

## **Inter-American Convention to Prevent and Punish Torture**

**Canada** is not a signatory and has not ratified the Inter-American Convention to Prevent and Punish Torture (IACPPT)

**Adoption:** The Convention was adopted at Cartagena de Indias, Colombia by the General Assembly of the Organization of American States (OAS) on 9 December 1985.

**Entry into force:** 28 February 1987.

**Number of signatories and ratifications/accessions:** 18 states have ratified the convention. An additional 2 states have signed but not ratified the convention.

### **Summary information**

The [IACPPT](#) specifies the measures that American States must take in order to not only punish perpetrators of torture, but also to prevent and punish any other cruel, inhuman or degrading treatment within their respective jurisdictions. The Convention was developed in order to give greater legal effect to the prohibitions against torture or cruel, inhuman or degrading punishment or treatment found in article 5 of the American Convention on Human Rights, as well as instruments such as the Charter of the Organization of American States, the Charter of the United Nations, the American Declaration of the Rights and Duties of Man and the Universal Declaration of Human Rights. .

The IACPPT was adopted by the General Assembly of the OAS in 1985. It entered into force in 1987 after 18 states ratified or acceded to it.

### **History**

The main benchmarks in the development of the Inter-American human rights system include:

- Adoption in 1948 of the [American Declaration on the Rights and Duties of Man](#);
- Establishment in 1959 of the [Inter-American Commission on Human Rights](#);
- The [American Convention on Human Rights](#), which was adopted by OAS member States in 1969 and entered into force in 1978. The convention inter alia created the [Inter-American Court of Human Rights](#). The Court was officially installed in 1979 in San José, Costa Rica.

The IACPPT was adopted at the Fifteenth Regular Session of the General Assembly of the OAS on 9 December 1985. It was created in order to address particular human rights violations by military regimes in the 1970s and 1980s, notably the treatment of detainees. In particular, the IACPPT and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, were in large measure a response to the serious repression in Chile and Argentina.

Since its early days, the Inter-American Commission has examined many cases of torture and violations of the right to humane treatment. Both the Commission and the

Court developed an important body of jurisprudence on this issue. This growing body of law, plus the increasing public concern over the behaviour of some authoritarian governments in the region, contributed to the growing support for a dedicated international instrument to prevent torture.

The late 1980s were a time that coincided with greater democratization, the decline of many authoritarian regimes, and political and economic shifts in Latin America. As many American states moved to more democratically stable governments, the OAS initiated a number of juridical and practical measures to consolidate these political gains, including measures such as the punishment and prevention of serious human rights violations. Thus, the adoption of the IACPPT, and other human rights instruments of the Inter-American system during that time period, demonstrate a wider commitment to democracy throughout the region.

### **Key Provisions**

The purpose of this Convention is to ensure, within the Inter-American region, “conditions that make for recognition of and respect for the inherent dignity of man, and ensure the full exercise of his fundamental rights and freedoms.”

The Convention indicates that “acts of torture or any other cruel, inhuman or degrading treatment or punishment,” are considered a breach of the declared principles of the Charter of the OAS and the Charter of the United Nations. Acts of torture are considered violations of fundamental human rights and freedoms provided in the American Declaration of the Rights and Duties of Man and the Universal Declaration of Human Rights.

Torture is defined in the Convention in article 2 as “...any act intentionally performed whereby physical or mental pain or suffering is inflicted on a person for purposes of criminal investigation, as a means of intimidation, as personal punishments, as a preventive measure, as a penalty, or for any other purpose.” The definition of torture in the Convention is considered broader in scope than the UN Torture Convention because it also includes “the use of methods upon a person intended to obliterate the personality of the victim or to diminish his physical or mental capacities, even if they do not cause physical pain or mental anguish.” Thus, there does not need to be tangible physical repercussions of acts of torture. These acts of torture could include instances of intimidation, humiliation, and psychological torture. The convention also factors in cases in which intentionality is not present, but rather there is failure to adhere to the protection of personal integrity through proper diligence and protection of rights.

In accordance with article 6, all Parties must actively take efficient measures in order to “prevent and punish torture within their jurisdiction.” This includes ensuring that such acts or attempts to commit torture are considered offenses under their respective criminal law, and are appropriately punished through penalties reflecting the nature of the crime. In accordance with article 3 and 4, this also includes protection from private

actors, including public servants or employees, and any such individual who has acted under the orders of a superior.

In article 7, the Convention states that all State Parties shall take an active duty in properly training police officers and other public officials in charge of the detainment of persons deprived of their freedom. In doing so, there should be special attention to the “prohibition of the use of torture in interrogation, detention or arrest,” as well as an emphasis on measures to, “prevent other cruel, inhuman or degrading treatment or punishment.”

In terms of extradition, according to article 11, all Parties must “extradite anyone accused of having committed the crime of torture or sentenced for commission of that crime, in accordance with their respective national laws on extradition and their international commitments on this matter.” State Parties can practice jurisdiction when the punishable offence has been committed within their jurisdiction and when the alleged perpetrator and/or victim is a national of their State.

Other key provisions include the commitment to exclude any testimony retrieved through acts of torture or ill-treatment, the duty to compensate victims of torture and the responsibility to properly investigate accusations of torture or ill-treatment.

### **Canada’s Commitments and Responsibilities**

Canada is a member of the OAS. However, Canada has not signed or ratified the IACPPT and therefore is not under any obligation to adhere to provisions of this convention. Canada has also never served on the Commission for the Inter-American System for the Protection of Human Rights.

### **International Monitoring and Implementation**

The IACPPT does not have an independent enforcement instrument for monitoring implementation of the provisions of the convention. Both the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights are considered the governing bodies in ensuring all states’ parties’ treaty obligations within the regional human rights system.

According to Article 17, “the States Parties undertake to inform the Inter-American Commission on Human Rights of any legislative, judicial, administrative, or other measures they adopt in application of this convention.” States are obligated to report to the Commission any actions that are considered torture, and any preventive measures they are imposing within their jurisdiction. Furthermore, the Inter-American Commission on Human Rights will attempt to annually report and analyze the actual status of member states of the OAS in reference to the prevention and elimination of torture.

The Inter-American Commission also has a binding commitment to report on any actions or use of torture in OAS member states. The Commission does not have the

authority to investigate on-site, in a State where it believes acts of torture are being committed. However, under the provisions of the Charter of the OAS, the Commission may be able to apply its general field of competence to conduct an on-site investigation if the State in question is in agreement.

According to Article 8, in terms of individual cases, whether initiated by individuals or the state, the cases may be “submitted to the international fora whose competence has been recognized by that state.” While this article does not specify the Inter-American Court, if a State has accepted the Inter-American Court’s jurisdiction in their region, then the Inter-American Court is the forum that is utilized. Once states have ratified or acceded the convention, as well as filed a declaration of compliance recognizing the Court’s jurisdiction at the time of the purported torture, then the Court may rule on the State’s liability for violating the treaty. If a State has not expressly declared compliance with the Court’s jurisdiction, then the Court cannot use its jurisdiction to carry out judgement. States may accept jurisdiction of the Court with a temporal condition, generally to avoid retroactive prosecution (e.g. stipulating that the Court’s jurisdiction applies after a certain date).

## **References**

[Inter-American Convention to Prevent and Punish Torture](#)

[A51: Inter-American Convention to Prevent and Punish Torture Signatories and Ratification](#)

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

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

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[The Inter-American System of Human Rights: A Research Guide](#)

[Preventing and Remediating Human Rights Violations through the International Framework](#)

[Encyclopedia of the Inter-American System](#)

[The Practice and Procedure of the Inter-American Court of Human Rights](#)

Human Rights in the Administration of Justice: A Manual on Human Rights for Judges,  
Prosecutors and Lawyers