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The  
INTER-AMERICAN INDIAN INSTITUTE  
and the  
Structure of Latin American Indian Affairs

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Now a special organization within the Organization of American States (O.A.S.), the Inter-American Indian Institute (I.I.I.) was founded as a result of the First Inter-American Conference on Indian Life, held early in 1940 at Patzcuaro, Mexico. Mexico was, in line with the reform Indian policy of President Cardenas, the leader in the movement to establish the Institute. Promoted by social scientists in Mexico and the United States, the conference was opened by President Cardenas and by Bureau of Indian Affairs Commissioner, John Collier. The official delegates of 19 nations, Indian specialists and Indian people were present at the conference, and participated in sessions covering socio-economic, legislative, educational and medical issues as well as Indian arts and crafts. A summary of the conference's actions and resolutions filled 58 pages. In addition, the Inter-American Indian Institute was provisionally established.

The official treaty, written in November, 1940, establishing the Institute, defined its purpose:

The contracting Governments hereby agree to elucidate the problems affecting the Indian groups within their respective jurisdictions, and to cooperate with one another, on a basis of mutual respect for the inherent rights of each to exercise absolute liberty in solving the 'Indian Problem' in America, by means of periodical meetings, by means of an Inter-American Institute and of National Indian Institutes, whose organization and functioning shall be governed by this Convention in accordance with the following articles... (1)

The Institute would provide a forum for the discussion of the various governments' Indian policies, which were assumed to be designed to improve Indian living standards. While the treaty itself did not attempt to define further what the Indian policies should include, the resolutions passed at the First Inter-American Conference on Indian Life did make suggestions about what direction Indian policies should take. Resolutions urged the fostering of Indian cultures, suggested land reform in urging aid to better

the economic life of Indian people, and urged the governments to cooperate with Indian organizations to insure the protection of Indian interests. (2) These resolutions carried no force to insure their enactment, although they do reflect the thinking of the Institute's founders.

Commissioner Collier, as one of the Institute's founders, urged an active role for the United States in the Inter-American Indian Institute. When the treaty was ratified by the Senate in July, 1941, Collier began moving to create a National Indian Institute, separate from the Bureau of Indian Affairs. President Roosevelt did create the National Indian Institute by executive order, placing it under the Interior Department. Funding, however, was still needed for its operations. (Funding for delegates to attend the international meeting and to supply the United States' annual quota to the I.I.I. came out of the State Department budget). The Senate Committee on Interior Appropriations approved funds for the National Indian Institute, but the House Committee was reluctant to agree to such appropriations. Sub-committee chairman, Rep. Jed Johnson of Oklahoma, wondered why he should allow the establishment of "a permanent set-up that might expand and become a rather expensive luxury." (3) The fact that Johnson's relations with Collier had been strained for a number of years (4) did not create a positive attitude on the part of the Committee, and helps explain why such funds were not made available.

During the war years the United States perceived the Inter-American Indian Institute as a medium through which it could counteract Nazi propoganda aimed at Indians, especially those Indians in Latin American countries involved in the production of rubber, quinine and other raw materials needed in the war effort. For this reason, and because of failure to obtain money through the Interior Department budget, the National Indian Institute was funded for several years through the State Department's Office of Coordinator of Inter-American Affairs, headed by Nelson Rockefeller.

In 1945, however, the Rockefeller office was transferring its programs to other offices, prior to disbanding itself, (5) and the National Indian Institute again come before the Johnson subcommittee to request funding. Again, Johnson refused. To keep the National Indian Institute alive, it was transferred to the Interior Department's Institute of Ethnic Affairs (a U.S. - allied organization combatting colonialism throughout the world). Commissioner Collier, who had also been actively interested in the Institute of Ethnic Affairs, had been the main supporter of the National Indian Institute, but in 1945 he left the B.I.A. The same year marked the death of President Roosevelt and the departure of Interior Secretary Ickes, both of whom had supported Collier's work. The new administration, the turnovers in the Interior Department and the beginning of the termination era combined to eliminate effective support for the National Indian Institute. In 1950, things came to head. There was pressure against the Institute of Ethnic Affairs from other government agencies (especially the military) (6), private funding for the National Indian Institute had been eliminated due to a tax ruling, (7) and Dillon Myers became B.I.A. Commissioner. Coming again before the Johnson committee, the Institute was again denied funding, a fact about which Collier was rather bitter. The National Indian Institute was dead, due to B.I.A. disinterest and Congressional hostility. (8)

But the United States did maintain its position within the Inter-American Indian Institute, through State Department offices relating to Latin American Affairs. During the Eisenhower years, pressure from other Latin American countries kept the United States in the I.I.I. But the delegates appointed by Eisenhower were solely political men, with no real interest in, or even knowledge of, Indian affairs.

The Kennedy administration was more interested in promoting good Latin American relations. The new B.I.A. Commissioner, Philleo Nash, wanted to

upgrade the United States' involvement in the Inter-American Indian Institute. Opposed to the termination policy of the 1950's, and an anthropologist by training, Dr. Nash had previously served on the Board of Directors of the Institute of Ethnic Affairs. As a result of the Kennedy policies and Nash's interest, the United States sent a large delegation to the I.I.I.'s international congress at Cuzco, Peru, including some well-known United States Indian leaders. The following year, 1965, Dr. James Officer, then in the Bureau of Indian Affairs, was appointed the official United States' delegate to the I.I.I. An anthropologist and able to speak Spanish, Dr. Officer was a very active participant in the I.I.I., and is still the U.S. delegate.

Funds for travel and quota payments continued to be provided through the State Department, however, and the National Indian Institute was never revived. The State Department, which has to request its funds for the I.I.I. as a separate line item, remains nervous about justifying those appropriations to Congress. Although they have not had the Interior Department request the transfer of the program to the Bureau of Indian Affairs, they would probably prefer that the B.I.A. assume fiscal and administrative control of the United States involvement with the I.I.I. (9) But none of the B.I.A. commissioners since Dr. Nash, have been interested enough in the Inter-American Indian Institute to agree to such a change.

Partly due to its powerful position in hemispheric politics, the United States has always played an important role in the Inter-American Institute. But the Mexicans have been the real leaders of the Institute. They have provided most of its directors, the location of its headquarters and its most active members. The first director, and one of the founders, of the I.I.I. was Dr. Manuel Gamio, a Mexican anthropologist. Dr. Gamio had directed a study and excavations of the ancient Indian city of Teotihuacan, and had become involved in the problems of the modern Indians of the Valley of Teotihuacan. He proposed

an intergrated development program involving education, health and agricultural projects, as well as a revival of the Indian arts and crafts. Dr. Gamio received the support of President Obregón, but his work program ceased under the regime of President Calles. (10) The government of President Cardenas, which came in 1934, marked the revival of the policies initiated under Obregon. Mexicans began to consider that much of their unique national heritage came from past and present Indian cultures. There was a surge of interest in Indian art forms, and the restoration of ancient Indian cities and monuments (good tourist attractions) was begun. The government also promoted the work of anthropologists and historians studying Indian cultrues, and began the collection of Indian artifacts in a national museum. The Cardenas government was also interested in the welfare of Indian people, and set up programs to benefit them. Most notable was the institution of some land reforms, where certain Indian communities could regain ownership of their villages and lands (referred to as ejidos). (11) To administer these programs, Cardenas created the Autonomous Department of Indian Affairs in 1935.

The year 1940 was a peak for the Cardenas Indian policies, with the conference at Patzcuaro resulting in the creation of the Inter-American Indian Institute. Although the advent of a new government later in 1940 halted many of the Cardenas programs, Mexico did continue its involvement in the Inter-American Indian Institute. Mexico became the leading drive in the I.I.I., which located its headquarters in Mexico City. Most of the I.I.I.'s Executive Directors have been Mexicans, and often social scientists.

But the momentum which had built up for government promotion of Indian community development within Mexico slowed. The creation of the National Indian Institute (Instituto Nacional Indigenista, or INI) did not take place until 1948, after the Autonomous Department of Indian Affairs had been replaced by an Office of Indian Affairs under the Ministry of Education. (12)

Beginning the the 1940's the government ceased to support the ejidos, and

funding from the National Ejidos Credit Bank virtually dried up. The initial weaknesses of the ejidos' structure, including inadequate preparation (management training, technical education) and inefficient division of the original latifundias (large landholdings of the ruling elite), which left the ejidos without adequate buildings, power systems, roads, and water supplies, began to have greater effect on the ejidos. In addition, the upper and middle classes, no longer restrained by the government, began to actively oppose the ejidos, working to undermine their delicate organizational structure. As a result, the community spirit of the ejidos began to erode, and many split into smaller units. These smaller units suffered even more from the lack of sufficient natural, financial, and technical resources than the larger ejidos. Indian ejidos, of course, were even more vulnerable than those not exclusively Indian. Ejidos in general were often faced with lack of credit and access to markets, as well as an increasing inability to absorb the ever-growing labor force. The renaissance of latifundias was only one indication of the survival of the old socio-economic structure; others included the virtual control of all credit sources and all markets by non-Indian elites. (13)

Although the ejidos failed to accomplish all it had been hoped they would, it has been shown that wages and incomes, and production on ejidos, especially those operated collectively, is greater than those on private holdings. Given their lack of resources, it has been shown that the ejidos have better production than the supposedly more efficient and modern latifundias. (14) Since the mid-1960's, the national government has developed new programs to aid ejidos, with the improvement of irrigation, the introduction of new agricultural methods and increased technical education programs.

The Instituto Nacional Indigenista, however, is responsible for the coordination of all the government's programs effecting Indians, including those residing on ejido lands. (The Office of Indian Affairs was disbanded in 1970,

with its functions distributed among the various ministries of the government.) INI's current programs include education, nutrition, health improvement and agricultural projects serving rural Indian communities.

Placed in the Ministry of Education, under the office of the Undersecretary for Popular Culture and Nonschool Education, by President Echeverria. INI coordinates the work of various ministries with Indians located in designated communities through area offices known as Centros Coordinadores. The area offices are located in cities in regions with heavy Indian populations. However, they do not serve all Indian communities, or those Indian people living in urban neighborhoods. The more remote Indian settlements within the jurisdiction of an area office often do not receive services. The Indian population of Mexico has been estimated to be 5 million; but of the 984,690 Indians living within the jurisdiction of the area offices, only 560,000 can be said to be receiving the benefits of government programs. (15)

The government of President Echeverria has declared its intention to promote Indian welfare and protect Indian culture. During a seminar on the work of INI, Gonzalo Aguirre Beltran, then Director of INI, now Undersecretary of Popular Culture and Nonschool Education stated that:

...The Indianist policy which guides our action is neither unrealistic nor paternalistic; it is rationally delineated, and tries to introduce to Indian life, those elements of modern culture and economy that permit the Indian communities to maintain their own political, cultural and social tools, indispensable in order for them to generate their own development and thus be able to rid themselves of the dependency and exploitation in which they now find themselves. (16)

To that end, INI is charged with coordinating the programs of the various Ministries which effect the rural Indian communities. INI itself has a staff of 606, with a budget of 24,4 million Mexican pesos in 1970 (about 1.95 million dollars). An estimated 51% of the budget went to salaries. (17) However, INI does not pay for the over 3,000 teachers in Indian communities, their salaries



coming out of the Ministry of Education budget. Also, unlike the United States programs, many of the projects in Indian communities are done with Indian labor and/or funds. (18) The INI budget is planned by its officials, although the Indian communities are the ones who must request and develop local projects; INI's funds come through Undersecretary Aguirre Beltran's office. (it is Dr. Officer's opinion that Aguirre Beltran's close relationship with President Echeverria permits a flexible access to national funds, not an unusual situation in Latin American politics). To summarize, much of INI's work is to coordinate and help implement government programs through its 14 area offices. The major thrusts of the programs, are in the areas of education, sanitation, and health, and agricultural development. While there is a continued interest in the production and marketing of Indian crafts and other small industries, the government's economic development programs are geared towards improving agricultural production.

INI has its critics, as can be expected. However, most of the wellknown critics are non-Indians. (There is no national Indian movement; tribal communities having only minimal relations with any outsiders, either non-Indian or Indians). Alejandro Marroquin (19) charged that the Mexican Indianist movement had become bogged down in a bureaucratic tedium. He describes the staff as too bureaucratic and undevoted to Indianism; unwilling to face new crises, such as population pressure; and incapable of careful program planning and evaluation. (20) He feels that INI needs authority over the other Ministries, in order to properly coordinate programs; increased planning, with input from social scientists, and the power and initiative to effect a real change in Indian-non-Indian relationships. Another critic also voiced the opinion that the Indianist movement has not diminished the exploitation of the Indians by non-Indians. He went on to say that it is the old upper class elite and the new middle class bureaucrats who retain all the political and economic power on the local level; he called on the

government to initiate policies which would alter the power structure. (21)

But the charge that INI has failed to sponsor the development of Indian leadership on a national political level is not made, as it is by critics of United States government policies.

Mexico has had an active and long-standing involvement in the Indianist movement. But other facts also set it apart from other Latin American countries with much-discussed Indian policies. Mexico has neither a large or small Indian population, by Latin American standards: Dr. Marroquin estimated 14% of Mexico's population to be culturally identifiable as Indians. (22) Both Peru and Bolivia have a majority of Indians by the lowest estimates. Other countries, like Argentina, have much smaller indigenous populations. Of course, it is difficult to obtain accurate figures of Indian populations in Latin America, partly due to the isolation of some Indian communities, and partly due to the varying definition of Indian-ness. Latin American countries have no parallel to the United States' official use of tribal enrollment and blood quantum as indicators of Indian-ness. Rather some rely on the use of Indian dress or language, not just retention of Indian cultural values or tribal identity; almost all consider as Indian those living in an all-Indian community, and those living in mixed or urban areas as non-Indian. Thus, governments direct their Indian policies to exclusively Indian rural communities. In some areas, most notably Peru, the term "Indian" (either *indio* or *indigena* in Spanish) is not used by the government, rather "peasant" is used (*campesino* in Spanish), since, by definition and economic status, most Indians would be peasants (although not all peasants would be Indian).

(Popular idioms in Latin America continue to use terms for "Indian" in addition to terms defining the economic status of Indians in agrarian communities - the varying degrees of peonage, or small landowner. Those persons and groups of mixed Indian and European or African ancestry are also labelled by various terms, most notably *Mestizo*. *Mestizos* are generally in a better economic position than

traditional Indians, and may well be on their way into incorporation into more elite euro-american classes. Gradations of European blood are weighed along with degree of adoption of euro-american culture and socio-economic status in labeling individuals as belonging to one cultural/racial group or another. Each country has its own terms for various groups, some making more distinctions than others. Since government definitions of Indian-ness would preclude their access to any benefits or privileges assigned to Indians and given the universally low social and economic position of Indians, it is not surprising that most mixed-bloods do not seek identification with the Indian communities).

Another important characteristic regarding almost all Latin American Indians is the isolation of their communities. Not only are the communities isolated from the urban centers, but also from each other. Lack of roads and other means of communication is only a part of the cause. Language barriers, historical enmities between tribal groups as well as a general distrust of all outsiders have all been noted in numerous studies of Indian communities. Although there do seem to be some recent attempts to mobilize inter-tribal and international Indian movements, (24) in the past these movements have not been frequent or successful.

Other general conditions in Latin American have an important impact on Indian policies. One of the most talked about aspects of Latin American governments is instability. Although such instability is not as critical as American jokes contend, Latin American politics are characterized by more ideological divergences than is true in the United States, with the result that changes in administrations have much more pronounced effects on policies. Political factionalism and violence is more common. While some countries do witness frequent coups, for example Ecuador, others such as Mexico are quite stable. Bolivian politics have been controlled by the same party since 1952, although it has shifted considerably to the right.

Part of the political situation can definitely be attributed to the economic pressures faced by Latin American governments. As part of the Third World, Latin America finds itself in a precarious situation in international economics. Faced with rapid population increases and rising expectations, Latin American governments find themselves incapable of improving their economics without heavy reliance on foreign investments. Industrialization programs, especially dependent on foreign funds and technology, have failed to provide either enough jobs or adequate increases in the national wealth. Jobs created by industry have been outdistanced by population growth.(23) Many Latin American governments seem to be emphasizing the development of natural resources, especially agricultural resources, in order to improve their economics. Even with a very rapid growth of urban populations, the rural population remains high, with much under-employment and unemployment. But because the governments have their eyes on the international economy, their concepts of agricultural development are often focused on cash crops, not on improving food production for local consumption. And again, as in industry, the governments turn to large developers many with foreign funds, and also depend on agricultural technologies developed primarily by foreigners (especially Americans). The exploitation of mineral resources shares similar problems, and affects Indian populations in such areas as Bolivia and the upper Amazon basin. The United States has a major impact in all areas of Latin American economics, but there has also been an increased amount of interest and investment by the West Germans, Japanese, British and French.

The economic position of Latin American countries effects more than the general direction of their development plans, since it means that the amount of funds available for government programs is quite limited. Offices can pay salaries but do not have extensive funds for give-aways, either in the form of direct payments to individuals or in the form of complete funding of housing, medical or sewage treatment projects. The monies for such projects must either

be supplied by the communities themselves or by various foreign institutions and charities. (There are, for example, some 40-plus organizations, many of them Catholic, with programs effecting Guatemalan Indians, in addition Guatemalan agencies. (25) )

The scarcity of government funds is only one result of the generally low economic condition in Latin America. If the Latin American governments and upper classes do not possess great wealth and must turn to foreign creditors, it is not surprising that the poverty of the lower classes should be devastating. Few peasant communities have electricity and running water, their housing is poor, and much overcrowded. Conditions in urban areas, the barrios where the new lower class migrants live, are not much better. The effects can be readily observed in health statistics; diseases such as tuberculosis, pneumonia, gastroenteritis are among the biggest killers in many countries. Those Indians remaining in rural areas for centuries formed the labor force for white landowners. Even now few Indians have sizeable land holdings; most have access to small plots, barely enough to provide a meager diet and not enough to provide work for all those able to work. In most countries the largest percentage of the land remains in the hands of a small number of white families, relying on peons and migrant laborers for their work force. (In comparison, United States census information shows only 1% of farms can employ more than 12 workers, while Argentina had the lowest percentage in Latin America - 20%, and, for example, Chile had 80%. (26) ) The large haciendas do not make full use of their lands, much of which lies fallow or is completely untouched, again aggravating the plight of the land-poor Indians. Indians outside farm areas remain in the lower classes, as minors, unskilled workers or domestic servants, although a few are now among the educated middle classes

The country with what is probably percentage-wise the largest Indian population, about 60% of the total (27), Bolivia has experienced some land reform. Following a border war with Paraguay when many Indians served in the national army

a national Indian movement began, gaining momentum during the 1940's. Bolivia as a whole was undergoing political change culminating in 1952 when the M.N.R. (National Revolutionary Movement) came into power. Indian peasant unions had been active in the M.N.R., and were able to realize benefits under the new regime. Land reform laws were initiated, two cabinet members and a large portion of parliament delegates were Indians.

Bolivian land reform laws did manage to break up many of the old haciendas; but most of these were medium-sized units. The most powerful landlords lost only a portion of their holdings. (28) As in Mexico, poor preparation for the division of the haciendas undermined much of the possible benefit of land reform. Individual Indians did not receive titles to hacienda lands, but were only allowed to control their former small plots. The management of the new union-owned cooperatives did not come into the hands of technically trained community organizations, but were subject to a new Indian or mestizo leadership, too often exploitative, or became dependent on outside agencies. The peasant unions faced conservative or corrupt leadership, or were unable to secure self-determination in the face of the dictates of the Ministry of Peasant Affairs. (29) In addition, the land reform movement suffered from a continuing lack of training and education for the peasants. The United States-based Inter-American Agricultural Service, U.S.A.I.D. and the Peace Corps were given the task of administering extension services, but, not familiar with, or sensitive to, the particular situations in Bolivia, their programs often failed to foster true community development. (30) Credit has also been generally unavailable to the Indian communities, as the government's Agricultural Bank refused to recognize the new land titles, and the Inter-American Agricultural Service has advanced credit primarily to the new agribusinesses in eastern Bolivia rather than to highland Indian communities. Remarking on the failure of the coöps to obtain credit, and proper technical assistance, a Colombian economist cited "pressures from the private commercial and banking economy-based on the political

strength of the <sup>new</sup> bourgeoisie..." (31) The U.S. Army handbook for Bolivia noted that the former landlords had not been rendered powerless, but had become

...local merchants and ... economic middlemen between the Indians and trading centers such as La Paz. In this manner they also retain their positions as cultural brokers for the nonintegrated Aymara (Indian) communities, continuing to serve as a filtering mechanism for the social and economic, if not political, institutions and values on the national level. (32)

Dr. Marroquin also commented that while the reform laws had abolished free labor practices, lack of credit and technology resulted in continued low living standards. Indian landowners had to pay high taxes, and had to provide free labor plus immediate payment of 60% of the costs of any public works undertaken in their communities, (33) unlike urban centers.

The workers in Bolivia's mines, all Indians, were also effected by the M.N.R.'s initial reforms. All mines were nationalized under the COMIBOL (Bolivian Mining Corporation). The living standard of miners, all union members, is higher than that of Indian peasants but lower than that of all other workers. The unions have been active in national politics, with a leftist, Trotskyite, orientation, and also have made high wage demands. The government, no longer so sympathetic to such agitation, had been able to use the peasant unions to break up the demonstrations of the miners. (34)

Like the peasant unions and the miners, the official Indianist movement has suffered losses with the increased conservatism of the Bolivian government. (35) The government established a national Indian institute, the I.I.B., in 1941. In 1952, the Ministry of Peasant Affairs was created, with an Indian at its head, and the I.I.B. became one of its offices. In 1954 the I.I.B. acted as host for the Third Inter-American Indian Congress, where the topic was land reform. While the I.I.B. had had 50 employees, 30% of them professionals, in 1954, they later dropped to a staff of 3 charged only with the international aspects of Bolivia's Indian affairs, primarily cooperation with the Inter-American Indian Institute. (The

I.I.B. is under the National Directorate of Community Development, as an adjunct of the office of Evaluation and Training of Personnel, which has a staff of 40).

Government programs effecting rural Indians are grouped under a complex known as SEDEX, the government's plan for community and agricultural programs (formulated in conjunction with several international organizations). (The miners' housing and other community needs are under the jurisdiction of COMIBOL). Rural education programs, also under SEDEX, are offered through the Ministry for Peasant Affairs. The education programs lack funds, and have an insufficient number of elementary schools. Unadequately trained, young outsiders, hired as teachers, are not well received in the communities. High schools are overcrowded, lack sanitary facilities and educational equipment and are poorly located. Health clinics, staffed by young outsiders and without medicines, are ignored. As noted before, foreign agencies provide much of the agricultural assistance, but are often out of step with both government policy and Indian needs.

The failure of agrarian reform, the lack of coordination between government offices and the dominance of foreign agencies have meant an end to the development of Indian leadership in the communities. Probably disillusioned at the outcome of promised reforms, many Indian peasants have again withdrawn from national politics. But some Indians formed a radical organization known as the Bolivian Indian Party, which has published several works decrying the political situation and idealizing the Inca past. As of early 1971, the radicals still had not drawn the majority of Indian peasants to their cause.

Peru is in many ways similar to Bolivia. Most of its Indian population lives in the highlands, once the center of the Inca Empire. Fewer Indians live in the western coastal areas and in the eastern Amazon basin. The Indian population totals about 5 million, slightly over 50% of the national population, according to one estimate. (36)

Land reforms, however, were not introduced to any significant extent until



after 1968. Unlike Bolivia, the majority of the Indian population had remained outside of the national political arena. While Indian communities in the highlands maintained organizations dating from colonial times, the formal local governments usually remain in mestizo or white control. (37) Those Indian communities which managed to remain independent of haciendas have been more progressive, and have in the past received better services than those communities linked to haciendas. The members of progressive communities have been more demanding of, and less satisfied with government policies; they also tend to identify themselves less as Indians and to feel more competitive. (38) But although the Indian peasants in Peru have not been the political force they were in Bolivia, they have not remained entirely inactive. In the early 1960's attempts were made to mobilize peasant unions throughout the country. Writing just before 1968, one Peruvian scholar commented on problems facing the new peasant unions:

These peasant organizations are not supported by any political parties of importance at the national level. This is because the Indian mass is not permitted to vote, due to a literacy requirement which most Indians cannot meet, and because popular mobilization is not regarded as legitimate under the rules of the Peruvian political game. (39)

Spurred by university students and urban leaders, but outside the political parties the peasant unions faced brutal repression in the mid-60's at the hands of a comprehensive government. A law of Agrarian Reform was passed as a result of the uprisings, but it denied benefits to any peasants where haciendas had been attacked. (40)

A military coup in 1968 resulted in a considerable shift in government policy. Stronger land reform measures were enacted and more government programs were fostered to spur community development. Formerly independent communities as well as former haciendas were, by the new laws, to become cooperatives, worked and owned by peasants. The cooperatives could follow one of several different types of organization, depending on their situation. The new government also hoped its policies

would result in economic improvements, modernized technology, liberation from a stiffling bureaucracy and full employment within the communities. (41) The government also set up a new form of community government, and has encouraged the growth of regional markets, where Indian peasants can sell their cash crops to urban whole-salers, by-passing mestizo middlemen. (42)

The government's land reforms did not, of course, alter the Indian peasants' condition overnight. Overpopulation and underemployment still prompt many Indians to leave their communities in search of work in urban areas. Those that remain have been reluctant to accept the cooperatives, preferring to hold individual plots. Some have remained loyal to former landowners, or other non-Indian authorities, and, accepting their arguments that land reform cooperatives are part of a leftist plot to take away their lands, have refused to convert their small holdings into new cooperatives. The Indians' suspicions of the cooperatives are not unjustified; without adequate education and technical training, the Indians are unable to manage the cooperatives, especially in the production of cash crop managers and federal advisors. Still in need of basic education and training in the use of machinery, credit institutions and in commercial agriculture, the Indians are forced to rely on outside advisors and managers, with the possibility that they will never gain real control of the lands they work. And, the Indians still are outside the local and national political power structure. The old white oligarchy has simply been replaced by the new white of military leaders and bureaucrats. (43)

The Peruvian government delivers services to Indian peasants through a variety of agencies. Since 1969, the government ceased to distinguish Indian peasants from non-Indian peasants, stating through a law that the 2,337 Indian communities would henceforth be known as peasant communities. (44) It has had a Peruvian Indian Institute since 1946, but that office, located under the Labor Ministry, is limited to personnel functions. Even the evaluation and investigation of government programs is conducted by another office, the Directorate of Communities. While various

distinct agencies are charged with performing services in rural areas, the National Office of Community Development (ONDC) coordinates their delivery, in order to avoid duplication, unify methods of action and centralize funds and services. ONDC has a staff of 60 professionals and a budget of 40 million dollars (half of which comes from the International Development Bank). It suffers from a variety of problems: lack of sound planning, lack of Indian input ( projects are enacted counter to Indian wishes) and a certain amount of paternalism, scarcity of dedicated personnel and bureaucratic red tape. But as Dr. Marroquin states:

Perhaps the greatest difficulty ONDC has encountered relates to coordination, which often fails to take place because the representatives of the offices with which it must act have their own hierarchies, and when decisions must be made the representatives must reserve their commitments to await the decision of superior officials. At times the directing offices spend weeks discussing matters of little importance, forcing the suspension of action. (45)

(Again, those Indians who migrate to urban areas are left out of such community development programs and policies. The migration is considerable, the major portion of the 75,000 who came to Lima every year are Andean Indians; there were an estimated 3/4 million Indians in Lima in 1970. Most of these Indians are found in the miserable slums encircling the city, housing themselves near others from their own village and retaining much of their culture. (46))

Guatemala, where Indians composed 43% of the population in 1964, has a rural economy dominated by cotton, coffee and banana plantations, many of which are foreign-owned. Land reforms, much needed, have not been enacted, leaving Guatemala with a traditional political and economic system. (Figures for 1950 show .1% of the rural families controlling 40% of Guatemala's agricultural land, and 1.5% controlling another 32% of the land. (47)) The heavily Indian population of the rural areas are left with small farms, with poor land quality and poor output, which must support large families. Many Indians hire out to the plantations, in groups of migrant workers, attempting to add to their meager income. Questioned about reasons for seeking such work, Indians also cited land shortages, poor harvest

underemployment and lower pay in their home communities. But the economic benefits of migrant labor are not great, since there are also negative effects: workers bring diseases home, the family structure is endangered, and, if the family goes with the worker, the children miss school and fail when they return. (48)

Indian political activity has generally been limited. The majority of Indians are, and have been, illiterate, and thus have often been disenfranchised. Given the vote in 1945, illiterates were again prevented from voting in the 1950's, although voting regulations have since been liberalized. (49) The government has generally stood strongly behind the rural oligarchy, not only denying land reforms, but often requiring Indians to work for certain periods on the large plantations. (50) There have been attempts to bring about land reform, especially in 1952-54. But this last attempt failed and those people working in Indian communities who advocate land reform have been the targets of repression.

Not only have Indians sought migrant labor to alleviate their poverty, but many have moved to the cities. One-fifth of the nation's urban population is Indian. Like those Indians in other Latin American cities, the Guatemalan Indians live in the poorer sections of the cities, near others from their home community. Most retain their language and cultural values, and make trips home, some as often as every week. Some Indians have managed to do well in the latino society, graduating from universities; but rather than accepting a future as non-Indians, over 80% of the 158 graduates of the University of Quezaltenango, refuse to work for latinos, and have begun "to show a tendency to form a political front, "Red Power", similar in many aspects to the "Black Power" movement in the United States." (51) Their demands include a Ministry of Indian Affairs, representation in the Congress and use of native languages by local officials. (52)

As a member of the Inter-American Indian Institute, Guatemala established its National Indian Institute (I.I.N.) in 1945. The Institute is now located in the Ministry of Education under the Directorate of Rural Society. I.I.N.'s

internal organization includes a Director, with an Advisory Council, a Secretary and, below that office, Administrative sections. Reflecting its purposes of investigation, advise to government offices and coordination with the Inter-American Indian Institute, scientific organizations and foundations, the Advisory Council includes social scientists, representatives of the University Council, the Society of Geography and History, the Carnegie Institute of Washington, and from the Public Health, and Government. (53)

The Institute has been active in research and publication, much relating to descriptions of Indian cultures and Mayan monuments, has done linguistic work (relating to bilingual education), and formerly provided anthropological training for government workers. Its social projects have included the promotion of the native textile industry, general community development projects, such as road and well construction, soil conservation and agricultural extension, and a pilot project for integrated community development. All its work has been conducted within a small budget, which was even further reduced by 38% between 1965 and 1970.

The Institute's small budget is only one indication of its limited role. Most work in Indian areas is done by 22 other government offices, from the Ministries noted above. The most notable of these offices is the Indian Economic Development Service (S.F.E.I.), under the National Institute for the Promotion of Production. With a budget much larger than that of I.I.N., S.F.E.I. still has problems: a vague policy, a lack of planning studies, failure to make good use of Indian personnel, and an unwillingness to tackle basic problems, the latter two due, no doubt, to fear of non-Indian opposition. Both I.I.N. and S.F.E.I. demonstrate the vulnerability of the government's Indian welfare; for example, while cutting I.I.N.'s budget, the Minister of Education complains that I.I.N. is a do-nothing bureaucratic office. (54) While acceding to demands from the left by conducting various projects, the scarcity of funds and failure to challenge the structure of Indian-white relations shows that the government leans more to

the right, which decries Indian programs as a waster of funds and Communist infiltration. The needs of urban Indians and the necessity for basic land reform continue to go unanswered. (55)

Ecuadorian Indians find themselves in a situation similar to that in Guatemala. Composing an estimated 45% of the total population, and 15% of the urban population (56), Indians are in the lowest classes. Several sectors of the economy, including large landowners, the would-be landowners of the middle class, and the Catholic Church, all seek to maintain the status quo, where a few hold most of the land. A few Indian peasant unions have formed, but there have been no large organized Indian political movements. Indian voters are, however, exercising an increased independence at the polls, and have begun to express their own demands. (57) But the governments, as they come and go by election or coup, have changing policies, saying much but doing little to enact real changes, especially in relation to land reform. (The only land reform measures have been to promote the "colonization" of less populated areas, meaning that one group of Indians displaces another (58)).

Ecuador has its national Indian Institute (I.I.E.), established in 1942, which is charged with conducting studies in order that Indian life may be improved both in Ecuador and the whole hemisphere. The I.I.E. has a Director and a General Assembly, and five Technical Sections. It coordinates its work with the Ministries of Social Security, Education and Agriculture. While not responsible for Indian programs, which it could not conduct with its small budget, Ai.i.e. has several areas of activity; it conducts meetings and conferences with Indian groups and scholars and was the host for the Fifth Inter American Indian Conference in 1965, it has published materials on Indians and has organized Indian folklore exhibits, and has aided in the provision of scholarships to Indian students. (59)

While the government also established an Indian Affairs Board under the Ministry of Labor and Social Welfare in 1958 <sup>(60)</sup>, the Andean Mission of Ecuador, made part of the government in 1963, now handles most of the programs effecting rural Indians. (The Andean Mission is headed by the Undersecretary of Social Security and Labor <sup>(61)</sup>). same line

The Andean Mission was originally an international organization working through the International Labor Organization and the United Nations. The Andean Mission of Ecuador, while located in the government, receives its funds from the I.L.O. and the U.N., as well as from such organizations as CARE, the Peace Corps and U.S.A.I.D. The thrust of the programs coordinated by the Mission is to promote rural development through social, economic and technical assistance. But, as elsewhere, the programs have often failed due to both the traditional Indian distrust of outsiders and to lack of a specific orientation to the needs of Ecuadorian Indians.

The Mexican, Bolivian, Peruvian, Guatemalan and Ecuadorian governments, while differing in the degree of their involvement in Indian affairs and their commitment to land reform have several things in common. Their Indian policies are aimed at Indian peasant communities, which were formerly part of the Inca or Aztec empires or the <sup>A</sup>ayan culture. They have not dealt with the needs and problems facing their urban Indians, or, in the cases of Peru and Bolivia, those smaller, dispersed bands in the Amazon basin. The Indian peasants have no doubt attracted much of the attention focussed on them due to their numbers and the fact that true agricultural development, which the countries seek, cannot take place unless the Indians' poverty is alleviated and the Indian communities made more economically productive. Those areas where the Indian blends into the rest of the population, either in urban slums or in countries with small Indian population, they have received no special attention. And in all cases, Indian policies and programs are continually at the mercy of national political

interests and often fall victim to the opposing interests of the elites.

It is not surprising then that the most vulnerable Indians are found in the Brazilian forests. Of 93 million inhabitants in 1970, only 120,000 were classes as racially and culturally pure Indians. Given the growth of the mostly white and racially mixed population, which was 41 million in 1940, and will probably reach 200 million by 2000 <sup>(62)</sup>, the Indian population will certainly diminish in proportion, and will probably not attract much national interest. There has been a reduction of the Indian population since 1900. Of 230 different groups known then, 87 have been exterminated. Another 105 groups had then a population of 50,000 which in 1967 was reduced to 13,320. Feeling the population pressure and seeking to better its international economic position, Brazil's conservative government has had little interest in protecting the Amazon tribes. Faced with charges of genocide, the government declares its policy to be one of assimilation, saying that "assistance for the Indian must be as complete as possible, but it cannot obstruct national development and the work to settle the Amazon."<sup>(63)</sup>

Charges against the Brazilian government and individuals began to attract international attention in the late 1960's. Stories of massacres, of germ warfare and other abuses, including government corruption, were published. Guilt was, in most cases, hard to prove, since those responsible for crimes either denied them, found alibis or vanished, not hard to do in the vastness of the Amazon basin. But the rapid decline in the native population and the accounts of a few truthful or sympathetic whites were evidence that the stories were not simple fabrications. The Brazilian government denied any serious misdeeds, but did attempt to reform its Indian Service.

From the 1940's to 1968, the Brazilian Indian Service (S.P.I.) had been following a policy whereby tribes were contacted, urged to gather at certain points where they could receive services and begin a process of acculturation,



eventually leading to assimilation. There was some debate, which continues, as to how rapidly the Indians should be acculturated. Some, most notably the Villas Boas brothers, argued in favor of establishing reservations where Indian groups could retain most of their culture and aboriginal lifestyle, only slowly being exposed to white culture. Enough others agreed in the concept of reservations that several have been established, most notably in the Xingu National Park. But the policies of SPI often failed in reality. With a small staff, who received low salaries, SPI was unable to enforce humanitarian policies in the face of the political influence of Amazon developers. Agents were bribed, and if some did not actually take part in crimes against the Indians, they were certainly unwilling or unable to prevent them.

Several aspects of Brazil's development policy contribute considerably to the Indians' problems. Indian title is not assumed; if a developer can state that land is uninhabited, he can purchase title to it. (64) This has no doubt been an incentive to the destruction of Indian villages. A considerable number of the developers are foreigners, including corporations, something which the government favors since it brings more outside money into Brazil. Foreign investment, both private and government, in Brazil has not slowed despite the government's generally repressive politics and complaints about its Indian policies. The influence of the developers has almost made it impossible to prosecute anyone charged with murdering or defrauding Indians, since many can claim as relatives the very men charged with their prosecution and others simply need assert Brazil's dependence on their monies. (65)

In 1968, the SPI was disbanded, in an attempt to rectify some of the problems and to purge the Indian Service of corrupt agents. But the new Indian office, FUNAI (the National Indian Foundation), has not been able to protect the Indians either. The development of the Amazon continues, and the Indians remain demoralized and vulnerable to such diseases as measles, smallpox and

alcoholism. FUNAI's services, even if they could be considered as based on sound policy, are inadequate to meet even the most basic needs of the Indians. Anthropologists and Catholic bishops and priests in the Amazon have decried the Indian policy, saying that the FUNAI reforms were failures and its initial vow to protect Indians a hypocrisy. (66) Decrying the FUNAI officials as "servants of the exploiters of the Indians" and the government's anti-Indian development policy, Dr. Marroquin stated:

To date the Indianist action (of the Brazilian government) has not impeded the displacement of aboriginal populations and their exploitation as a cheap or simply free labor force, nor the frequent usurpation of Indian lands, nor, much less, the violent disruption of their culture. For that reason it can be said that in Brazil the acculturated Indians and those Indians 'served' by Indianist organizations are in worse conditions than the Indians in those groups not yet subject to acculturation. (67)

The Inter-American Indian Institute, to which all of the governments discussed above belong, has had a rather limited impact of the policies of Latin American and United States governments toward the hemisphere's Indian populations. (Canada has never been a member of the I.I.I.) Like the United Nations, the I.I.I. is an organization of diplomats, with no power to enact its recommendations. Recommendations made in support of land reform have not secured results. The most recent controversy, involving the genocide of Brazilian Indians, was not dealt with head-on, and no condemnation had been issued. In fact, the director of the I.I.I. at the height of international debate was a Brazilian, which, as one American put it, was "a cover-up" of Brazilian activities. (68)

The I.I.I. is faced with other limitations. It lacks official Indian involvement, since Indians have not made the rank of diplomats and high officials in most of the member nations. Its budget is extremely limiting. For example, the budget in 1963 was \$93,771.04, over 65% of which was contributed by the United States; in 1975 less than \$85,000.00 was collected, with the U.S. again

contributing about 65%. (69) And the Institute is also limited by the general economic, social and political situations in its member nations, which especially given its organization and funding, it cannot control.

The activities of the Institute have included publications, both a quarterly magazine and monographs, such as Dr. Marroquins' book, training courses for people involved in Indian programs, meetings such as the Inter-American Congresses, and a limited amount of research. The research projects, to which the I.I.I. allocates \$2 - 3,000 a year, can be requested by member nations, for such information as the number of people in a certain area. Another type of research project was a study of alcoholism among some Panamanian Indians conducted by a Cuna Indian anthropologist, funded and published by the Institute. The topics included in publications are selected by the Director and the editorial board of the Institute, for their practical utility. There are descriptions of various situations in the Indian communities, and books such as a midwife's manual, and translations usually into Spanish of important works on Indian affairs. (70) The Institute's training courses have been considered successful. Five or six are held a year, of varying length and with different topics, such as Indian adult education, and the role of Indian women in community development. (The Institute often shares sponsorship of these "courses" with other international organizations such as O.A.S. and the U.N.)

In his book "The Balance - Sheet of the Indianist Movement", Dr. Marroquin made several major recommendations for the Institute. He wanted to see it upgraded to more of an action-oriented body with the involvement of more social scientists and Indians than diplomats. To carry out his recommendations for revitalizing the Indianist movement, Dr. Marroquin wanted to see the national Indian Institutes of the member nations given more policy-making power and to be made more effective in implementing their goals, with a stronger, more "filial" relationship between each national institute and the I.I.I. In this

manner he hoped to temper the unrestrained and exploitative development policies of the governments, to promote well-planned land reforms and to curb tendencies to bureaucratization of Indian offices.

The Institute has been reviewing its goals and structure in an attempt to clearly define its future direction. Recent meetings of its Executive Committee have discussed this topic, but the outcome is not clear yet. United States officials would like to see more Indian participation and interest in the I.I.I., directly through the Institute and its programs or indirectly through private Indian organizations. (71) Such involvement, they feel would insure better policies and more meaningful activities on the part of the Institute in addition to improving the Indians' awareness of each others activities, desires and problems.

## FOOTNOTES

- (1) See p. 1, Appendix A.
- (2) John Collier, Indian of the Americas, p. 174.
- (3) Hearings before the House Appropriations Interior Subcommittee, Interior Department Appropriation Bill for FY 1943, p. 186.
- (4) Collier's autobiography contains references to this feud. See Collier, From Every Zenith, p. 362. Ill-feelings also existed between Secretary of Interior Ickes and Johnson. Also, like some other members of the House before him, Johnson was not willing to fund a program simply because a Senate-ratified treaty had called for its establishment. (Rep. Jed Johnson is not the Johnson of the Johnson-O'Malley Act; that was Sen. Hiram Johnson of California.)
- (5) Hearings before the House Appropriations Interior Subcommittee, Interior Department Appropriation Bill for FY 1950, p. 20.
- (6) Collier, From Every Zenith, Chapters 30 and 31.
- (7) *Ibid.*, p. 365
- (8) It should be noted, however, that the Senate subcommittee had supported the Institute's requests for funds.
- (9) Interviews with Simon Wilson (of the State Department) and Dr. Officer.
- (10) Collier, Indians of the Americas, p. 172.
- (11) Collier, From Every Zenith, p. 360. He states that 23 million hectares were made part of the ejidos, effecting 13,000 Indian communities. However, not all ejidos are exclusively Indian.
- (12) A. Marroquin, Balance del Indigenismo, P. 98.
- (13) While various sources referred to the failure of the ejidos, my most detailed and informative source was Rodolfo Stavenhagen's article, "Social Aspects of Agrarian Structure in Mexico."
- (14) *Ibid.*, p. 250. Also, S. Eckstein, "Collective Farming in Mexico," pp. 292-4.
- (15) Marroquin, *op. cit.*, p. 110.
- (16) ¿Ha Fracasado El Indigenismo?, p. 26. The translation is my own.
- (17) Marroquin, *op. cit.*, pp. 102-104.
- (18) Interview with Dr. Officer.
- (19) Dr. Marroquin is a social scientist from El Salvador. His study was funded by the Organization of American States and published by the Inter-American Indian Institute.

- (20) He cites the example of a program, intended to develop fruit production, in which the government gave away fruit trees, but failed to instruct receipts in the care, harvesting, storing and marketing of the fruit.. The result was that the Indians did their best with the trees, but wound up selling the fruit to local non-Indian merchants at whatever price they were offered. Marroquin, op. cit, p. 118.
- (21) Antonio Vargas MacDonald, in ¿Ha Fracasado El Indigenismo?, pp. 172-175.
- (22) Government figures, counting only those speaking an Indian language and living in a traditional Indian community, are lower; around 7%.
- (23) Barraclough and Domike, "Agrarian Structure in Seven Latin American Countries," p. 80.
- (24) The recent conferences of Indian peoples from all over the American hemisphere may be the beginning of a new trend. The Wingspread Report on the Protection of Human Rights for Indians and Units cites plans to hold a national Indian conference in Mexico in 1974, but I was unable to locate information on the outcome of the conference.
- (25) Marroquin, op. cit., pp. 134-6.
- (26) Barraclough and Domike, op. cit., p. 49.
- (27) Marroquin, op. cit., pp. 240-241.
- (28) A. Garcia, "Agrarian Reform and Social Development in Bolivia," p. 311.
- (29) Ibid., pp. 311, 330; also, Marroquin, op, cit., p. 275.
- (30) Garcia, op. cit., p. 327; Marroquin also stresses this point in his chapter on Bolivia.
- (31) Garcia, op. cit., p. 333.
- (32) Department of the Army, Area Handbook for Bolivia, p. 85.
- (33) Marroquin, op. cit., p. 254.
- (34) Ibid., pp. 254-263.
- (35) Information in this section is derived from Marroquin's chapter on Bolivia, pp. 263-277.
- (36) Marroquin, op. cit., pp. 181-3.
- (37) Department of the Army, Area Handbood for Peru, p. 67; J. Cotler, "Traditional Haciendas and Communities in a Context of Political Mobilization in Peru.", p. 536.
- (38) Cotler, op. cit., pp. 552-558.
- (39) Ibid., p. 540.

- (40) Ibid., p. 540-1.
- (41) Marroquin, op. cit., pp. 188-9, 201-5.
- (42) Ibid., p. 189; Department of the Army, Area Handbook for Peru, p. 67.
- (43) This passage relies most heavily on Dr. Marroquin (pp. 205-9) who made his critique of Peruvian policies in 1971.
- (44) Ibid., p. 188.
- (45) Ibid., p. 197 (my translation). I have again relied on Marroquin for most of my information on the political structure.
- (46) Ibid., pp. 190-191.
- (47) Barraclough and Domike, op. cit., pp. 51, 59.
- (48) Marroquin, op. cit., pp. 124-126.
- (49) Dept. of the Army, Area Handbook for Guatemala, pp. 67-8.
- (50) Ibid., p. 67.
- (51) Marroquin, op. cit., pp. 142-143.
- (52) Information about the urban and militant Indians was found in Marroquin, pp. 128-9, 142-143.
- (53) Ibid., pp. 129-131.
- (54) Ibid., p. 145.
- (55) Ibid., pp. 129-147 discusses government programs and policies.
- (56) Ibid., p. 168.
- (57) Ibid., pp. 159-170, United Fruit Company, with considerable interests in Ecuador, has not been sympathetic to Indian needs.
- (58) Personal communication with Gil Hall.
- (59) Marroquin, op. cit., pp. 171-3.
- (60) Dept. of the Army, Area Handbook for Ecuador, p. 79.
- (61) Marroquin, op. cit., p. 174.
- (62) Population figures from Marroquin, pp. 211-213, 234; also Dept. of the Army, Area Handbook for Brazil, p. vii.
- (63) Statement by FUNAI's president in early 1971, quoted in "The Politics of Genocide against the Indians of Brazil: Document by a Group of Brazilian Anthropologists." (Sept. 1974)
- (64) N. Lewis, "Genocide", p. 14.

- (65) Ibid., pp. 20-21.
- (66) "The Politics of Genocide...", "Y - Juca - Pirama: An Urgent Document by the Bishops and Priests of the Brazilian Amazon" (Dec. 1973)
- (67) Marroquin, op. cit., pp. 225, 238, 236. (Translations are my own.)
- (68) Personal communication, Dr. Philleo Nash.
- (69) Marroquin, op. cit., p. 66; personal communication, Simon Wilson.
- (70) Personal communication, Dr. James Officer.
- (71) Interviews with Dr. Dave Warren and Dr. Officer.



93d Congress }  
1st Session }

COMMITTEE PRINT

APPENDIX A

# INTER-AMERICAN RELATIONS

A Collection of Documents, Legislation, Descriptions of  
Inter-American Organizations, and Other Material  
Pertaining to Inter-American Affairs,



NOVEMBER 1973

Printed for the use of the Committee on Foreign Affairs

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### 3. Inter-American Indian Institute

Niños Heroes 139, Mexico 7, D.F.

**Origin and development:** Resolutions designed to effect a solution of inter-American Indian problems of continental significance were adopted at the VII and VIII International Conference of American States held in 1933 and 1938, respectively. The latter Conference recommended that the American governments send representatives to the First Inter-American Conference on Indian Life to study the desirability of creating an Inter-American Indian Institute. The first Inter-American Conference on Indian Life met at Patzcuaro, Mexico, in April 1940, and drafted a plan subsequently incorporated into a convention, the terms of which created the Inter-American Institute. The convention was open for signature in Mexico City, on November 1, 1940, and came into effect on December 31, 1941.

The Inter-American Indian Institute was registered as an Inter-American Specialized Organization by the Council of the Organization of American States on March 17, 1953.

**Initial date of U.S. participation:** 1941.

**Current authority for U.S. participation:** Convention providing for the creation of the Inter-American Indian Institute, November 29, 1940, 56 Stat. 1303. TS 978.

**Purpose of organization:** The Institute develops information of use to the member governments in planning for the economic, social, and cultural betterment of Indians; initiates, directs, and coordinates scientific investigations, the results of which may be applied to the solution of Indian problems; and acts in a consultative and advisory capacity for national bureaus of Indian affairs. Moreover, it acts as secretariat for the Inter-American Indian Conferences and cooperates in the implementation of resolutions adopted by these conferences. The Institute collects, edits, and distributes information and reports of investigations on all phases of Indian life in the Americas; supplies information on legislation for, and the administration of, Indian groups in the American Republics and on the activities of institutions concerned with Indian groups.

**Governing body:** The Governing Board exercises control over the Institute. It is composed of one representative from each member government, and ordinarily meets every 2 years. The Board elects the Executive Committee, which is vested with the executive powers of the Institute under the general policy guidance and control of the Governing Board. The Executive Committee is composed of five members elected for a period of 5 years in such a manner that two are elected at one occasion and three at another.

**Membership (1973):**

Argentina  
Bolivia  
Brazil  
Chile  
Colombia

Costa Rica  
Ecuador  
El Salvador  
Guatemala

Honduras  
Mexico  
Nicaragua  
Panama

Paraguay  
Peru  
United States  
Venezuela

luty of every able-bodied person to  
ary service his country may require  
, and, in case of public disaster, to  
n his power. (Duty to serve the com-

any public office to which he may be  
state of which he is a national.

ty of every person to cooperate with  
respect to social security and welfare,  
l with existing circumstances. (Duties  
l welfare.)

ty of every person to pay the tax es-  
t of public services. (Duty to pay

duty of every person to work, as far  
permit, in order to obtain the means of  
unity. (Duty to work.)

duty of every person to refrain from  
s that, according to law, are reserved  
state in which he is an alien. (Duty to  
in a foreign country.)

#### 4. American Convention on Human Rights

##### 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 con-  
vention on human rights should determine the structure, competence,  
and procedure of the organs responsible for these matters,

Having 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 sub-  
ject 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.

(87)

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

CHAPTER II—CIVIL AND POLITICAL RIGHTS

ARTICLE 3. RIGHT TO JURIDICAL PERSONALITY

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

ARTICLE 4. RIGHT TO LIFE

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

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

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

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

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

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

ARTICLE 5. RIGHT TO HUMANE TREATMENT

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

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

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

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

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

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

ARTICLE 6. FREEDOM FROM SLAVERY

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

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

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

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

ARTICLE 7. RIGHT TO PERSONAL LIBERTY

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

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

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

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

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

6. Anyone who is deprived of his liberty shall be entitled to recourse to a competent court, in order that the court may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful. In States Parties whose laws provide that anyone who believes himself to be threatened with deprivation of his liberty is entitled to recourse to a competent court in order that it may decide on the lawfulness of such threat, this remedy may

not be restricted or abolished. The interested party or another person in his behalf is entitled to seek these remedies.

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

#### ARTICLE 8. RIGHT TO A FAIR TRIAL

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

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

- (a) the right of the accused to be assisted without charge by a translator or interpreter, if he does not understand or does not speak the language of the tribunal or court;
  - (b) prior notification in detail to the accused of the charges against him;
  - (c) adequate time and means for the preparation of his defense;
  - (d) the right of the accused to defend himself personally or to be assisted by legal counsel of his own choosing, and to communicate freely and privately with his counsel;
  - (e) the inalienable right to be assisted by counsel provided by the state, paid or not as the domestic law provides, if the accused does not defend himself personally or engage his own counsel within the time period established by law;
  - (f) the right of the defense to examine witnesses present in the court and to obtain the appearance, as witnesses, of experts or other persons who may throw light on the facts;
  - (g) the right not to be compelled to be a witness against himself or to plead guilty; and
  - (h) the right to appeal by 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 illegal 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 freedoms 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 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 may be restricted only pursuant to a law to the extent necessary in a democratic society to prevent crime or to protect national security, public safety, public order, public morals, public health, or the rights or freedoms of others.

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

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

6. An alien lawfully in the territory of a State Party to this Convention may be expelled from it only pursuant to a decision reached in accordance with law.
7. Every person has the right to seek and be granted asylum in a foreign territory, in accordance with the legislation of the state and international conventions, in the event he is being pursued for political offenses or related common crimes.
8. In no case may an alien be deported or returned to a country, regardless of whether or not it is his country of origin, if in that country his right to life or personal freedom is in danger of being violated because of his race, nationality, religion, social status, or political opinions.
9. The collective expulsion of aliens is prohibited.

#### ARTICLE 23. RIGHT TO PARTICIPATE IN GOVERNMENT

1. Every citizen shall enjoy the following rights and opportunities:
  - (a) to take part in the conduct of public affairs, directly or through freely chosen representatives;
  - (b) to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and
  - (c) to have access, under general conditions of equality, to the public service of his country.
2. The law may regulate the exercise of the rights and opportunities referred to in the preceding paragraph only on the basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings.

#### ARTICLE 24. RIGHT TO EQUAL PROTECTION

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

#### ARTICLE 25. RIGHT TO JUDICIAL PROTECTION

1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.
2. The States Parties undertake:
  - (a) to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state;
  - (b) to develop the possibilities of judicial remedy; and
  - (c) to ensure that the competent authorities shall enforce such remedies when granted.

### CHAPTER III.—ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

#### ARTICLE 26. PROGRESSIVE DEVELOPMENT

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

### CHAPTER IV.—SUSPENSION OF GUARANTEES, INTERPRETATION, AND APPLICATION

#### ARTICLE 27. SUSPENSION OF GUARANTEES

1. In time of war, public danger, or other emergency that threatens the independence or security of a State Party, it may take measures derogating from its obligations under the present Convention to the extent and for the period of time strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law and do not involve discrimination on the ground of race, color, sex, language, religion, or social origin.
2. The foregoing provision does not authorize any suspension of the following articles: Article 3 (Right to Juridical Personality), Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 6 (Freedom from Slavery), Article 9 (Freedom from *Ex Post Facto* Laws), Article 12 (Freedom of Conscience and Religion), Article 17 (Rights of the Family), Article 18 (Right to a Name), Article 19 (Rights of the Child), Article 20 (Right to Nationality), and Article 23 (Right to Participate in Government), or of the judicial guarantees essential for the protection of such rights.
3. Any State Party availing itself of the right of suspension shall immediately inform the other States Parties, through the Secretary General of the Organization of American States, of the provisions the application of which it has suspended, the reasons that gave rise to the suspension, and the date set for the termination of such suspension.

#### ARTICLE 28. FEDERAL CLAUSE

1. Where a State Party is constituted as a federal state, the national government of such State Party shall implement all the provisions of the Convention over whose subject matter it exercises legislative and judicial jurisdiction.
2. With respect to the provisions over whose subject matter the constituent units of the federal state have jurisdiction, the national government shall immediately take suitable measures, in accordance with its constitution and its laws, to the end that the competent

authorities of the constituent units may adopt appropriate provisions for the fulfillment of this Convention.

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

#### ARTICLE 29. RESTRICTIONS REGARDING INTERPRETATION

No provision of this Convention shall be interpreted as:

- a. permitting any State Party, group, or person to suppress the enjoyment or exercise of the rights and freedoms recognized in this Convention or to restrict them to a greater extent than is provided for herein;
- b. restricting the enjoyment or exercise of any right or freedom recognized by virtue of the laws of any State Party or by virtue of another convention to which one of the said states is a party;
- c. precluding other rights or guarantees that are inherent in the human personality or derived from representative democracy as a form of government; or
- d. excluding or limiting the effect that the American Declaration of the Rights and Duties of Man and other international acts of the same nature may have.

#### ARTICLE 30. SCOPE OF RESTRICTIONS

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

#### ARTICLE 31. RECOGNITION OF OTHER RIGHTS

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

#### CHAPTER V.—PERSONAL RESPONSIBILITIES

##### ARTICLE 32. RELATIONSHIP BETWEEN DUTIES AND RIGHTS

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

## PART II—MEANS OF PROTECTION

### CHAPTER VI.—COMPETENT ORGANS

#### ARTICLE 33

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

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

### CHAPTER VII.—INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

#### Section 1.—Organization

#### ARTICLE 34

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

#### ARTICLE 35

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

#### ARTICLE 36

1. The members of the Commission shall be elected in a personal capacity by the General Assembly of the Organization from a list of candidates proposed by the governments of the member states.
2. Each of those governments may propose up to three candidates, who may be nationals of the states proposing them or of any other member state of the Organization of American States. When a state of three is proposed, at least one of the candidates shall be a national of a state other than the one proposing the state.

#### 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 Exec-

tive 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 of 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 an investigation 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.

#### ARTICLE 51

1. If, within a period of three months from the date of the transmission 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 state of three is proposed, at least one of the candidates shall be a national of a state other than the one proposing the state.

###### 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 consider it desirable, and with the prior consent of the state concerned. The seat of the Court may be changed by the States Parties to the Convention in the General Assembly by a two-thirds vote.

2. The Court shall appoint its own Secretary.

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

###### ARTICLE 59

The Court shall establish its Secretariat, which shall function under the direction of the Secretary of the Court, in accordance with the administrative standards of the General Secretariat of the Organization in all respect 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 to 50 shall have been completed.

## ARTICLE 62

1. A State Party may, upon depositing its instrument of ratification or adherence to this Convention, or at any subsequent time, declare that it 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 re-

spect 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 starting from the date of its entry into force and by means of notice given one year in advance. Notice of the denunciation shall be addressed to the Secretary General of the 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.

Statements and Reservations

Statement of Chile

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

Statement of Ecuador

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

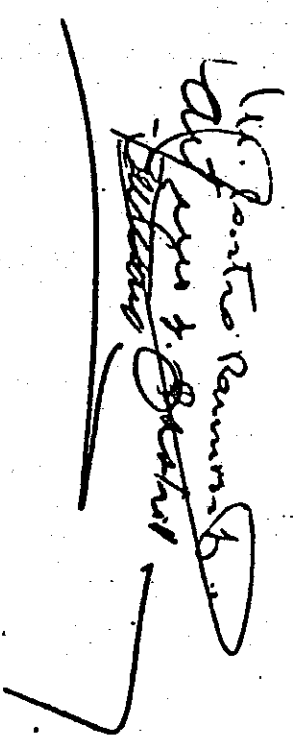
Reservation of Uruguay

Article 80.2 of the Constitution of Uruguay provides that citizenship is suspended for a person indicted according to law in a criminal prosecution that may result in a sentence of imprisonment in a penitentiary. This restriction on the exercise of the rights recognized in Article 23 of the Convention is not envisaged among the circumstances provided for in this respect by paragraph 2 of Article 23, for which reason the Delegation of Uruguay expresses a reservation on this matter.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, whose full powers were found in good and due form, sign this Convention, which shall be called "PACT OF SAN JOSE, COSTA RICA"; (in the city of San José, Costa Rica, this twenty-second day of November, nineteen hundred and sixty-nine.)

- Por El Salvador: [Signed]
- For El Salvador:
- Por El Salvador:
- Pour Le Salvador:

*W. Antonio Ramírez*  
*Secretary*



- Por Haiti:
- For Haiti:
- Pelo Haiti:
- Pour Haiti:

Por Colombia:  
For Colombia:  
Pela Colombia:  
Pour La Colombie:

[Signed]

*Walter Anwar*

Por Trinidad y Tobago:  
For Trinidad and Tobago:  
Por Trinidad e Tobago:  
Pour Le Trinité et Tobago:

Por Jamaica:  
For Jamaica:  
Por Jamaica:  
Pour La Jamaïque:

[Signed]

*James B. Pratt*

Por Ecuador:  
For Ecuador:  
Pelo Ecuador:  
Pour L'Equateur:

Por Los Estados Unidos de America:  
For the United States of America:  
Pelos Estados Unidos da America:  
Pour Les Etats-Unis D'Amérique:

Por Barbados:  
For Barbados:  
Por Barbados:  
Pour La Barbade:

[Signed]

Por Honduras:  
For Honduras:  
Por Honduras:  
Pour Le Honduras:

*J.P.E.*

Por Paraguay:  
For Paraguay:  
Pelo Paraguai:  
Pour Le Paraguay:

[Signed]

*Francisco*

Por La Republica Dominicana:  
For the Dominican Republic:  
Pela República Dominicana:  
Pour La Republique Dominicaine:

[Signed]

Por Panama:  
For Panama:  
Pelo Panama:  
Pour Panama:

*How Votey Usher  
Edward R. Usher  
Walter Pratt  
James B. Pratt*

Por La Republica Argentina:  
For the Argentine Republic:  
Pela República Argentina:  
Pour La Republique Argentine:

Por Brasil:  
For Brazil:  
Pelo Brasil:  
Pour Le Bresil:

Por Mexico:  
For Mexico:  
Pelo Mexico:  
Pour Le Mexique:

[Signed]

Por Chile:  
For Chile:  
Pelo Chile:  
Pour Le Chili:

*C. McLeod*

Por Uruguay:  
For Uruguay:  
Pelo Uruguayi:  
Pour L'Uruguay:

[Signed]

*Director General*  
*Dr. T. Amunátegui*

Por Bolivia:  
For Bolivia:  
Pela Bolivia:  
Pour La Bolivie:

[Signed]

*Carla María Rivera*  
*Dr. T. Amunátegui*

Por Nicaragua:  
For Nicaragua:  
Por Nicaragua:  
Pour Le Nicaragua:

[Signed]

*Dr. T. Amunátegui*

Por Peru:  
For Peru:  
Pelo Peru:  
Pour Le Perou:

Por Venezuela:  
For Venezuela:  
Pela Venezuela:  
Pour Le Venezuela:

[Signed]

*Dr. T. Amunátegui*

Por Costa Rica:  
For Costa Rica:  
Por Costa Rica:  
Pour Costa Rica:

[Signed]

*Dr. T. Amunátegui*

*Dr. T. Amunátegui*  
*Dr. T. Amunátegui*  
*Dr. T. Amunátegui*