of capital cases expeditiously to frustrate the implementation of the lawful penalty for the crime of murder in Trinidad and Tobago. Persons convicted and sentenced to death after due process of law can have the constitutionality of their death sentence determined before the Courts of Trinidad and Tobago. Sufficient safeguards therefore exist for the protection of the human and fundamental rights of condemned prisoners.

According, the Government of Trinidad and Tobago pursuant to article 78 of the American Convention on Human rights, hereby gives notice to the Secretary-General of the Organization of American States of the withdrawal of its ratification of the said American Convention on Human Rights.

Please accept, Excellency, the renewed assurances of my highest consideration.

Ralph Maraj  
Minister of Foreign Affairs

Seal

z. MEXICO

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.

BRASIL.-

Reconocimiento de Competencia.-

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