

The American Convention on Human Rights

Canada has not signed or ratified the American Convention on Human Rights.

Adoption: The Convention was adopted at San Jose Costa Rica on 22 November 1969.

Entry into force: 18 July, 1978.

Number of signatories and ratifications/accessions: There are 25 state parties to the Convention. One state has signed but not ratified the Convention.

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Summary information

The Convention affirms the intention of State parties to consolidate “within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of man” and focuses mainly on civil and political human rights. The Convention builds on principles that have been recognized in the Charter of the Organization of American States (OAS), the OAS' American Declaration of the Rights and Duties of Man and the United Nations' Universal Declaration of Human Rights.

The [American Convention on Human Rights “Pact of San José, Costa Rica”](#) was adopted in 1969 by the OAS. It entered into force in 1978 upon the ratification of the eleventh state. The Convention also established the [Inter-American Commission on Human Rights](#) and the [Inter-American Court of Human Rights](#).

There are two optional protocols to the Convention:

- [Protocol of San Salvador: Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights](#); and
- [Protocol to the American Convention on Human Rights to Abolish the Death Penalty](#).

The Convention also offers signatories a chance to sign on to an additional protocol to accept the jurisdiction of the Inter-American Court of Human Rights.

History

In April 1948, the OAS adopted both its Charter and the [American Declaration on the Rights and Duties of Man](#). The Declaration was the first international document listing universal human rights and proclaiming the need to protect these rights and preceded the United Nations' Universal Declaration of Human Rights by several months. The American Declaration was unique in that, unlike the Universal Declaration of Human Rights, it included both human rights that need to be protected and duties that individuals have to society.

The rights include civil and political rights, economic rights, and social rights, such as the right to property, culture, work, leisure time and social security. The duties include obligations to vote, obey the law, serve the community and the nation, pay taxes and work.

Adoption of the [Convention](#) reinforced many of the principles described in the American Declaration. The Convention focuses mainly on civil and political human rights and offers more detailed definitions of these rights than the Declaration. The Convention entered into force July 18, 1978.

Key Provisions

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

More specifically, every person has:

- The right to “juridical personality.” In other words, “every person has the right to recognition as a person before the law.”
- The right to life. This right is to be protected, “in general, from the moment of conception.” With respect to 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.” In addition, “the application of such punishment shall not be extended to crimes to which it does not presently apply” and “shall not be reestablished in states that have abolished it.” Furthermore, “in no case shall capital punishment be inflicted for political offenses or related common crimes.”
- The right to humane treatment. The Convention states that “no one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment.” In addition, “punishments consisting of deprivation of liberty shall have as an essential aim the reform and social re-adaptation of the prisoners.”

- Freedom from slavery.
- The right to personal liberty. The Convention requires that “no one shall be subject to arbitrary arrest or imprisonment,” and that “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” and that “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.”
- The right to a fair trial. The Convention states that “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” and also affirms “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.”
- Freedom of Conscience and Religion.
- 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.” Furthermore, this right “may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies.” In addition, “Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.”
- The right of assembly.
- The freedom of association.
- Rights of the family. The Convention requires that “no marriage shall be entered into without the free and full consent of the intending spouses.” As well the States parties must “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.”
- 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.”
- Right to nationality. The Convention states that “no one shall be arbitrarily deprived of his nationality or of the right to change it.”
- Right to property.
- Freedom of movement and residence. This includes the right of every person to “leave any country freely, including his own.”
- Right to participate in government. The Convention states that every citizen has the right to “take part in the conduct of public affairs, directly or through freely chosen representatives”, 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 “to have access, under general conditions of equality, to the public service of his country.”

- Right to equal protection. The Convention states that “All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.”
- Right to judicial protection. The Convention states that “Everyone has the right to simple and prompt 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.”

As well, under the heading “Progressive Development”, the Convention requires 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.”

The Convention allows a State party to derogate from some of its obligations under certain circumstances including war, public danger or other emergency that threatens the independence or security of the State party. Such measures can only be in place to the extent and for the period of time strictly required by the exigencies of the situation and 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. The Convention also notes that “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.”

The Convention also describes the composition and functioning of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

Canada’s Commitments and Responsibilities under the American Convention on Human Rights

Canada has not signed or ratified the Convention or the optional protocols. (Ratification of the optional protocols is only open to States that have ratified the Convention.)

Canada, however, is party to several Inter-American legal instruments including the:

- [Inter-American Convention on the Granting of Political Rights to Women](#) (ratified in 1991);
- [Inter-American Convention on the Granting of Civil Rights to Women](#) (ratified in 1991);
- [Agreement Establishing the Inter-American Institute for Global Change Research](#) (accepted in 1993);
- [Inter-American Convention on Serving Criminal Sentences Abroad](#) (ratified in 1995);
- [Inter-American Convention on Mutual Assistance in Criminal Matters](#) (ratified in 1996); and
- [Inter-American Convention Against Corruption](#) (ratified in 1996).

International Monitoring and Implementation

Although there is no formal procedure calling for periodic reports from the State parties on measures implementing their obligations under the Convention, the Inter-American Commission on Human Rights can ask parties to report on the human rights situation in their respective countries. The Commission can make recommendations and reports annually on compliance by the State parties concerned with these recommendations.

State parties that ratify the San Salvador Protocol on Social, Economic and Cultural Rights do undertake obligations which requires that they “submit periodic reports on the progressive measures they have taken to ensure due respect for the rights set forth in this Protocol.”

References

Specific:

[American Convention on Human Rights “Pact of San José, Costa Rica”](#)

[Inter-American Commission on Human Rights](#)

[Inter-American Court of Human Rights](#)

[Protocol of San Salvador: Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights](#)

[Protocol to the American Convention on Human Rights to Abolish the Death Penalty](#)

[American Declaration on the Rights and Duties of Man](#)

[Inter-American Convention on the Granting of Political Rights to Women](#)

[Inter-American Convention on the Granting of Civil Rights to Women](#)

[Agreement Establishing the Inter-American Institute for Global Change Research](#)

[Inter-American Convention on Serving Criminal Sentences Abroad](#)

[Inter-American Convention on Mutual Assistance in Criminal Matters](#)

[Inter-American Convention Against Corruption](#)

General:

[Organization of American States – Our History](#)

[The Inter-American Human Rights System](#)

[Canadian Adherence to the America Convention](#)