

## APPENDIX TWO

### Regional Instruments on Human Rights

#### A. American Declaration of the Rights and Duties of Man 1948

*Adopted at Bogota on 2 May 1948*

##### 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 fulfilment 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 I

Rights

Article 1

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

Article 2

Right to equality before the law: 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.

Article 3

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

Article 4

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

Article 5

Right to protection of honour, personal reputation, and private and family life: Every person has the right to the protection of the law against abusive attacks upon his honour, his reputation, and his private and family life.

Article 6

Right to a family and to the protection thereof: Every person has the right to establish a family, the basic element of society, and to receive protection therefor.

*Article 7*

**Right to protection for mothers and children:** All women, during pregnancy, and the nursing period, and all children, have the right to special protection, care and aid.

*Article 8*

**Right to residence and movement:** 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.

*Article 9*

**Right to inviolability of the home:** Every person has the right to the inviolability of his home.

*Article 10*

**Right to the inviolability and transmission of correspondence:** Every person has the right to the inviolability and transmission of his correspondence.

*Article 11*

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

*Article 12*

**Right to education :** 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.

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 utilise 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.

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### *Article 13*

**Right to the benefits of culture:** 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.

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

### *Article 14*

**Right to work and to fair remuneration:** Every person has the right to work, under proper conditions, and to follow his vocation freely, insofar as existing conditions of employment permit.

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

### *Article 15*

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

### *Article 16*

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

### *Article 17*

**Right to recognition of juridical personality and of civil rights:** Every person has the right to be recognised everywhere as a person having rights and obligations, and to enjoy the basic civil rights.

### *Article 18*

**Right to a fair trial:** Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a

simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights.

*Article 19*

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

*Article 20*

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

*Article 21*

**Right to assembly:** 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.

*Article 22*

**Right of association:** 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, labour-union or other nature.

*Article 23*

**Right to property:** 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.

*Article 24*

**Right to petition:** 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.

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### Article 25

**Right to protection from arbitrary arrest:** No person may be deprived of his liberty except in the cases and according to the procedures established by pre-existing law.

No person may be deprived of liberty for non-fulfilment 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 26

**Right to due process of law:** Every accused person is presumed to be innocent until proved guilty.

Every person accused of an offence 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 27

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

### Article 28

**Scope of the rights of man:** 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.

## CHAPTER II

### Duties

#### Article 29

**Duties of society:** 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.

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### Article 30

**Duties toward children and parents:** It is the duty of every person to aid, support, educate and protect his minor children, and it is the duty of children to honour their parents always and to aid, support and protect them when they need it.

### Article 31

**Duty to receive instruction:** It is the duty of every person to acquire at least an elementary education.

### Article 32

**Duty to vote:** 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.

### Article 33

**Duty to obey the law:** 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.

### Article 34

**Duty to serve the community and the nation:** It is the duty of every able-bodied person to render whatever civil and military service his country may require for its defence and preservation, and, in case of public disaster, to render such services as may be in his power.

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

### Article 35

**Duties with respect to social security and welfare:** It is the duty of every person to co-operate with the State and the community with respect to social security and welfare, in accordance with his ability and with existing circumstances.

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### *Article 36*

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

### *Article 37*

Duty to work: 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.

### *Article 38*

Duty to refrain from political activities in a foreign country: 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.



## B. European Convention for the Protection of Human Rights and Fundamental Freedoms 1950

Signed in Rome on 4 November 1950

Entry into force: 3 September 1953, in accordance with Article 66

The Governments signatory hereto, being Members of the Council of Europe,  
Considering the Universal Declaration of Human Rights proclaimed by  
the General Assembly of the United Nations on 10<sup>th</sup> December 1948;

Considering that this Declaration aims at securing the universal and  
effective recognition and observance of the rights therein declared;

Considering that the aim of the Council of Europe is the achievement  
of greater unity between its members and that one of the methods by  
which that aim is to be pursued is the maintenance and further realisation  
of human rights and fundamental freedoms;

Reaffirming their profound belief in those Fundamental Freedoms  
which are the foundation of justice and peace in the world and are best  
maintained on the one hand by an effective political democracy and on  
the other by a common understanding and observance of the Human  
Rights upon which they depend;

Being resolved, as the Governments of European countries which are  
like-minded and have a common heritage of political traditions, ideals,  
freedom and the rule of law, to take the first steps for the collective  
enforcement of certain of the rights stated in the Universal Declaration;

Have agreed as follows:

### SECTION I

#### Article 1

The High Contracting Parties shall secure to everyone within their  
jurisdiction the rights and freedoms defined in Section I of this  
Convention.

#### Article 2

1. Everyone's right to life shall be protected by law. No one shall be  
deprived of his life intentionally save in the execution of a sentence of a  
court following his conviction of a crime for which this penalty is  
provided by law.

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2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

(a) in defence of any person from unlawful violence;

(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(c) in action lawfully taken for the purpose of quelling a riot or insurrection.

### *Article 3*

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

### *Article 4*

1. No one shall be held in slavery or servitude.

2. No one shall be required to perform forced or compulsory labour.

3. For the purpose of this article the term "forced or compulsory labour" shall not include:

(a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;

(b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;

(c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;

(d) any work or service which forms part of normal civic obligations.

### *Article 5*

1. Everyone has the right to liberty and security of person.

No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

(a) the lawful detention of a person after conviction by a competent court;

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(b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

(d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

### *Article 6*

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial

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tribunal established by law. Judgement shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3. Everyone charged with a criminal offence has the following minimum rights:

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

### Article 7

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

### Article 8

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

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2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

### *Article 9*

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or in private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

### *Article 10*

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

### *Article 11*

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

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2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

### *Article 12*

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

### *Article 13*

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

### *Article 14*

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

### *Article 15*

1. In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

2. No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.

3. Any High Contracting Party availing itself of this right of derogation shall keep the Secretary - General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary - General of the Council of

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Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

### Article 16

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

### Article 17

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

### Article 18

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

## SECTION II

### Article 19

To ensure the observance of the engagements undertaken by the High Contracting Parties in the present Convention, there shall be set up:

1. A European Commission of Human Rights, hereinafter referred to as "the Commission";
2. A European Court of Human Rights, hereinafter referred to as "the Court"

## SECTION III

### Article 20

1. The Commission shall consist of a number of members equal to that of the High Contracting Parties. No two members of the Commission may be nationals of the same State.

2. The Commission shall sit in plenary session. It may, however, set up Chambers, each composed of at least seven members. The Chambers may examine petitions submitted under Article 25 of this Convention

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which can be dealt with on the basis of established case law or which raise no serious question affecting the interpretation of application of the Convention. Subject to this restriction and to the provisions of paragraph 5 of this Article, the Chambers shall exercise all the powers conferred on the Commission by the Convention.

The member of the Commission elected in respect of a High Contracting Party against which a petition has been lodged shall have the right to sit on a Chamber to which that petition has been referred.

3. The Commission may set up committees, each composed of at least three members, with the power, exercisable by a unanimous vote, to declare inadmissible or strike from its list of cases a petition submitted under Article 25, when such a decision can be taken without further examination.

4. A Chamber or committee may at any time relinquish jurisdiction in favour of the plenary Commission, which may also order the transfer to it of any petition referred to a Chamber or committee.

5. Only the plenary Commission can exercise the following powers:

- a. the examination of applications submitted under Article 24;
- b. the bringing of a case before the Court in accordance with Article 48 a;
- c. the drawing up of rules of procedure in accordance with Article 36.

### Article 21

1. The members of the Commission shall be elected by the Committee of Ministers by an absolute majority of votes, from a list of names drawn up by the Bureau of the Consultative Assembly; each group of the Representatives of the High Contracting Parties in the Consultative Assembly shall put forward three candidates, of whom two at least shall be its nationals.

2. As far as applicable, the same procedure shall be followed to complete the Commission in the event of other States subsequently becoming Parties to this Convention, and in filling casual vacancies.

3. The candidates shall be of high moral character and must either possess the qualifications required for appointment to high judicial office or be persons of recognised competence in national or international law.



*Article 22*

1. The members of the Commission shall be elected for a period of six years. They may be re-elected. However, of the members elected at the first election, the terms of seven members shall expire at the end of three years.

2. The members whose terms are to expire at the end of the initial period of three years shall be chosen by lot by the Secretary - General of the Council of Europe immediately after the first election has been completed.

3. In order to ensure that, as far as possible, one half of the membership of the Commission shall be renewed every three years, the Committee of Ministers may decide, before proceeding to any subsequent election, that the terms of office of one or more members to be elected shall be for a period other than six years but not more than nine and not less than three years.

4. In case where more than one term of office is involved and the Committee of Ministers applies the preceding paragraph, the allocation of the terms of office shall be effected by the drawing of lots by the Secretary - General, immediately after the election.

5. A member of the Commission elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

6. The members of the Commission shall hold office until replaced. After having been replaced, they shall continue to deal with such cases as they already have under consideration.

*Article 23*

The members of the Commission shall sit on the Commission in their individual capacity. During their term of office they shall not hold any position which is incompatible with their independence and impartiality as members of the Commission or the demands of this office.

*Article 24*

Any High Contracting Party may refer to the Commission, through the Secretary-General of the Council of Europe, any alleged breach of the provisions of the Convention by another High Contracting Party.

*§ Article 25*

1. The Commission may receive petitions addressed to the Secretary-General of the Council of Europe from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties against which the complaint has been lodged and which has declared that it recognises the competence of the Commission to receive such petitions. Those of the High contracting Parties who have made such a declaration undertake not to hinder in any way the effective exercise of this right.

2. Such declarations may be made for a specific period.

3. The declarations shall be deposited with the Secretary-General of the Council of Europe who shall transmit copies thereof to the High Contracting Parties and publish them.

4. The Commission shall only exercise the powers provided for in this Article when at least six High Contracting Parties are bound by declarations made in accordance with the preceding paragraphs.

*§ Article 26*

The Commission may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law and within a period of six months from the date on which the final decision was taken.

*Article 27*

1. The Commission shall not deal with any petition submitted under Article 25 which:

(a) is anonymous, or

(b) is substantially the same as a matter which has already been examined by the Commission or has already been submitted to another procedure of international investigation or settlement if it contains no relevant new information.

2. The Commission shall consider inadmissible any petition submitted under Article 25 which it considers incompatible with the provisions of the present Convention, manifestly ill-founded, or an abuse of the right of petition.

3. The Commission shall reject any petition referred to it which it considers inadmissible under Article 26.

*f* Article 28

1. In the event of the Commission accepting a petition referred to it:

(a) it shall, with a view to ascertaining the facts, undertake together with the representatives of the parties an examination of the petition and, if need be, an investigation, for the effective conduct of which the States concerned shall furnish all necessary facilities, after an exchange of views with the Commission;

(b) it shall at the same time place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for Human Rights as defined in this Convention.

2. If the Commission succeeds in effecting a friendly settlement, it shall draw up a Report which shall be sent to the States concerned, to the Committee of Ministers and to the Secretary-General of the Council of Europe for publication. This Report shall be confined to a brief statement of the facts and of the solution reached.

*f* Article 29

After it has accepted a petition submitted under Article 25, the Commission may nevertheless decide by a majority of two-thirds of its members to reject the petition if, in the course of its examination, it finds that the existence of one of the grounds for non-acceptance provided for in Article 27 has been established.

In such a case, the decision shall be communicated to the parties

Article 30

1. The Commission may at any stage of the proceedings decide to strike a petition out of its list of cases where the circumstances lead to the conclusion that:

- a. the applicant does not intend to pursue his petition, or
- b. the matter has been resolved, or
- c. for any other reason established by the Commission, it is no longer justified to continue the examination of the petition.

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However, the Commission shall continue the examination of a petition if respect for Human Rights as defined in this Convention so requires.

2. If the Commission decides to strike a petition out of its list after having accepted it, it shall draw up a Report which shall contain a statement of the facts and the decision striking out the petition together with the reasons therefor. The Report shall be transmitted to the parties, as well as to the Committee of Ministers for information. The Commission may publish it.

3. The Commission may decide to restore a petition to its list of cases if it considers that the circumstances justify such a course.

### Article 31

1. If the examination of a petition has not been completed in accordance with Article 28 (paragraph 2), 29 or 30, the Commission shall draw up a Report on the facts and state its opinion as to whether the facts found disclose a breach by the State concerned of its obligations under the Convention. The individual opinion of members of the Commission on this point may be stated in the Report.

2. The Report shall be transmitted to the Committee of Ministers. It shall also be transmitted to the States concerned, who shall not be at liberty to publish it.

3. In transmitting the Report to the Committee of Ministers the Commission may make such proposals as it thinks fit.

### Article 32

1. If the question is not referred to the Court in accordance with Article 48 of this Convention within a period of three months from the date of the transmission of the Report to the Committee of Ministers, the Committee of Ministers shall decide by a majority of two-thirds of the members entitled to sit on the Committee whether there has been a violation of the Convention.

2. In the affirmative case the Committee of Ministers shall prescribe a period during which the High Contracting Party concerned must take the measures required by the decision of the Committee of Ministers.

3. If the High Contracting Party concerned has not taken satisfactory measures within the prescribed period, the Committee of Ministers shall

decide by the majority provided for in paragraph 1 above what effect shall be given to its original decision and shall publish the Report.

4. The High Contracting Parties undertake to regard as binding on them any decision which the Committee of Ministers may take in application of the preceding paragraphs.

*Article 33*

The Commission shall meet in camera.

*Article 34*

Subject to the provisions of Articles 20 (paragraph 3) and 29, the Commission shall take its decisions by a majority of the members present and voting.

*Article 35*

The Commission shall meet as the circumstances require. The meetings shall be convened by the Secretary-General of the Council of Europe.

*Article 36*

The Commission shall draw up its own rules of procedure.

*Article 37*

The Secretariat of the Commission shall be provided by the Secretary-General of the Council of Europe.

SECTION IV

*Article 38*

The European Court of Human Rights shall consist of a number of judges equal to that of the Members of the Council of Europe. No two judges may be nationals of the same State.

*Article 39*

1. The members of the Court shall be elected by the Consultative Assembly by a majority of the votes cast from a list of persons nominated by the Members of the Council of Europe; each Member shall nominate three candidates, of whom two at least shall be its nationals.

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2. As far as applicable, the same procedure shall be followed to complete the Court in the event of the admission of new Members of the Council of Europe, and in filling casual vacancies.

3. The candidates shall be of high moral character and must either possess the qualifications required for appointment to high judicial officer or be jurisconsults of recognised competence.

### Article 40

1. The members of the Court shall be elected for a period of nine years. They may be re-elected. However, of the members elected at the first election the terms of four members shall expire at the end of three years, and the terms of four more members shall expire at the end of six years.

2. The members whose terms are to expire at the end of the initial periods of three and six years shall be chosen by lot by the Secretary-General immediately after the first election has been completed.

3. In order to ensure that, as far as possible, ~~one~~ one third of the membership of the Court shall be renewed every three years, the Consultative Assembly may decide, before proceeding to any subsequent election, that the term or terms of office of one or more members to be elected shall be for a period other than nine years but not more than twelve and not less than six years.

4. In cases where more than one term of office is involved and the Consultative Assembly applies the preceding paragraph, the allocation of the terms of office shall be effected by the drawing of lots by the Secretary-General immediately after the election.

5. A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

6. The members of the Court shall hold office until replaced. After having been replaced, they shall continue to deal with such cases as they already have under consideration.

7. The members of the Court shall sit on the Court in their individual capacity. During their term of office they shall not hold any position which is incompatible with their independence and impartiality as members of the Court or the demands of this office.

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### Article 41

The Court shall elect its President and Vice-President for a period of three years. They may be re-elected.

### Article 42

The members of the Court shall receive for each day a compensation to be determined by the Committee of Ministers.

### § Article 43

For the consideration of each case brought before it the Court shall consist of a Chamber composed of seven judges. There shall sit as an *ex officio* member of the Chamber the judge who is a national of any State Party concerned, or, if there is none, a person of its choice who shall sit in the capacity of judge; the names of the other judges shall be chosen by lot by the President before the opening of the case.

### § Article 44

Only the High Contracting Parties and the Commission shall have the right to bring a case before the Court.

### § Article 45

The jurisdiction of the Court shall extend to all cases concerning the interpretation and application of the present Convention which the High Contracting Parties or the Commission shall refer to it in accordance with Article 48.

### Article 46

1. Any of the High Contracting Parties may at any time declare that it recognises as compulsory *ipso facto* and without special agreement the jurisdiction of the Court in all matters concerning the interpretation and application of the present Convention.

2. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain other High Contracting Parties or for a specified period.

3. These declarations shall be deposited with the Secretary-General of the Council of Europe who shall transmit copies thereof to the High Contracting Parties.

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.

*Article 82*

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### *Article 52*

The judgement of the Court shall be final.

### *Article 53*

The High Contracting Parties undertake to abide by the decision of the Court in any case to which they are parties.

### *Article 54*

The judgement of the Court shall be transmitted to the Committee of Ministers which shall supervise its execution.

### *Article 55*

The Court shall draw up its own rules and shall determine its own procedure.

### *Article 56*

1. The first election of the members of the Court shall take place after the declarations by the High Contracting Parties mentioned in Article 46 have reached a total of eight.

2. No case can be brought before the Court before this election.

## SECTION V

### *Article 57*

On receipt of a request from the Secretary-General of the Council of Europe any High Contracting Party shall furnish an explanation of the manner in which its internal law ensures the effective implementation of any of the provisions of this Convention.

### *Article 58*

The expenses of the Commission and the Court shall be borne by the Council of Europe.

### *Article 59*

The members of the Commission and of the Court shall be entitled, during the discharge of their functions, to the privileges and immunities provided for in Article 40 of the Statute of the Council of Europe and in the agreements made thereunder.

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### Article 60

Nothing in this Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any High Contracting Party or under any other agreement to which it is a Party.

### Article 61

Nothing in this Convention shall prejudice the powers conferred on the Committee of Ministers by the Statute of the Council of Europe.

### Article 62

The High Contracting Parties agree that, except by special agreement, they will not avail themselves of treaties, conventions or declarations in force between them for the purpose of submitting, by way of petition, a dispute arising out of the interpretation or application of this Convention to a means of settlement other than those provided for in this Convention.

### Article 63

1. Any State may at the time of its ratification or at any time thereafter declare by notification addressed to the Secretary-General of the Council of Europe that the present Convention shall extend to all or any of the territories for whose international relations it is responsible.

2. The Convention shall extend to the territory or territories named in the notification as from the thirtieth day after the receipt of this notification by the Secretary-General of the Council of Europe.

3. The provisions of this Convention shall be applied in such territories with due regard, however, to local requirements.

4. Any State which has made a declaration in accordance with paragraph 1 of this article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Commission to receive petitions from individuals, non-governmental organisations or groups of individuals in accordance with Article 25 of the present Convention.

### Article 64

1. Any State may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention to the extent that any law then in

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force in its territory is not in conformity with the provision. Reservation of a general character shall not be permitted under this Article.

2. Any reservation made under this Article shall contain a brief statement of the law concerned.

### Article 65

1. A High Contracting Party may denounce the present Convention only after the expiry of five years from the date on which it became a Party to it and after six months' notice contained in a notification addressed to the Secretary-General of the Council of Europe, who shall inform the other High Contracting Parties.

2. Such a denunciation shall not have the effect of releasing the High Contracting Party concerned from its obligations under this Convention in respect of any act which, being capable of constituting a violation of such obligations, may have been performed by it before the date at which the denunciation became effective.

3. Any High Contracting Party which shall cease to be a Member of the Council of Europe shall cease to be a Party to this Convention under the same conditions.

4. The Convention may be denounced in accordance with the provisions of the preceding paragraphs in respect of any territory to which it has been declared to extend under the terms of Article 63.

### Article 66

1. This Convention shall be open to the signature of the Members of the Council of Europe. It shall be ratified. Ratifications shall be deposited with the Secretary-General of the Council of Europe.

2. The present Convention shall come into force after the deposit of ten instruments of ratification.

3. As regards any signatory ratifying subsequently, the Convention shall come into force at the date of the deposit of its instrument of ratification.

4. The Secretary-General of the Council of Europe shall notify all the Members of the Council of Europe of the entry into force of the Convention, the names of the High Contracting Parties who have ratified it, and the deposit of all instruments of ratification which may be effected subsequently.

DONE at Rome this 4<sup>th</sup> day of November 1950, in English and French, both texts being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe.

*S* C. American Convention on Human Rights 1969  
(PACT OF SAN JOSE, COSTA RICA)

*Signed on 22 November 1969 at the Inter-American Specialised Conference on Human Rights, held at San Jose, Costa Rica  
Entry into force: 18 July 1978, in accordance with Article 74  
Text: OAS Official Records, OEA/Ser.K/XVI/1.1*

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,*

*Recognising that the essential rights of man are not derived from one's being 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 Organisation 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, world-wide 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 Organisation 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 recognised 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, colour, 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

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judgement 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 re-established in states that have abolished it.

4. In no case shall capital punishment be inflicted for political offences 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 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 specialised 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.

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2. No one shall be required to perform forced or compulsory labour. 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 labour, the carrying out of such a sentence imposed by a competent court is prohibited. Forced labour 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 labour:

(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 recognised, 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 authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to be released without

## Appendix Two

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 on 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 non-fulfilment 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, labour, fiscal, or any other nature.

2. Every person accused of a criminal offence 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 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 defence;

(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 defence 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 judgement 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 non-appealable judgement shall not be subjected to a new trial for the same cause.

5. Criminal proceedings shall be public, except in so far 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 offence, 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 offence was committed. If subsequent to the commission of the offence 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 judgement through a miscarriage of justice.

#### Article 11

**Right to Privacy:** 1. Everyone has the right to have his honour respected and his dignity recognised.

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 honour or reputation.

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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 shall include 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 illegal action against any person or group of persons on any grounds including those of race, colour, religion, language, or national origin shall be considered as offences 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 honour 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 recognised. 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 freedoms of others.

*Article 16*

**Freedom of Association:** 1. Everyone has the right to associate freely for ideological, religious, political, economic, labour, 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

## Appendix Two

interest of national security, public safety or public order, or to protect 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 recognised, if they meet the conditions required by domestic laws, in so far as such conditions do not affect the principle of non-discrimination 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 recognise 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

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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 recognised 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 offences or related common crimes.

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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 recognised 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;

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- (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 realisation of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organisation 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, colour, sex, language, religion, or social origin.

2. The foregoing provision does not authorise any suspension of the following article: 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 (Right of the Family), Article 18 (Right to a Name), Article 19 (Rights of the Child), Article 20

## Appendix Two

(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 Organisation 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 fulfilment 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 organised.

### *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 recognised 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 recognised 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;



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(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 recognised 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 recognised 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 fulfilment of the commitments made by the States Parties to this Convention:

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(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

##### Organisation

###### *Article 34*

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

###### *Article 35*

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

###### *Article 36*

1. The members of the Commission shall be elected in a personal capacity by the General Assembly of the Organisation 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 Organisation 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 re-elected 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.

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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 Organisation 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 specialised unit of the General Secretariat of the Organisation. 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 defence 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 favour 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;

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(d) To request to 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 Organisation 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 Organisation 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 Organisations 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 non-governmental entity legally recognised in one or more member states of the Organisation, 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 recognises 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 recognising 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 Organisation of American States, which shall transmit copies thereof to the member states of that Organisation.

*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 recognised 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 judgement;

(c) That the subject of the petition or communication is not pending before 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:

## Appendix Two

(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 judgement 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 organisation.

## 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

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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 recognised in this Convention.

2. However, in serious and urgent cases, only the 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 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 Organisation 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 Committee 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

Organisation

*Article 52*

1. The Court shall consist of seven judges, nationals of the member states of the Organisation, elected in an individual capacity from among



jurists of the highest moral authority and of recognised 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 Organisation, 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 Organisation 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 re-elected 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

## Appendix Two

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 Organisation; however, it may convene in the territory of any member state of the Organisation of American States when a majority of the Court consider 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 Organisation 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 Organisation, 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 to 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 recognises 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 Organisation, who shall transmit copies thereof to the other member states of the Organisation 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 recognise or have recognised 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

## Appendix Two

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 Organisation 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 Organisation 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 Organisation, 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 Organisation of American States the Court shall submit, for the Assembly's consideration, a report on its work during the previous years. It shall specify, in particular, the cases in which a state has not complied with its judgements, making any pertinent recommendations.

## SECTION 3

### Procedure

#### Article 66

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

2. If the judgement 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 judgement.

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### Article 67

The judgement of the Court shall be final and not subject to appeal. In case of disagreement as to the meaning or scope of the judgement, 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 judgement.

### Article 68

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

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

### Article 69

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

## CHAPTER IX

### COMMON PROVISIONS

#### Article 70

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

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

#### Article 71

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

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### Article 72

The judges of the Court and the members of the Commission shall receive emoluments and travel allowances in the form and under the conditions set forth in their statutes, with due regard for the importance and independence of their office. Such emoluments and travel allowances shall be determined in the budget of the Organisation 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 Organisation 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 Organisation 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 Organisation 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.

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3. The Secretary General shall inform all member states of the Organisation 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, 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 starting 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 Organisation, 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 Organisation 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 Organisation 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 47

The Court may only deal with a case after the Commission has acknowledged the failure of efforts for a friendly settlement and within the period of three months provided for in Article 32.

## Article 48

The following may bring a case before the Court, provided that the High Contracting Party concerned, if there is only one, or the High Contracting Parties concerned, if there is more than one, are subject to the compulsory jurisdiction of the Court or, failing that, with the consent of the High Contracting Party concerned, if there is only one, or of the High Contracting Parties concerned, if there is more than one:

- (a) the Commission;
- (b) a High Contracting Party whose national is alleged to be a victim;
- (c) a High Contracting Party which referred the case to the Commission;
- (d) a High Contracting Party against which the complaint has been lodged.

## Article 49

In the event of dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

## Article 50

If the Court finds that a decision or a measure taken by legal authority or any other authority of a High Contracting Party is completely or partially in conflict with the obligations arising from the present Convention, and if the internal law of the said Party allows only partial reparation to be made for the consequences of this decision or measure, the decision of the Court shall, if necessary, afford just satisfaction to the injured party.

## Article 51

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

2. If the judgement does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

## D. African Charter on Human and Peoples' Rights 1981

Adopted at Nairobi on 26 June 1981

Entry into Force: 21 October 1986, in accordance with article 63

### PREAMBLE

The African States members of the Organisation of African Unity, Parties to the present convention entitled "African Charter on Human and Peoples' Rights".

Recalling Decision 115 (XVI) of the Assembly of Heads of State and Government at its Sixteenth Ordinary Session held in Monrovia, Liberia, from 17 to 20 July 1979 on the preparation of a "preliminary draft on an African Charter on Human and Peoples' Rights providing *inter alia* for the establishment of bodies to promote and protect human and peoples' rights";

Considering the Charter of the Organization of African Unity, which stipulates that "freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples";

Reaffirming the pledge they solemnly made in Article 2 of the said Charter to eradicate all forms of colonialism from Africa, to co-ordinate and intensify their co-operation and efforts to achieve a better life for the peoples of Africa and to promote international co-operation having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights;

Taking into consideration the virtues of their historical tradition and the values of African civilization which should inspire and characterize their reflection on the concept of human and peoples' rights;

Recognizing, on the one hand, that fundamental human rights stem from the attributes of human beings, which justifies their national and international protection, and on the other hand that the reality and respect of peoples' rights should necessarily guarantee human rights;

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*Considering* that the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone;

*Convinced* that it is henceforth essential to pay a particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights;

*Conscious* of their duty to achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence, and undertaking to eliminate colonialism, neo-colonialism, apartheid, zionism and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, colour, sex, language, religion or political opinion;

*Reaffirming* their adherence to the principles of human and peoples' rights and freedoms contained in the declarations, conventions and other instruments adopted by the Organization of African Unity, the Movement of Non-Aligned Countries and the United Nations;

*Firmly convinced* of their duty to promote and protect human and peoples' rights and freedoms taking into account the importance traditionally attached to these rights and freedoms in Africa;

*Have agreed as follows:*

### PART I

#### Rights and Duties

#### CHAPTER I

#### Human and peoples' rights

##### *Article 1*

The Member States of the Organization of African Unity Parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Charter and shall undertake to adopt legislative or other measures to give effect to them.

## Appendix Two

### *Article 2*

Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

### *Article 3*

1. Every individual shall be equal before the law.
2. Every individual shall be entitled to equal protection of the law.

### *Article 4*

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

### *Article 5*

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment, shall be prohibited.

### *Article 6*

Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

### *Article 7*

1. Every individual shall have the right to have his cause heard. This comprises:

(a) the right to an appeal to competent national organs against acts of violating his fundamental rights as recognised and guaranteed by conventions, laws, regulations and customs in force;

(b) the right to be presumed innocent until proved guilty by a competent court or tribunal;

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(c) the right to defence, including the right to be defended by counsel of his choice;

(d) the right to be tried within a reasonable time by an impartial court or tribunal.

2. No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender.

### Article 8

Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.

### Article 9

1. Every individual shall have the right to receive information.

2. Every individual shall have the right to express and disseminate his opinion within the law.

### Article 10

1. Every individual shall have the right to free association provided that he abides by the law.

2. Subject to the obligation of solidarity provided for in Article 29 no one may be compelled to join an association.

### Article 11

Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law, in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

### Article 12

1. Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law.

2. Every individual shall have the right to leave any country including his own, and to return to his country. This right may only be subject to

## Appendix Two

restrictions provided for by law for the protection of national security, law and order, public health or morality.

3. Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with the laws of those countries and international conventions.

4. A non-national legally admitted in a territory of a State Party to the present Charter may only be expelled from it by virtue of a decision taken in accordance with the law.

5. The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups.

### *Article 13*

1. Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law.

2. Every citizen shall have the right of equal access to the public service of his country.

3. Every individual shall have the right of access to public property and services in strict equality of all persons before the law.

### *Article 14*

The right to property shall be guaranteed. It may be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.

### *Article 15*

Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.

### *Article 16*

1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.

2. States Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

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### Article 17

1. Every individual shall have the right to education.
2. Every individual may freely take part in the cultural life of his community.
3. The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

### Article 18

1. The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical and moral health.
2. The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.
3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the women and the child as stipulated in international declarations and conventions.
4. The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.

### Article 19

All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.

### f Article 20

1. All peoples shall have the right to existence. They shall have the unquestionable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.
2. Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community.
3. All peoples shall have the right to the assistance of the States Parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.

*Article 21*

1. All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.

2. In case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.

3. The free disposal of wealth and natural resources shall be exercised without prejudice to the obligation of promoting international economic co-operation based on mutual respect, equitable exchange and the principles of international law.

4. States Parties to the Present Charter shall individually and collectively exercise the right to free disposal of their wealth and natural resources with a view to strengthening African unity and solidarity.

5. States Parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation, particularly that practiced by international monopolies, so as to enable their peoples to fully benefit from the advantages deprived from their national resources.

*Article 22*

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.

2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

*Article 23*

1. All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organization of African Unity shall govern relations between States.

2. For the purpose of strengthening peace, solidarity and friendly relations, States Parties to the present Charter shall ensure that:



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(a) any individual enjoying the right of asylum under Article 12 of the present Charter shall not engage in subversive activities against his country of origin or any other State Party to the present Charter;

(b) their territories shall not be used as bases for subversive or terrorist activities against the people of any other State Party to the present Charter.

### *Article 24*

All people shall have the right to a general satisfactory environment favourable to their development.

### *Article 25*

States Parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.

### *Article 26*

States Parties to the present Charter shall have the duty to guarantee the independence of the Courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.

## CHAPTER II

### Duties

### *Article 27*

1. Every individual shall have duties towards his family and society, the State and other legally recognized communities and the international community.

2. The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest.

### *Article 28*

Every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.

*Article 29*

The individual shall also have the duty:

1. To preserve the harmonious development of the family and to work for the cohesion and respect of the family; to respect his parents at all times, to maintain them in case of need;
2. To serve his national community by placing his physical and intellectual abilities at its service;
3. Not to compromise the security of the State whose national or resident he is;
4. To preserve and strengthen social and national solidarity, particularly when the latter is threatened;
5. To preserve and strengthen the national independence and the territorial integrity of his country and to contribute to its defence in accordance with the law;
6. To work to the best of his abilities and competence, and to pay taxes imposed by law in the interest of the society;
7. To preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well-being of society;
8. To contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African Unity.

PART II

Measures of Safeguard

Chapter I

Establishment and organization of the African Commission on Human and Peoples' Rights

*Article 30*

An African Commission on Human and Peoples' Right, hereinafter called "the Commission" shall be established within the Organization of African Unity to promote human and peoples' rights and ensure their protection in Africa.

*Article 31*

1. The Commission shall consist of eleven members chosen from amongst African personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples' rights, particular consideration being given to persons having legal experience.

2. The members of the Commission shall serve in their personal capacity.

*Article 32*

The Commission shall not include more than one national of the same State.

*Article 33*

The members of the Commission shall be elected by secret ballot by the Assembly of Heads of State and Government, from a list of persons nominated by the States Parties to the present Charter.

*Article 34*

Each State Party to the present Charter may not nominate more than two candidates. The candidates must have the nationality of one of the States Parties to the present Charter. When two candidates are nominated by a State, one of them may not be a national of that State.

*Article 35*

1. The Secretary General of the Organization of African Unity shall invite States Parties to the present Charter at least four months before the elections to nominate candidates.

2. The Secretary General of the Organization of African Unity shall make an alphabetical list of the persons thus nominated and communicate it to the Heads of State and Government at least one month before the elections.

*Article 36*

The members of the Commission shall be elected for a six-year period and shall be eligible for re-election. However, the term of office of four of the members elected at the first election shall terminate after two years and the term of office of three others, at the end of four years.

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### *Article 37*

Immediately after the first election, the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity shall draw lots to decide the names of those members referred to in Article 36.

### *Article 38*

After their election, the members of the Commission shall make a solemn declaration to discharge their duties impartially and faithfully.

### *Article 39*

1. In case of death or resignation of a member of the Commission, the Chairman of the Commission shall immediately inform the Secretary General of the Organization of African Unity, who shall declare the seat vacant from the date of death or from the date on which the resignation takes effect.

2. If, in the unanimous opinion of other members of the Commission, a member has stopped discharging his duties for any reason other than a temporary absence, the Chairman of the Commission shall inform the Secretary General of the Organization of African Unity, who shall then declare the seat vacant.

3. In each of the cases anticipated above, the Assembly of Heads of State and Government shall replace the member whose seat became vacant for the remaining period of his term unless the period is less than six months.

### *Article 40*

Every member of the Commission shall be in office until the date his successor assumes office.

### *Article 41*

The Secretary General of the Organization of African Unity shall appoint the Secretary of the Commission. He shall also provide the staff and services necessary for the effective discharge of the duties of the Commission. The Organization of African Unity shall bear the cost of the staff and services.

### *Article 42*

1. The Commission shall elect its Chairman and Vice-Chairman for a two-year period. They shall be eligible for re-election.

2. The Commission shall lay down its rules of procedure.
3. Seven members shall form the quorum.
4. In case of an equality of votes, the Chairman shall have a casting vote.
5. The Secretary General may attend the meetings of the Commission. He shall neither participate in deliberations nor shall he be entitled to vote. The Chairman of the Commission may, however, invite him to speak.

*Article 43*

In discharging their duties, members of the Commission shall enjoy diplomatic privileges and immunities provided for in the General Convention on the Privileges and Immunities of the Organization of African Unity.

*Article 44*

Provision shall be made for the emoluments and allowances of the members of the commission in the Regular Budget of the Organization of African Unity.

CHAPTER II

*f* Mandate of the Commission

*Article 45*

✓ The functions of the Commission shall be:

1. To promote human and peoples' rights and in particular:

(a) to collect documents, undertake studies and research on African problems in the field of human and peoples' rights, organize seminars, symposia and conferences, disseminate information, encourage national and local institutions concerned with human and peoples' rights, and should the case arise, give its views or make recommendations to Governments;

(b) to formulate and lay down principles and rules aimed at solving legal problems relating to human and fundamental freedoms upon which African Governments may base their legislations;

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(c) co-operate with other African and international institutions concerned with the promotion and protection of human and peoples' rights.

2. Ensure the protection of human and peoples' rights under conditions laid down by the present Charter.

3. Interpret all the provisions of the present Charter at the request of a State Party, an institution of the OAU or an African organization organized by the OAU.

4. Perform any other tasks which may be entrusted to it by the Assembly of Heads of State and Government.

### CHAPTER III

#### Procedure of the Commission

##### Article 46

The Commission may resort to any appropriate method of investigation; it may hear from the Secretary General of the Organisation of African Unity or any other person capable of enlightening it.

#### Communication from States

##### Article 47

If a State Party to the present Charter has good reasons to believe that another State Party to this Charter has violated the provisions of the Charter, it may draw, by written communication, the attention of that State to the matter. This communication shall also be addressed to the Secretary General of the OAU and to the Chairman of the Commission. Within three months of the receipt of the communication, the State to which the communication is addressed shall give the enquiring State written explanation or statement elucidating the matter. This should include as much as possible relevant information relating to the laws and rules of procedure applied and applicable and the redress already given or course of action available.

##### Article 48

If within three months from the date on which the original communication is received by the State to which it is addressed, the issue

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is not settled to the satisfaction of the two States involved through bilateral negotiation or by any other peaceful procedure, either State shall have the right to submit the matter to the Commission through the Chairman and shall notify the other States involved.

### *Article 49*

Notwithstanding the provisions of Article 47, if a State Party to the present Charter considers that another State Party has violated the provisions of the Charter, it may refer the matter directly to the Commission by addressing a communication to the Chairman, to the Secretary General of the Organisation of African Unity and the State concerned.

### *Article 50*

The Commission can only deal with a matter submitted to it after making sure that all local remedies, if they exist, have been exhausted, unless it is obvious to the Commission that the procedure of achieving these remedies would be unduly prolonged.

### *Article 51*

1. The Commission may ask the State concerned to provide it with all relevant information.

2. When the Commission is considering the matter, States concerned may be represented before it and submit written or oral representations.

### *Article 52*

After having obtained from the States concerned and from other sources all the information it deems necessary and after having tried all appropriate means to reach an amicable solution based on the respect of human and peoples' rights, the Commission shall prepare, within a reasonable period of time from the notification referred to in Article 48, a report stating the facts and its findings. This report shall be sent to the States concerned and communicated to the Assembly of Heads of State and Government.

### *Article 53*

While transmitting its report, the Commission may make to the Assembly of Heads of State and Government such recommendations as it deems useful.

*Article 54*

The Commission shall submit to each Ordinary Session of the Assembly of Heads of State and Government a report on its activities.

Other Communications

*Article 55*

1. Before each session, the Secretary of the Commission shall make a list of the communications other than those of States Parties to the present Charter and transmit them to the members of the Commission, who shall indicate which communications should be considered by the Commission.

2. A communication shall be considered by the Commission if a simple majority of its members so decide.

*Article 56*

Communications relating to human and peoples' rights referred to in Article 55 received by the Commission shall be considered if they:

1. Indicate their authors even if the latter request anonymity;
2. Are compatible with the Charter of the Organisation of African Unity or with the present Charter;
3. Are not written in disparaging or insulting language directed against the State concerned and its institutions or to the Organisation of African Unity;
4. Are not based exclusively on news disseminated through the mass media;
5. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged;
6. Are submitted within a reasonable period from the time local remedies are exhausted or from the date the Commission is seized of the matter; and
7. Do not deal with cases which have been settled by the States involved in accordance with the principles of the Charter of the United Nations, or the Charter of the Organisation of African Unity or the provisions of the present Charter.



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### Article 57

Prior to any substantive consideration, all communications shall be brought to the knowledge of the State concerned by the Chairman of the Commission.

### Article 58

1. When it appears after deliberations of the Commission that one or more communications apparently relate to special cases which reveal the existence of a series of serious or massive violations of human and peoples' right, the Commission shall draw the attention of the Assembly of Heads of State and Government to these special cases.

2. The Assembly of Heads of State and Government may then request the Commission to undertake an in-depth study of these cases and make a factual report, accompanied by its finding and recommendations.

3. A case of emergency duly noticed by the Commission shall be submitted by the latter to the Chairman of the Assembly of Heads of State and Government who may request an in-depth study.

### f Article 59

1. All measures taken within the provisions of the present Chapter shall remain confidential until such a time as the Assembly of Heads of State and Government shall otherwise decide.

2. However, the report shall be published by the Chairman of the Commission upon the decision of the Assembly of Heads of State and Government.

3. The report on the activities of the Commission shall be published by its Chairman after it has been considered by the Assembly of Heads of State and Government.

## CHAPTER IV

### Applicable Principles

### Article 60

The Commission shall draw inspiration from international law on human and peoples' rights, particularly from the provisions of various African instruments on human and peoples' rights, the Charter of the United Nations, the Charter of the Organisation of African Unity, the

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Universal Declaration of Human Rights, other instruments adopted by the United Nations and by African countries in the field of human and peoples' rights as well as from the provisions of various instruments adopted within the specialised Agencies of the United Nations of which the Parties to the present Charter are members.

### *Article 61*

The Commission shall also take into consideration, as subsidiary measures to determine the principles of law, other general or special international conventions, laying down rules expressly recognised by Member States of the Organisation of African Unity, African practice consistent with international norms on human and peoples' rights, customs generally accepted as law, general principles of law recognised by African States as well as legal precedents and doctrine.

### *Article 62*

Each State Party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognised and guaranteed by the present Charter.

### *Article 63*

1. The present Charter shall be open to signature, ratification or adherence of the Member States of the Organisation of African Unity.

2. The instruments of ratification or adherence to the present Charter shall be deposited with the Secretary General of the Organisation of African Unity.

3. The present Charter shall come into force three months after the reception by the Secretary General of the instruments of ratification or adherence of a simple majority of the Member States of the Organisation of African Unity.

## PART III

### General Provisions

#### *Article 64*

1. After the coming into force of the present Charter, members of the Commission shall be elected in accordance with the relevant Articles of the present Charter.

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2. The Secretary General of the Organisation of African Unity shall convene the first meeting of the Commission at the Headquarters of the Organisation within three months of the constitution of the Commission. Thereafter, the Commission shall be convened by its Chairman whenever necessary but at least once a year.

### *Article 65*

For each of the States that will ratify or adhere to the present Charter after its coming into force, the Charter shall take effect three months after the date of the deposit by that State of its instrument of ratification or adherence.

### *Article 66*

Special protocols or agreements may, if necessary, supplement the provisions of the present Charter.

### *Article 67*

The Secretary General of the Organisation of African Unity shall inform Member States of the Organisation of the deposit of each instrument of ratification or adherence.

### *Article - 68*

The present Charter may be amended if a State Party makes a written request to that effect to the Secretary General of the Organisation of African Unity. The Assembly of Heads of State and Government may only consider the draft amendment after all the States Parties have been duly informed of it and the Commission has given its opinion on it at the request of the sponsoring State. The amendment shall be approved by a simple majority of the States Parties. It shall come into force for each State which has accepted it in accordance with its constitutional procedure three months after the Secretary General has received notice of the acceptance.

## E. The Cairo Declaration on Human Rights in Islam

*Adopted at Cairo on 5 August 1990*

The Member States of the Organisation of the Islamic Conference,

*Reaffirming* the civilizing and historical role of the Islamic Ummah which God made the best nation that has given mankind a universal and well-balanced civilization in which harmony is established between this life and the hereafter and knowledge is combined with faith; and the role that this Ummah should play to guide a humanity confused by competing trends and ideologies and to provide solutions to the chronic problems of this materialistic civilization.

*Wishing* to contribute to the efforts of mankind to assert human rights, to protect man from exploitation and persecution, and to affirm his freedom and right to a dignified life in accordance with the Islamic Shari'ah.

*Convinced* that mankind which has reached an advanced stage in materialistic science is still, and shall remain, in dire need of faith to support its civilization and of a self motivating force to guard its rights;

*Believing* that fundamental rights and universal freedoms in Islam are an integral part of the Islamic religion and that no one as a matter of principle has the right to suspend them in whole or in part or violate or ignore them in as much as they are binding divine commandments, which are contained in the Revealed Books of God and were sent through the last of His Prophets to complete the preceding divine messages thereby making their observance an act of worship and their neglect or violation an abominable sin, and accordingly every person is individually responsible-and the Ummah collectively responsible-for their safeguard.

Proceeding from the above mentioned principles,  
Declare the following:

### *Article 1*

a) All human beings form one family whose members are united by submission to God and descent from Adam. All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the grounds of race, colour, language, sex, religious

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belief, political affiliation, social status or other considerations. True faith is the guarantee for enhancing such dignity along the path to human perfection.

b) All human beings are God's subjects, and the most loved by Him are those who are most useful to the rest of His subjects, and no one has superiority over another except on the basis of piety and good deeds.

### Article 2

a) Life is a God-given gift and the right to life is guaranteed to every human being. It is the duty of individuals, societies and states to protect this right from any violation, and it is prohibited to take away life except for a Shari'ah prescribed reason.

b) It is forbidden to resort to such means as may result in the genocidal annihilation of mankind.

c) The preservation of human life throughout the term of time willed by God is a duty prescribed by Shari'ah.

d) Safety from bodily harm is a guaranteed right. It is the duty of the state to safeguard it, and it is prohibited to breach it without a Shari'ah prescribed reason.

### Article 3

a) In the event of the use of force and in case of armed conflict, it is not permissible to kill non-belligerents such as old men, women and children. The wounded and the sick shall have the right to medical treatment; and prisoners of war shall have the right to be fed, sheltered and clothed. It is prohibited to mutilate dead bodies. It is a duty to exchange prisoners of war and to arrange visits or reunions of the families separated by the circumstances of war.

b) It is prohibited to fell trees, to damage crops or livestock, and to destroy the enemy's civilian buildings and installations by shelling, blasting or any other means.

### Article 4

Every human being is entitled to inviolability and the protection of his good name and honour during his life and after his death. The State and society shall protect his remains and burial place.

*Article 5*

a) The family is the foundation of society, and marriage is the basis of its formation. Men and women have the right to marriage, and no restrictions stemming from race, colour or nationality shall prevent them from enjoying this right.

b) Society and the State shall remove all obstacles to marriage and shall facilitate marital procedure. They shall ensure family protection and welfare.

*Article 6*

a) Woman is equal to man in human dignity, and has rights to enjoy as well as duties to perform; she has her own civil entity and financial independence, and the right to retain her name and lineage.

b) The husband is responsible for the support and welfare of the family.

*Article 7*

a) As of the moment of birth, every child has rights due from the parents, society and the State to be accorded proper nursing, education and material, hygienic and moral care. Both the fetus and the mother must be protected and accorded special care.

b) Parents and those in such like capacity have the right to choose the type of education they desire for their children, provided they take into consideration the interest and future of the children in accordance with ethical values and the principles of the Shari'ah.

c) Both parents are entitled to certain rights from their children, and relatives are entitled to rights from their kin, in accordance with the tenets of the Shari'ah.

*Article 8*

Every human being has the right to enjoy his legal capacity in terms of both obligation and commitment, should this capacity be lost or impaired, he shall be represented by his guardian.

*Article 9*

a) The question for knowledge is an obligation and the provision of education is a duty for society and the State. The State shall ensure the availability of ways and means to acquire education and shall guarantee

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educational diversity in the interest of society so as to enable man to be acquainted with the religion of Islam and the facts of the Universe for the benefit of mankind.

b) Every human being has the right to receive both religious and worldly education from the various institutions of, education and guidance, including the family, the school, the university, the media, etc., and in such an integrated and balanced manner as to develop his personality, strengthen his faith in God and promote his respect for and defence of both rights and obligations.

### *Article 10*

Islam is the religion of unspoiled nature. It is prohibited to exercise any form of compulsion on man or to exploit his poverty or ignorance in order to convert him to another religion or to atheism.

### *Article 11*

a) Human beings are born free, and no one has the right to enslave, humiliate, oppress or exploit them, and there can be no subjugation but God the Most-High.

b) Colonialism of all types being one of the most evil forms of enslavement is totally prohibited. Peoples suffering from colonialism have the full right to freedom and self-determination. It is the duty of all States and peoples to support the struggle of colonized peoples for the liquidation of all forms of colonialism and occupation, and all States and peoples have the right to preserve their independent identity and exercise control over their wealth and natural resources.

### *Article 12*

Every man shall have the right, within the framework of Shari'ah, to free movement and to select his place of residence whether inside or outside his country and if persecuted, is entitled to seek asylum in another country. The country of refuge shall ensure his protection until he reaches safety, unless asylum is motivated by an act which Shari'ah regards as a crime.

### *Article 13*

Work is a right guaranteed by the State and society for each person able to work. Everyone shall be free to choose the work that suits him best and which serves his interests and those of society. The employee

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shall have the right to safety and security as well as to all other social guarantees. He may neither be assigned work beyond his capacity nor be subjected to compulsion or exploited or harmed in any way. He shall be entitled without any discrimination between males and females to fair wages for his work without delay, as well as to the holidays, allowances and promotions which he deserves. For his part, he shall be required to be dedicated and meticulous in his work. Should workers and employers disagree on any matter, the State shall intervene to settle the dispute and have the grievances redressed, the rights confirmed and justice enforced without bias.

### *Article 14*

Everyone shall have the right to legitimate gains without monopolization, deceit or harm to oneself or to others. Usury (riba) is absolutely prohibited.

### *Article 15*

a) Everyone shall have the right to own property acquired in a legitimate way, and shall be entitled to the rights of ownership, without prejudice to oneself, others or to society in general. Expropriation is not permissible except for the requirements of public interest and upon payment of immediate and fair compensation.

b) Confiscation and seizure of property is prohibited except for a necessity dictated by law.

### *Article 16*

Everyone shall have the right to enjoy the fruits of his scientific, literacy, artistic or technical production and the right to protect the moral and material interests stemming therefrom, provided that such production is not contrary to the principles of Shari'ah.

### *Article 17*

a) Everyone shall have the right to live in a clean environment, away from vice and moral corruption, an environment that would foster his self-development and it is incumbent upon the State and society in general to afford that right.

b) Everyone shall have the right to medical and social care, and to all public amenities provided by society and the State within the limits of their available resources.



c) The State shall ensure the right of the individual to a decent living which will enable him to meet all his requirements and those of his dependents, including food, clothing, housing, education, medical care and all other basic needs.

*Article 18*

a) Everyone shall have the right to live in security for himself, his religion, his dependents, his honour and his property.

b) Everyone shall have the right to privacy in the conduct of his private affairs, in his home, among his family, with regard to his property and his relationships. It is not permitted to spy on him, to place him under surveillance or to besmirch his good name. The State shall protect him from arbitrary interference.

c) A private residence is inviolable in all cases. It will not be entered without permission from its inhabitants or in any unlawful manner, nor shall it be demolished or confiscated and its dwellers evicted.

*Article 19*

a) All individuals are equal before the law, without distinction between the ruler and the ruled.

b) The right to resort to justice is guaranteed to everyone.

c) Liability is in essence personal.

d) There shall be no crime or punishment except as provided for in the Shari'ah.

e) A defendant is innocent until his guilt is proven in a fair trial in which he shall be given all the guarantees of defence.

*Article 20*

It is not permitted without legitimate reason to arrest an individual, or restrict his freedom, to exile or to punish him. It is not permitted to subject him to physical or psychological torture or to any form of humiliation, cruelty or indignity. Nor is it permitted to subject an individual to medical or scientific experimentation without his consent or at the risk of his health or of his life. Nor is it permitted to promulgate emergency laws that would provide executive authority for such actions.

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### Article 21

Taking hostages under any form or for any purpose is expressly forbidden.

### Article 22

a) Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shari'ah.

b) Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shari'ah.

c) Everyone shall have the right to advocate what is right, and propagate what is good, and warn against what is wrong and evil according to the norms of Islamic Shari'ah.

d) Information is a vital necessity to society. It may not be exploited or misused in such a way as may violate sanctities and the dignity of Prophets, undermine moral and ethical values or disintegrate, corrupt or harm society or weaken its faith.

e) It is not permitted to arouse nationalistic or doctrinal hatred or to do anything that may be an incitement to any form of racial discrimination.

### Article 23

a) Authority is a trust; and abuse or malicious exploitation thereof is absolutely prohibited, so that fundamental human rights may be guaranteed.

b) Everyone shall have the right to participate, directly or indirectly in the administration of his country's public affairs. He shall also have the right to assume public office in accordance with the provisions of Shari'ah.

### Article 24

All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah.

### Article 25

The Islamic Shari'ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration.