International Law

Overview

Mukesh Kumar Mishra
M.A. (Political Science)
Secretary General
KRITYANAND UNESCO CLUB
Jamshedpur, India.

2010

KRITYANAND UNESCO CLUB, JAMSHEDPUR.

102/A, Kalpanapuri, Adityapur Industrial Area, Jamshedpur, 832109, India.
E-mail: knunesco@yahoo.com
About the Author:

Mukesh Kumar Mishra is the Founder and Secretary General of the Krityanand UNESCO Club, Jamshedpur an NGO under the Indian Societies Registration Act 1860 Under the Government of Jharkhand, India working for the United Nations and its system. He did his MA in Political Science in International Affairs, Relational and International Law from Jamshedpur Co-operative College, Jamshedpur (Ranchi University, Ranchi) in 2004, and MBA in International Business and Global Human Resource Management from Barkatullah University, Bhopal in 2006. He is member of several of International Organization like UN and other International NGOs. He is the Member of Global Alliance for ICT and Development, United Nations Department of Economic and Social Affairs, UN and Active member of the Coalition for the International Criminal Court, New York, USA.
International Law

International Law: an Overview

Traditionally, international law consisted of rules and principles governing the relations and dealings of nations with each other, though recently, the scope of international law has been redefined to include relations between states and individuals, and relations between international organizations. Public international law, concerns itself only with questions of rights between several nations or nations and the citizens or subjects of other nations. In contrast, Private international law deals with controversies between private persons, natural or juridical, arising out of situations having significant relationship to more than one nation. In recent years the line between public and private international law have became increasingly uncertain. Issues of private international law may also implicate issues of public international law, and many matters of private international law nave substantial significance for the international community of nations.

Domains of International Law

International Law includes the basic, classic concepts of law in national legal systems -- status, property, obligation, and tort (or delict). It also includes substantive law, procedure, process and remedies. International Law is rooted in acceptance by the nation states which constitute the system. The following are major substantive fields of international law:

- International economic law
- International security law
- International criminal law
- International environmental law
- Diplomatic law
- International humanitarian law or law of war.
- International human rights law
Sources of International Law

Customary law and conventional law are primary sources of international law. Customary international law results when states follow certain practices generally and consistently out of a sense of legal obligation. Recently the customary law was codified in the Vienna Convention on the Law of Treaties. Conventional international law derives from international agreements and may take any form that the contracting parties agree upon. Agreements may be made in respect to any matter except to the extent that the agreement conflicts with the rules of international law incorporating basic standards of international conduct or the obligations of a member state under the Charter of the United Nations. International agreements create law for the parties of the agreement. They may also lead to the creation of customary international law when they are intended for adherence generally and are in fact widely accepted. Customary law and law made by international agreement have equal authority as international law. Parties may assign higher priority to one of the sources by agreement. However, some rules of international law are recognized by international community as peremptory, permitting no derogation. Such rules can be changed or modified only by a subsequent peremptory norm of international law.

General principles common to systems of national law is a secondary source of international law. There are situations where neither conventional nor customary international law can be applicable. In this case a general principle may be invoked as a rule of international law because it is a general principle common to the major legal systems of the world and not inappropriate for international claims.

Subjects of International Law

Traditionally, states were the main subject of international law. Increasingly, individuals and non-state international organizations have also become subject to international regulation.

The law of nations is a part of the law of the United States unless there is some statute or treaty to the contrary. International law is a part of the law of the United States only for the application of its principles on questions of international rights and duties. It does not restrict the United States or any other nation from making laws governing its own territory. A State of the United States is not a "state" under international law, since the Constitution does not vest it with a capacity to conduct foreign relations.
International laws impose upon the nations certain duties with respect to individuals. It is a violation of international law to treat an alien in a manner which does not satisfy the international standard of justice. However in the absence of a specific agreement an individual cannot bring the compliant. Only the state of which he is a national can complain of such a violation before an international tribunal. The state of nationality usually is not obligated to exercise this right and can decide whether to enforce it.

International organizations play increasingly important role in the relationships between nations. An international organization is one that created by international agreement or which has membership consisting primary of nations. To vitalize the status of international organization of which United States is a member and facilitate their activities Congress has enacted the International Organization Immunities Act, which among other provisions defines the capacity of such organizations.

The United Nations, the most influential among international organizations, was created on June 26, 1945. The declared purposes of United Nations are to maintain peace and security, to develop friendly relations among nations, to achieve international cooperation in solving international problems, and to be a center for harmonizing the actions of the nations and attaining their common ends. The Charter of the United Nations has been adhered to by virtually all states. Even the few remaining non-member states have acquiesced in the principles it established. The International Court of Justice is established by the UN Charter as its principal judicial organ.

**Domains of International Law**

**International economic law**

*International economic law*, broadly conceived, is a field of international law that encompasses both the conduct of sovereign states in international economic relations, and the conduct of private parties involved in cross-border economic and business transactions. This includes,
among other things, international trade law, law of international financial institutions (or what is known as international financial law, and traditional private international law fields. Additionally, international economic law includes the following fields:

- Regional Economic Integration, such as the European Union, ASEAN and other regional trade organizations.
- International law and development
- International commercial arbitration
- International intellectual property law
- International business regulation

International criminal Law

International criminal law is a field of international law that seeks to regulate the behavior of states, organizations and individuals operating across national boundaries in commission of international crimes. International criminal law also regulates the commission of grave crimes occurring on the territory of sovereign states where those crimes constitute genocide, crimes against humanity, war crimes, or other violations of jus cogens norms.

International criminal law is practiced by, and prosecuted within, international criminal tribunals, such as the International Criminal Tribunal for Rwanda, International Criminal Court and similar courts.

In addition to the categories of crimes listed above, typical international crimes include piracy and terrorism.

International environmental law

International environmental law (sometimes, international ecological law) is a field of international law regulating the behavior of states and international organizations with respect to the environment. See Phillippe Sands, Principles of International Environmental Law (2nd ed., Cambridge, 2003). Core domains for international regulation include management of the world's
oceans and fisheries, the polar ice caps, and the regulation of carbon and other particulate emissions into the atmosphere.

The main international treaties concerning the environment are:

1. 1972 UN Convention on the Human Environment;
3. 1997 Kyoto Protocol, entered into force on February 16, 2005;
4. 2002 World Earth Summit

**Diplomatic law**

*Diplomatic law* is a field of international law concerning the practice of diplomacy, and the rights and obligations of state representatives on the territory of other states. The broad corpus of diplomatic law derives from one of the oldest principles of customary international law, that of state immunity and sovereign immunity.

**Diplomatic immunity**

Diplomatic immunity is a status granted to diplomatic personnel that exempts them from the laws of a foreign jurisdiction.

The Vienna Convention of Diplomatic Relations (1961), which most states have ratified, offers diplomats acting as officials of state almost total protection from subjection to criminal, administrative, and civil laws belonging to the country in which the diplomatic mission is located. Diplomats assigned to missions located in foreign countries remain subject to the laws of their home countries. The diplomat's country of origin has prerogative over whether or not a host country may prosecute a diplomat under its (i.e. 'foreign') laws.
The Diplomatic Relations Act of 1978, 22 U.S.C. § 254a et seq. governs diplomatic immunity in the United States. Title 22 specifies the degree of protection awarded to diplomatic personnel; protection increases in parallel with the official's status within a diplomatic mission.

**International humanitarian law or law of war.**

*International humanitarian law* (law of war) is a field of *international law* regulating armed conflict between states, and more recently, between states and informal groups and individuals. *See* Jean Pictet, *Development and Principles of International Humanitarian Law* (1985). *International humanitarian law* governs both the legality of justifications for war (*jus ad bellum*, or when states can resort to war) and the legality of wartime conduct (*jus in bello*, or how states must behave themselves during war).

International humanitarian law should not be confused with *international human rights law*. International humanitarian law is one of the oldest fields of *conventional international law*. Core principles of international humanitarian law can be found in major *international treaties* such as the *Geneva Conventions of 1949*, and the first *Geneva Convention of 1864*.

*Conventional international law* is the body of international legal principles contained in treaties versus customary international law or other sources of international law.

**International treaties**

*International conventions* are treaties or agreements between states (the primary actors in international law). *See* Malcolm N. Shaw, *International Law* 88 (5th ed., Cambridge, 2003). International convention is used interchangeably with terms like international treaty, international agreement, compact, or contract between states. Conventions may be of a general or specific nature and between two or multiple states. Conventions between two states are called bilateral treaties; conventions between a small number of states (but more than two) are
called plurilateral treaties; conventions between a large number of states are called multilateral treaties.

See, e.g.:

- **Bilateral investment treaty**

  Bilateral investment treaties (or, BITs) are international agreements establishing the terms and conditions for private investment by nationals and companies of one state in another state.

The first generation of these treaties were Friendship, Commerce and Navigation Treaties (FCNs), which required the host state to treat foreign investments on the same level as investments from any other state, including in some instances treatment that was as favorable as the host nation treated its own investments. FCNs also established the terms of trade and shipping between the parties, and the rights of foreigners to conduct business and own property in the host state.

The second generation of these treaties is Bilateral Investment Treaties (BITs), which set forth actionable standards of conduct that applied to governments in their treatment of investors from other states, including:

- fair and equitable treatment (often meaning national treatment or most favored nation treatment);
- protection from expropriation;
- free transfer of means and full protection and security.

The distinctive feature of many BITs is that they allow for an alternative dispute resolution mechanism, whereby an investor whose rights under the BIT have been violated could have recourse to International arbitration, often under the auspices of the ICSID (International Center for the Settlement of Investment Disputes), rather than suing the host State in its own courts.

It is estimated that there are more than 2,500 BITs active in the world today. See UNCTAD, WORLD INVESTMENT REPORT 2007 (2007)
See, e.g.:
- United Nations Conference on Trade and Development (UNCTAD) maintains database of all BITs between all states, with links to treaty texts.
- International trade law
- International economic law

The first Geneva Convention of 1864.

Convention for the Amelioration of the Condition of the Wounded in Armies in the Field.
Geneva, 22 August 1864
Full text [Display Introduction] [Display articles]

Article 1. Ambulances and military hospitals shall be recognized as neutral, and as such, protected and respected by the belligerents as long as they accommodate wounded and sick. Neutrality shall end if the said ambulances or hospitals should be held by a military force.

Art. 2. Hospital and ambulance personnel, including the quarter-master's staff, the medical, administrative and transport services, and the chaplains, shall have the benefit of the same neutrality when on duty, and while there remain any wounded to be brought in assisted.

Art. 3. The persons designated in the preceding Article may, even after enemy occupation, continue to discharge their functions in the hospital or ambulance with which they serve, or may withdraw to rejoin the units to which they belong. When in these circumstances they cease from their functions, such persons shall be delivered to the enemy outposts by the occupying forces.

Art. 4. The material of military hospitals being subject to the laws of war, the persons attached to such hospitals may take with them, on withdrawing, only the articles which are their own personal property. Ambulances, on the contrary, under similar circumstances, shall retain their equipment.
Art. 5. Inhabitants of the country who bring help to the wounded shall be respected and shall remain free. Generals of the belligerent Powers shall make it their duty to notify the inhabitants of the appeal made to their humanity, and of the neutrality which humane conduct will confer. The presence of any wounded combatant receiving shelter and care in a house shall ensure its protection. An inhabitant who has given shelter to the wounded shall be exempted from billeting and from a portion of such war contributions as may be levied.

Art. 6. Wounded or sick combatants, to whatever nation they may belong, shall be collected and cared for. Commanders-in-Chief may hand over immediately to the enemy outposts enemy combatants wounded during an engagement, when circumstances allow and subject to the agreement of both parties. Those who, after their recovery, are recognized as being unfit for further service shall be repatriated. The others may likewise be sent back, on condition that they shall not again, for the duration of hostilities, take up arms. Evacuation parties, and the personnel conducting them, shall be considered as being absolutely neutral.

Art. 7. A distinctive and uniform flag shall be adopted for hospitals, ambulances and evacuation parties. It should in all circumstances be accompanied by the national flag. An armlet may also be worn by personnel enjoying neutrality but its issue shall be left to the military authorities. Both flag and armlet shall bear a red cross on a white ground.

Art. 8. The implementing of the present Convention shall be arranged by the Commanders-in-Chief of the belligerent armies following the instructions of their respective Governments and in accordance with the general principles set forth in this Convention.

Art. 9. The High Contracting Parties have agreed to communicate the present Convention with an invitation to accede thereto to Governments unable to appoint Plenipotentiaries to the International Conference at Geneva. The Protocol has accordingly been left open.

Art. 10. The present Convention shall be ratified and the ratifications exchanged at Berne, within the next four months, or sooner if possible. In faith whereof, the respective Plenipotentiaries have signed the Convention and thereto affixed their seals. Done at Geneva, this twenty-second day of August, in the year one thousand eight hundred and sixty-four.
(Here follow signatures)
International Human Rights law

International human rights law began as a response to the horrors of war, in particular World War II, although the Geneva Conventions had begun earlier. The formation of the United Nations gave human rights international legitimacy, particularly because many nations signed the United Nations Charter, which specifically mentions human rights (Preamble, Chapter I). Since the formation of the United Nations, it has passed many agreements and resolutions binding the signatories to respect human rights. Additionally, it has set up tribunals to charge those suspected of aggregious violations of human rights. Furthermore, several other organizations, created by various treaties, have come into existence. The Inter-American Commission on Human Rights, for example, ensures that signatories of the American Convention on Human Rights abide by that treaty. The European binds members of the Council of Europe to the human rights obligations set forth in it. The Convention specifically mentions the Universal Declaration of Human Rights, and charges all signatories with upholding the basic principles of the document. Both the European and American Conventions on human rights have
international tribunals in which to bring claims of violations of human rights. Additionally, several African nations have signed the African Charter on Human and People's Rights. Many nations have ratified international human rights instruments put forward by the United Nations. Thus, many human rights instruments, tribunals, and declarations have been created since World War II, some drawing inspiration for early human rights proclamations, such as the Universal Declaration. Human rights continue to be a growing body of international law.

Human rights are "inalienable rights of all members of the human family" (Universal Declaration of Human Rights). Thus, human rights are, in principle, applicable to every person, regardless of their nationality. The Universal Declaration gives an example of the substance of human rights agreements (although it is not itself a treaty, many nations have agreed to abide by its principles, and it serves as an inspiration for treaties on human rights). Specifically, the Universal Declaration calls on nations to respect the rights to life, liberty, and security (Article 3). It also states that no person should be enslaved, tortured, or deprived of the right to a trial before a "national tribunal." Thus the Declaration proclaims negative rights, whereby national governments may not engage in certain activities against persons. Positive rights are also part of the Declaration. It states that everyone should enjoy the right to an education and basic standards of living. In doing so, it calls on nations to provide for all of their citizens without discrimination. Human rights, in substance, are protections against abuses by all states, and guarantees that people shall receive benefits from states. Documents such as the Universal Declaration of Human Rights proclaim the ideals of nations aspiring to respect the human rights of people of all nations. Legally, however, human rights are protected by treaties, where nations agree to abide by certain restrictions on their conduct and to uphold certain freedoms and basic needs for citizens. Thus, international human rights law, through treaties, acts upon states. Commissions and other bodies monitor compliance with these treaties. The enforcement of human rights treaties naturally requires nations to comply with the terms of their agreements. Groups of nations, such as the United Nations and the Council of Europe may impose sanctions or other measures against recalcitrant states to ensure compliance. Individuals may also be held accountable for human rights violations if they are brought before an international tribunal. A notable example is the International Criminal Tribunal for the former Yugoslavia, which was set up to charge officers of the Serbian military who had allegedly committed war crimes during the breakup of Yugoslavia. It drew precedent from the Nuremberg Tribunals. The law of human rights is therefore an international body of law of treaties and cases from international tribunals, although individual states may have laws that protect what are traditionally thought of as human rights.
The United States protects the human rights of its citizens, as well as being a party to certain human rights treaties. The Constitution of the United States guarantees basic freedoms, such as equal protection under the laws, to all United States citizens (Amendment XIV). Additionally, the United States has passed legislation further protecting the human rights of its citizens. A good example is civil rights legislation (Title 42, Chapter 21 of the U.S. Code). The United States is also bound by treaty obligations. It has ratified the four Geneva Conventions of 1949, is a member of the United Nations, and has signed and/or ratified other human rights agreements. A list of major human rights instruments that the United States has signed. The United States thus has domestic and international obligations to protect human rights.

**Geneva Conventions**

Overview

The Geneva Conventions are a series of treaties on the treatment of civilians, prisoners of war (POWs) and soldiers who are otherwise rendered hors de combat, or incapable of fighting. The first Convention was initiated by the International Committee for Relief to the Wounded (which became the International Committee for the Red Cross and Red Crescent). This convention produced a treaty designed to protect wounded and sick soldiers during wartime. The Swiss Government agreed to hold the Conventions in Geneva, and a few years later, a similar agreement to protect shipwrecked soldiers was produced. In 1949, after World War II, two new Conventions were added to the original two, and all four were ratified by a number of countries. The 1949 versions of the Conventions, along with two additional Protocols, are in force today.

**Convention I:** This Convention protects wounded and infirm soldiers and medical personnel against attack, execution without judgment, torture, and assaults upon personal dignity (Article 3). It also grants them the right to proper medical treatment and care.

**Convention II:** This agreement extended the protections mentioned in the first Convention to shipwrecked soldiers and other naval forces, including special protections afforded to hospital ships.

**Convention III:** One of the treaties created during the 1949 Convention, this defined what a Prisoner of War was, and accorded them proper and humane treatment as specified by the first
Convention. Specifically, it required POWs to give only their name, rank, and serial number to their captors. Nations party to the Convention may not use torture to extract information from POWs.

**Convention IV:** Under this Convention, civilians are afforded the protections from inhumane treatment and attack afforded in the first Convention to sick and wounded soldiers. Furthermore, additional regulations regarding the treatment of civilians were introduced. Specifically, it prohibits attacks on civilian hospitals, medical transports, etc. It also specifies the right of internees, and those who commit acts of sabotage. Finally, it discusses how occupiers are to treat an occupied populace.

**Protocol I:** In this additional Protocol to the Geneva Conventions, the signing Nations agreed to further restrictions on the treatment of "protected persons" according to the original Conventions. Furthermore, clarification of the terms used in the Conventions was introduced. Finally, new rules regarding the treatment of the deceased, cultural artifacts, and dangerous targets (such as dams and nuclear installations) were produced.

**Protocol II:** In this Protocol, the fundamentals of "humane treatment" were further clarified. Additionally, the rights of interned persons were specifically enumerated, providing protections for those charged with crimes during wartime. It also identified new protections and rights of civilian populations.

- The United States has ratified the four Conventions of 1949, but has not ratified the two additional Protocols of 1977.
- Disputes arising under the Conventions or the Protocols additional to them are settled by courts of the member nations (Article 49 of Convention I) or by international tribunals.
- The International Committee of the Red Cross and Red Crescent has a special role given by the Geneva Conventions, whereby it handles, and is granted access to, the wounded, sick, and POWs.

**United Nations Charter**

The *United Nations Charter* (UN Charter or Charter) is a core constituent document of the United Nations, and the United Nations System. Legally, the UN Charter is an multilateral international treaty, with 192 member states. In addition to creating the basic international
institutions, the UN Charter restates many core principles of international law, including customary international law.

**AMERICAN CONVENTION ON HUMAN RIGHTS**

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

**Preamble**

The American states signatory to the present Convention,

Reaffirming their intention to consolidate in this hemisphere, within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of man;

Recognizing that the essential rights of man are not derived from one's being a national of a certain state, but are based upon attributes of the human personality, and that they therefore justify international protection in the form of a convention reinforcing or complementing the protection provided by the domestic law of the American states;

Considering that these principles have been set forth in the Charter of the Organization of American States, in the American Declaration of the Rights and Duties of Man, and in the Universal Declaration of Human Rights, and that they have been reaffirmed and refined in other international instruments, worldwide as well as regional in scope;

Reiterating that, in accordance with the Universal Declaration of Human Rights, the ideal of free men enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his economic, social, and cultural rights, as well as his civil and political rights; and

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

Have agreed upon the following:
PART I - STATE OBLIGATIONS AND RIGHTS PROTECTED

CHAPTER I - GENERAL OBLIGATIONS

Article 1. Obligation to Respect Rights

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

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

Article 2. Domestic Legal Effects

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

CHAPTER II - CIVIL AND POLITICAL RIGHTS

Article 3. Right to Juridical Personality

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

Article 4. Right to Life

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

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

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

4. In no case shall capital punishment be inflicted for political offenses or related common crimes.
5. Capital punishment shall not be imposed upon persons who, at the time the crime was committed, were under 18 years of age or over 70 years of age; nor shall it be applied to pregnant women.

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

**Article 5. Right to Humane Treatment**

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

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

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

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

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

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

**Article 6. Freedom from Slavery**

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

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

3. For the purposes of this article, the following do not constitute forced or compulsory labor:
a. work or service normally required of a person imprisoned in execution of a sentence or formal decision passed by the competent judicial authority. Such work or service shall be carried out under the supervision and control of public authorities, and any persons performing such work or service shall not be placed at the disposal of any private party, company, or juridical person;

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

c. service exacted in time of danger or calamity that threatens the existence or the well-being of the community; or

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

**Article 7. Right to Personal Liberty**

1. Every person has the right to personal liberty and security.

2. No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto.

3. No one shall be subject to arbitrary arrest or imprisonment.

4. Anyone who is detained shall be informed of the reasons for his detention and shall be promptly notified of the charge or charges against him.

5. Any person detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to be released without prejudice to the continuation of the proceedings. His release may be subject to guarantees to assure his appearance for trial.

6. Anyone who is deprived of his liberty shall be entitled to recourse to a competent court, in order that the court may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful. In States Parties whose laws provide that anyone who believes himself to be threatened with deprivation of his liberty is entitled to recourse to a competent court in order that it may decide on the lawfulness of such threat, this remedy may not be restricted or abolished. The interested party or another person in his behalf is entitled to seek these remedies.

7. No one shall be detained for debt. This principle shall not limit the orders of a competent judicial authority issued for nonfulfillment of duties of support.
Article 8. Right to a Fair Trial

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 9. Freedom from Ex Post Facto Laws

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

**Article 10. Right to Compensation**

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

**Article 11. Right to Privacy**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Article 14. Right of Reply**

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

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

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

**Article 15. Right of Assembly**

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

**Article 16. Freedom of Association**

1. Everyone has the right to associate freely for ideological, religious, political, economic, labor, social, cultural, sports, or other purposes.
2. The exercise of this right shall be subject only to such restrictions established by law as may be necessary in a democratic society, in the interest of national security, public safety or public order, or to protect public health or morals or the rights and freedoms of others.

3. The provisions of this article do not bar the imposition of legal restrictions, including even deprivation of the exercise of the right of association, on members of the armed forces and the police.

**Article 17. Rights of the Family**

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

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

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

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

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

**Article 18. Right to a Name**

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

**Article 19. Rights of the Child**

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

**Article 20. Right to Nationality**

1. Every person has the right to a nationality.

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

**Article 21. Right to Property**

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

2. No one shall be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest, and in the cases and according to the forms established by law.

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

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

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

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

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

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

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

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

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

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

9. The collective expulsion of aliens is prohibited.
Article 23. Right to Participate in Government

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

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

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

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

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

Article 24. Right to Equal Protection

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

Article 25. Right to Judicial Protection

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

2. The States Parties undertake:

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

b. to develop the possibilities of judicial remedy; and

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

CHAPTER III - ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

Article 26. Progressive Development

The States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit
CHAPTER IV - SUSPENSION OF GUARANTEES, INTERPRETATION, AND APPLICATION

Article 27. Suspension of Guarantees

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

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

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

Article 28. Federal Clause

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

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

3. Whenever two or more States Parties agree to form a federation or other type of association, they shall take care that the resulting federal or other compact contains the provisions necessary for continuing and rendering effective the standards of this Convention in the new state that is organized.
Article 29. Restrictions Regarding Interpretation

No provision of this Convention shall be interpreted as:

a. permitting any State Party, group, or person to suppress the enjoyment or exercise of the rights and freedoms recognized in this Convention or to restrict them to a greater extent than is provided for herein;

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

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

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

Article 30. Scope of Restrictions

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

Article 31. Recognition of Other Rights

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

CHAPTER V - PERSONAL RESPONSIBILITIES

Article 32. Relationship between Duties and Rights

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

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

PART II - MEANS OF PROTECTION

CHAPTER VI - COMPETENT ORGANS
Article 33

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

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

CHAPTER VII - INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

Section 1. Organization

Article 34

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

Article 35

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

Article 36

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

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

Article 37

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

2. No two nationals of the same state may be members of the Commission.
**Article 38**

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

**Article 39**

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

**Article 40**

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

**Section 2. Functions**

**Article 41**

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

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

b. to make recommendations to the governments of the member states, when it considers such action advisable, for the adoption of progressive measures in favor of human rights within the framework of their domestic law and constitutional provisions as well as appropriate measures to further the observance of those rights;

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

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

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

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

g. to submit an annual report to the General Assembly of the Organization of American States.
Article 42

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

Article 43

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

Section 3. Competence

Article 44

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

Article 45

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

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

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

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

Article 46
1. Admission by the Commission of a petition or communication lodged in accordance with Articles 44 or 45 shall be subject to the following requirements:

a. that the remedies under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law;

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

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

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

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

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

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

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

**Article 47**

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

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

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

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

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

**Section 4. Procedure**
Article 48

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

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

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

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

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

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

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

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

Article 49

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

**Article 50**

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

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

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

**Article 51**

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

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

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

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

**Section 1. Organization**

**Article 52**

1. The Court shall consist of seven judges, nationals of the member states of the Organization, elected in an individual capacity from among jurists of the highest moral authority and of recognized competence in the field of human rights, who possess the qualifications required for the exercise of the highest judicial functions in conformity with the law of the state of which they are nationals or of the state that proposes them as candidates.
2. No two judges may be nationals of the same state.

**Article 53**

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

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

**Article 54**

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

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

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

**Article 55**

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

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

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

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

5. If several States Parties to the Convention should have the same interest in a case, they shall be considered as a single party for purposes of the above provisions. In case of doubt, the Court shall decide.
Article 56

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

Article 57

The Commission shall appear in all cases before the Court.

Article 58

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

2. The Court shall appoint its own Secretary.

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

Article 59

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

Article 60

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

Section 2. Jurisdiction and Functions

Article 61

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

2. In order for the Court to hear a case, it is necessary that the procedures set forth in Articles 48 and 50 shall have been completed.
Article 62

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

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

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

Article 63

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

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

Article 64

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

2. The Court, at the request of a member state of the Organization, may provide that state with opinions regarding the compatibility of any of its domestic laws with the aforesaid international instruments.
**Article 65**

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

**Section 3. Procedure**

**Article 66**

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

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

**Article 67**

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

**Article 68**

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

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

**Article 69**

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

**CHAPTER IX - COMMON PROVISIONS**

**Article 70**

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

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

Article 71

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

Article 72

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

Article 73

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

PART III - GENERAL AND TRANSITORY PROVISIONS

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

Article 74

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

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

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

Article 75

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

Article 76

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

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

Article 77

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

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

Article 78

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

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

CHAPTER XI - TRANSITORY PROVISIONS
Section 1. Inter-American Commission on Human Rights

Article 79

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

Article 80

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

Section 2. Inter-American Court of Human Rights

Article 81

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

Article 82

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

The European Convention on Human Rights

THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND ITS FIVE PROTOCOLS

The European Convention on Human Rights

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 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 the aim is to be pursued is the maintenance and further realization 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:

ARTICLE 1

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

SECTION I

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.
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:
   o (a) in defence of any person from unlawful violence;
   o (b) in order to effect a lawful arrest or to prevent escape of a person lawfully detained;
   o (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:
   o (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;
   o (b) any service of a military character or, in case of conscientious objectors in countries where they are recognized, service exacted instead of compulsory military service;
   o (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
   o (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:

   o (a) the lawful detention of a person after conviction by a competent court;
   o (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;
   o (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority of reasonable suspicion of having committed an offence or fleeing after having done so;
o (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;
o (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;
o (f) the lawful arrest or detention of a person to prevent his effecting an unauthorized 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 the 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 authorized 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 tribunal established by law. Judgement shall be pronounced publicly by the press and public may be excluded from all or part of the trial in the interest of morals, public order 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 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:
o (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
o (b) to have adequate time and the facilities for the preparation of his defence;
o (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;
o (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;
o (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 the general principles of law recognized by civilized nations.

ARTICLE 8

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

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 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 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 the 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.
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 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 on 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

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.

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 filing casual vacancies.

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. 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.
4. 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.

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 organization or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in this Convention, provided that the High Contracting Party against which the complaint has been lodged has declared that it recognizes 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 recognized 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
   o (a) is anonymous, or
   o (b) is substantially the same as a matter which has already been examined by the Commission or has already been submitted to another procedure or international investigation or settlement and 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.

ARTICLE 28

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 and 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 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.

ARTICLE 29

1. The Commission shall perform the functions set out in Article 28 by means of a Sub-Commission consisting of seven members of the Commission.
2. Each of the parties concerned may appoint as members of this Sub-Commission a person of its choice.
3. The remaining members shall be chosen by lot in accordance with arrangements prescribed in the Rules of Procedure of the Commission.

ARTICLE 30

1. If the Sub-Commission succeeds in effecting a friendly settlement in accordance with Article 28, 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.

ARTICLE 31

1. If a solution is not reached, 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 opinions of all the 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 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

The Commission shall take its decision by a majority of the Members present and voting; the Sub-Commission shall take its decisions by a majority of its members.

ARTICLE 35

The Commission shall meet as the circumstances require. The meetings shall be convened by the
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 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 Members of the Council of Europe; each Member shall nominate 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 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 office or be jurisconsults of recognized 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. 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.
4. 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.
ARTICLE 41

The Court shall elect the 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 of duty 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 recognizes 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.

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 whither the Court has the 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 a 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 judges shall be entitled to deliver a separate opinion.

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.

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 organizations 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 force in its territory is not in conformity with the provision. Reservations 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 of 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 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 4th day of November, 1950, in English and French, both text being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary-General shall transmit certified copies to each of the signatories.

Protocols

1. Enforcement of certain Rights and Freedoms not included in Section I of the Convention

The Governments signatory hereto, being Members of the Council of Europe,

Being resolved to take steps to ensure the collective enforcement of certain rights and freedoms other than those already included in Section I of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November, 1950 (hereinafter referred to as 'the Convention'),

Have agreed as follows:
ARTICLE 1

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

ARTICLE 2

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religions and philosophical convictions.

ARTICLE 3

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

ARTICLE 4

Any High Contracting Party may at the time of signature or ratification or at any time thereafter communicate to the Secretary-General of the Council of Europe a declaration stating the extent to which it undertakes that the provisions of the present Protocol shall apply to such of the territories for the international relations of which it is responsible as are named therein.

Any High Contracting Party which has communicated a declaration in virtue of the preceding paragraph may from time to time communicate a further declaration modifying the terms of any former declaration or terminating the application of the provisions of this Protocol in respect of any territory.

A declaration made in accordance with this article shall be deemed to have been made in accordance with paragraph 1 of Article 63 of the Convention.

ARTICLE 5

As between the High Contracting Parties the provisions of Articles 1, 2, 3 and 4 of this Protocol shall be regarded as additional articles to the convention and all the provisions of the Convention shall apply accordingly.
ARTICLE 6

This Protocol shall be open for signature by the Members of the Council of Europe, who are the signatories of the Convention; it shall be ratified at the same time as or after the ratification of the Convention. It shall enter into force after the deposit of ten instruments of ratification. As regards any signatory ratifying subsequently, the Protocol shall enter into force at the date of the deposit of its instrument of ratification.

The instruments of ratification shall be deposited with the Secretary-General of the Council of Europe, who will notify all the Members of the names of those who have ratified.

Done at Paris on the 20th day of March 1952, In English and French, both text being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary-General shall transmit certified copies to each of the signatory Governments

2. Conferring upon the European Court of Human Rights Competence to give Advisory Opinions

The Member States of the Council of Europe signatory hereto:

Having regard to the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as 'the Convention'), and in particular Article 19 instituting, among other bodies, a European Court of Human Rights (hereinafter referred to as 'the Court');

Considering that it is expedient to confer upon the Court competence to give advisory opinions subject to certain conditions;

Have agreed as follows:

ARTICLE 1

1. The Court may, at the request of the Committee of Ministers, give advisory opinions on legal questions concerning the interpretation of the Convention and the Protocols thereto.
2. Such opinions shall not deal with any question relating to the content or scope of the rights or freedoms defined in Section I of the convention and in the Protocols thereto, or with any other question which the Commission, the Court, or the committee of Ministers might have to consider in consequence of any such proceedings as could be instituted in accordance with the Convention.
3. Decisions of the Committee of Ministers to request an advisory opinion of the Court shall require a two-thirds majority vote of the representatives entitled to sit on the Committee.

ARTICLE 2

The Court shall decide whether a request for an advisory opinion submitted by the Committee of Ministers is within its consultative competence as defined in Article 1 of this Protocol.

ARTICLE 3

1. For the consideration of requests for an advisory opinion, the Court shall sit in plenary session.
2. Reasons shall be given for advisory opinions of the Court.
3. If the advisory opinion does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.
4. Advisory opinions of the Court shall be communicated to the Committee of Ministers.

ARTICLE 4

The powers of the Court under Article 55 of the Convention shall extend to the drawing up of such rules and the determination of such procedure as the Court may think necessary for the purposes of this Protocol.

ARTICLE 5

1. This Protocol shall be open to signature by member States of the Council of Europe, signatories to the Convention, who may become Parties to it by:
   - (a) signature without reservation in respect of ratification or acceptance;
   - (b) signature with reservation in respect of ratification or acceptance, followed by ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Secretary-General of the Council of Europe.
2. This Protocol shall enter into force as soon as all the States Parties to the Convention shall have become Parties to the Protocol in accordance with the Provisions of paragraph 1 of this article.
3. From the date of the entry into force of this Protocol, Articles 1 to 4 shall be considered an integral part of the Convention.
4. The Secretary-General of the Council of Europe shall notify the Member States of the Council of:
   - (a) any signature without reservation in respect of ratification or acceptance;
   - (b) any signature with reservation in respect of ratification or acceptance;
   - (c) the deposit of any instrument of ratification or acceptance;
   - (d) the date of entry into force of this Protocol in accordance with paragraph 2 of this article.
In witness whereof the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Strasbourg, this 6th day of May 1963, in English and French, both text being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary-General shall transmit certified copies to each of the signatory States.

3. Amending Articles 29, 30, and 94 of the Convention

The member States of the Council, signatories to this Protocol,

Considering that it is advisable to amend certain provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as 'the Convention') concerning the procedure of the European Commission of Human Rights,

Have agreed as follows:

ARTICLE 1

1. Article 29 of the Convention is deleted.
2. The following provision shall be inserted in the Convention:

"ARTICLE 29

After it has accepted a petition submitted under Article 25, the Commission may nevertheless decide unanimously 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 2

1. At the beginning of Article 34 of the Convention, the following shall be inserted: "Subject to the provisions of Article 29..."
2. At the end of the same article, the sentence "the Sub-commission shall take its decisions by a majority of its members" shall be deleted.

ARTICLE 4

1. The Protocol shall be open to signature by the member States of the Council of Europe, who may become Parties to it either by:
(a) signature without reservation in respect of ratification or acceptance, or
(b) signature with reservation in respect of ratification or acceptance, followed by ratification or acceptance. Instruments of ratification shall be deposited with the Secretary-General of the Council of Europe.

2. This Protocol shall enter force as soon as all States Parties to the Convention shall have become Parties to the Protocol, in accordance with paragraph 1 of this article.

3. The Secretary-General of the Council of Europe shall notify the Member States of the Council of:
   (a) any signature without reservation in respect of ratification or acceptance;
   (b) any signature with reservation in respect of ratification or acceptance;
   (c) the deposit of any instrument of ratification or acceptance;
   (d) the date of entry into force of this Protocol in accordance with paragraph 2 of this article.

In witness whereof the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Strasbourg, this 6th day of May 1963, in English and French, both text being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary-General shall transmit certified copies to each of the signatory States.

4. Protecting certain Additional Rights

The Governments signatory hereto, being Members of the Council of Europe,

Being resolved to take steps to ensure the collective enforcement of certain rights and freedoms other than those already included in Section 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as 'the Convention') and in Articles 1 to 3 of the First Protocol to the Convention, signed at Paris on 20 March 1952,

Have agreed as follows:

ARTICLE 1

No one shall be deprived of his liberty merely on the ground of inability to fulfil a contractual obligation.

ARTICLE 2

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety for the maintenance of 'ordre public', for the prevention of crime, for the protection of rights and freedoms of others.

4. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society.

ARTICLE 3

1. No one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national.

2. No one shall be deprived of the right to enter the territory of the State of which he is a national.

ARTICLE 4

Collective expulsion of aliens is prohibited.

ARTICLE 5

1. Any High Contracting Party may, at the time of signature or ratification of this Protocol, or at any time thereafter, communicate to the Secretary-General of the Council of Europe a declaration stating the extent to which it undertakes that the provisions of this Protocol shall apply to such of the territories for the international relations of which it is responsible as are named therein.

2. Any High Contracting Party which has communicated a declaration in virtue of the preceding paragraph may, from time to time, communicate a further declaration modifying the terms of any former declaration or terminating the application of the provisions of this Protocol in respect of territory.

3. A declaration made in accordance with this article shall be deemed to have been made in accordance with paragraph 1 of Article 63 of the Convention.

4. The territory of any State to which this Protocol applies by virtue of the ratification or acceptance by that State, and each territory to which this Protocol is applied by virtue of a declaration by that State under this article, shall be treated as separate territories for the purpose of the references in Articles 2 and 3 to the territory of a State.

ARTICLE 6

1. As between the High Contracting Parties the provisions of Articles 1 to 5 of this Protocol shall be regarded as additional articles to the convention, and all the provisions of the Convention shall apply accordingly.

2. Nevertheless, the right of individual recourse recognized by a declaration made under
Article 25 of the convention, or the acceptance of the compulsory jurisdiction of the court by a declaration made under Article 46 of the convention, shall not be effective in relation to this Protocol unless the High Contracting Party concerned has made a statement recognizing such a right, or accepting such jurisdiction, in respect of all or any of Articles 1 to 4 of the Protocol.

ARTICLE 7

1. This Protocol shall be open for signature by the members of the Council of Europe who are the signatories of the Convention; it shall be ratified at the same time as or after the ratification of the Convention. It shall enter into force after the deposit of five instruments of ratification. As regards any signatory ratifying subsequently, the Protocol shall enter into force at the date of the deposit of its instrument of ratification.

The instruments of ratification shall be deposited with the Secretary-General of the Council of Europe, who will notify all members of the names of those who have ratified.

In witness thereof, the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Strasbourg, this 16th day of September 1963, 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. The Secretary-General shall transmit certified copies to each of the signatory States.

5. Amending Articles 22 and 40 of the Convention

The Governments signatory hereto, being Members of the Council of Europe,

Considering that certain inconveniences have arisen in the application of the provisions of Articles 22 and 40 of the Convention for the Protection of Human Rights and fundamental Freedoms signed at Rome of 4th November 1950 (hereinafter referred to as 'the Convention') relating to the length of the terms of office of the members of the European Commission of Human Rights (hereinafter referred to as 'the Commission') and of the European Court of Human Rights (hereinafter referred to as 'the Court');

Considering that it is desirable to ensure as far as possible an election every three years of one half of the members of the Commission and of one third of the members of the Court;

Considering therefore that it is desirable to amend certain provisions of the Convention,

Have agreed as follows:
ARTICLE 1

In Article 22 of the Convention, the following two paragraphs shall be inserted after paragraph (2):

"(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 term or 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 cases 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."

ARTICLE 2

In Article 22 of the Convention, the former paragraphs (3) and (4) shall become respectively paragraphs (5) and (6).

ARTICLE 3

In Article 40 of the Convention, the following two paragraphs shall be inserted after paragraph (2):

"(3) In order to ensure that, as far as possible, one half 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."

ARTICLE 4

In Article 40 of the Convention, the former paragraphs (3) and (4) shall become respectively paragraphs (5) and (6).

ARTICLE 5

1. This Protocol shall be open to signature by Members of the Council of Europe, signatories to the Convention, who may become Parties to it by;
   o (a) signature without reservation in respect of ratification or acceptance;
   o (b) signature with reservation in respect of ratification or acceptance, followed by ratification or acceptance.
Instruments of ratification or acceptance shall be deposited with the Secretary-General of the Council of Europe.

2. This Protocol shall enter into force as soon as all Contracting Parties to the Convention shall have become Parties to the Protocol, in accordance with the provisions of paragraph 1 of this article.

3. The Secretary-General of the Council of Europe shall notify the Members of the Council of:
   o (a) any signature without reservation in respect of ratification or acceptance;
   o (b) any signature with reservation in respect of ratification or acceptance;
   o (c) the deposit of any instrument of ratification or acceptance;
   o (d) the date of entry into force of this Protocol in accordance with paragraph 2 of this article.

In witness whereof the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Strasbourg, this 20th day of January 1966, 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. The Secretary-General shall transmit certified copies to each of the signatory Governments.

Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected.

Sources of International Law

Sources of international law refer to where states, organizations, individuals and courts can find principles of international law. One broadly accepted definition of sources of international law includes Article 38 of the ICJ Treaty. According to this article, the International Court of Justice shall apply the following sources of law, ranked in order of precedence:
a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;

b. international custom, as evidence of a general practice accepted as law;

c. the general principles of law recognized by civilized nations;

d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

**Customary international law**

*Customary international law* refers to international obligations arising from established state practice, as opposed to obligations arising from formal written international treaties. According to Article 38(1)(b) of the ICJ Statute, customary international law is one of the sources of international law. Customary international law can be established by showing (1) state practice and (2) opinio juris.

Put another way, “customary international law” results from a general and consistent practice of states that they follow from a sense of legal obligation.

**Subjects of International Law**

Traditionally, states were the main subject of international law. Increasingly, individuals and non-state international organizations have also become subject to international regulation.

In *Public international law*, the subjects of international law traditionally included states. Since the establishment of international criminal tribunals, individuals are also proper
subjects of international law. Other international actors include transnational corporations, non state actors, terrorist groups. The regulation of these actors' activities in the international sphere is one of the most pressing concerns of contemporary international law.

International criminal tribunals are temporary (ad hoc) or permanent courts convened for the purpose of deciding cases arising under international criminal law. Examples of international criminal tribunals include:

1. Nuremberg Military Tribunals, including the International Military Tribunal and the Subsequent Nuremberg Trials, established in 1945 to prosecute those responsible for war crimes and crimes against humanity in WWII;
2. The International Military Tribunal for the Far East (Tokyo War Crimes Tribunal), convened in May 1946;
3. International Criminal Tribunal for Yugoslavia;
4. International Criminal Tribunal for Rwanda;
5. Special Court for Sierra Leone, established in November 1996 to prosecute war crimes and crimes against humanity arising from the Civil War in Sierra Leone;
United Nations is the main source of the International Law today in world Politics.