

North American Charter of Rights and Freedoms

Preamble

Whereas Canada, Mexico, and the United States each have a profound and historic commitment to the cause of civil and human rights within their respective countries;

And whereas all three countries have worked toward the expansion of, and respect for, human rights throughout the world;

And whereas all three countries, neighbors and friends who share the continent of North America, seek to improve the harmonious development and expansion of world trade and provide a catalyst to broader international cooperation that will facilitate the happiness and well being of their respective citizens;

And whereas the shared principles upon which this special relationship of friendship and cooperation are based serves as a foundation for equally shared and respected values regarding the dignity and worth of each individual member of their respective societies and the aspirations of the people living within their respective borders;

And whereas this international cooperation within a distinctive continental setting should facilitate expanded and secure market for the goods and services produced in their territories, creativity and innovation that promotes trade in goods and services that are the subject of intellectual property rights, improved working conditions and living standards, environmental protection and conservation, flexibility to safeguard the public welfare, enhancing and enforce basic workers' rights, and the general promotion of sustainable development;

And whereas all three countries seek to improve the political and personal relationships, social mobility, cultural activities, mutual friendships, and economic growth that this continental cooperation is intended to foster and strengthen;

Now therefore, be it resolved that the Government of Canada, the Government of the United Mexican States and the Government of the United States of America will advance the cause and extend the protection of civil and human rights throughout the continent of North America through the following ends:

Chapter I: General Obligations of the Participating Parties

Article I: Obligation to Respect Rights of All

1. The state parties to this convention undertake to respect the rights and freedoms recognized by it for all persons subject to their respective jurisdictions. The free and full exercise of those rights and freedoms will be enjoyed by all

persons without discrimination, regardless of gender, race, religion, ethnicity, sexual orientation, language, national origin, social origins, and political or other opinion.

2. For the purpose of this convention, a “person” refers to every human being who resides under the jurisdiction of the respective states that are parties to it. A “person” also may refer to a formally recognized group, organization, company, corporation, or other collective entity that normally has legal standing within a respective jurisdiction.

Article II: Mutually Binding Enforcement

1. Those constitutional guarantees and other laws of the respective parties to this convention that already expressly protect the rights, freedoms, and protections that are recognized by this instrument may be invoked as superseding those relevant provisions of this convention, provided that those laws are mutually recognized by all of the parties as being adequate to that purpose.

2. The parties to this convention undertake to self-enforce its provisions, binding their respective courts to recognize the legal authority of this convention. Disagreements arising from the judicial interpretation of the meaning and scope of these rights and liberties will be arbitrated by a process to which all parties are pledged to abide and by institutions that will be described by other provisions of this convention.

Chapter II: Civil and Political Rights

Article I: Property Rights

1. Everyone has the right to the use and enjoyment of property. That protected property may be derived from personality, physical being, possessions, investments, intellect, labor, inheritance, and other forms of legal acquisition.

2. No person may be deprived of property by state authority except for reasons of public utility or social interest, as sanctioned expressly by law, and not without just compensation according to forms established by the legal systems of the respective jurisdictions.

3. The parties to this convention reserve the authority to retain direct proprietary control over the natural resources of their territory. However, the express extension or recognition of a proprietary interest in any of those resources from a relevant government to any person will entitle those persons to all of the property rights otherwise stipulated by this charter.

4. The parties to this convention will protect persons under their jurisdiction from unlawful private deprivations of property, including from fraud, theft, usury, and other false means.

Article II: Right to Judicial Protection and Due Process of Law

1. Everyone has the right to simple and prompt recourse to a competent court or tribunal for protection against acts that violate the properly constituted laws of that jurisdiction and the rights recognized by this convention.

2. Anyone who is deprived of liberty shall be entitled to recourse to a competent court to determine, without delay, the lawfulness of an arrest or detention. The court will order the release of any person whose detention is determined to be unlawful.

3. Every person accused of a criminal offense has the right to be presumed innocent so long as that person's guilt has not been proven according to the constitutionally sanctioned legal rules and procedures of the respective jurisdiction.

4. 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, in civil proceedings, or for the determination of rights and obligations.

5. An accused person has the right to be assisted by a translator or interpreter without charge if that person cannot function adequately in the language that is being used.

6. A person accused of a criminal offense has the right to be assisted by counsel provided by the state. If that person cannot afford legal counsel, the state will provide such counsel without charge.

7. Competent authorities representing the state will be authorized and have the means to enforce judicial rulings.

8. All persons (as described by the General Obligations of this convention) are entitled to standing before the courts of each party to this convention regarding all legal matters that occur within the jurisdiction of the relevant state.

9. No person shall be convicted of any act or omission within the jurisdiction of a party to this convention 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. Likewise, civil penalties will not be imposed within the jurisdiction of a party to this convention that are heavier than stipulated by the applicable law, rule, or regulation of that jurisdiction at the time that the relevant action occurred.

Article III: Civic Participation

- 1. Every citizen has the right to participate in the civic affairs of her or his respective government, subject to the reasonable procedures and requirements of each jurisdiction.**
- 2. Every citizen has the right to vote and seek election to office through genuine periodic elections that will be conducted according to the rules of universal and equal suffrage and through secret ballot.**

Article IV: Citizenship

- 1. Every citizen has the right to the status of citizenship within the country in which she or he was born if that person does not enjoy such a right in respect of some other country.**
- 2. No persons will be arbitrarily deprived of their respective citizenship nor denied the opportunity to change that status.**

Article V: Freedom of Association

- 1. Everyone has the right to associate and assemble, freely, including for ideological, religious, political, economic, labor, social, cultural, sports, or other purposes.**
- 2. The exercise of this freedom shall be subject only to such restrictions established by law as may be necessary in the interest of public safety, the protection of public health or the freedom and safety of other persons.**
- 3. Reasonable restrictions upon this freedom may be imposed upon persons or agencies that have been delegated the responsibility and authority of protecting and promoting public security and safety, including members of the armed forces, police, intelligence services, or other government agencies.**

Article VI: The Right to Privacy

- 1. All persons have the right to privacy and to have their honor respected and dignity recognized.**
- 2. All persons are entitled to freedom from arbitrary or abusive interference in their private lives. The scope of that freedom includes their family lives, private homes, and all personal correspondence that they do not voluntarily choose to share.**

Article VII: Freedom of Thought and Expression

- 1. All persons are free to express their thoughts without arbitrary or abusive interference and through any medium that they choose.**
- 2. The exercise of the freedom of thought shall not be subject to prior censorship but may be subject to subsequent imposition of liability, expressly established by law to protect respect for the rights or reputations of other persons or reasonable considerations of national security and public safety.**
- 3. Restrictions may be imposed, subject to law, upon expressions that promote imminent violence, lawless behavior, or hatred of any person or group upon the basis of gender, race, religion, ethnicity, sexual orientation, language, national origin, social origins, or any other social, political, or economic category.**

Article VIII: Humane Treatment

No person shall be subject to torture or any other cruel, inhuman, or degrading treatment or punishment. All persons deprived of liberty shall be treated with respect for their inherent dignity, consistent with reasonable considerations for protecting public safety.

Article IX: Freedom of Conscience and Religion

- 1. All persons have the right to maintain or change their religion or beliefs, including freedom to express and disseminate those beliefs, either individually or with other persons, both in public and private.**
- 2. The freedom to express and disseminate beliefs may be subject only to those limitations that are necessary to protect public safety, order, and the rights and liberties of other persons.**
- 3. Parents or guardians have the right to provide for the religious and moral education of their children or wards in accord with their own convictions.**

Article X: Mobility Rights

- 1. All persons who lawfully have entered the respective jurisdictions of any of the parties to this convention have the right to move and reside within it.**

2. Every person has the right to depart from the territory of any party to this convention, provided that they have not violated the laws of that country or are currently subject to properly sanctioned legal restrictions, including formal accusation of crimes or judicially imposed punishments.

3. Any alien who lawfully visits, travels through, or resides in the territory of party to this convention may be expelled from that territory only pursuant to a reasonable decision reached by that state in accordance with the law of that jurisdiction and in a manner that is consistent with the requirements specified in chapter I, article I of this convention.

4. Any citizen of a party to this convention may seek to immigrate to the territory of another party to this convention, subject to the properly constituted immigration laws of that respective country. No such citizen may be arbitrarily denied the right to apply to enter or remain within the territory of a party to this convention nor may be denied the right to apply for citizenship in that country, subject to the properly constituted laws of that respective country.

5. The collective expulsion of any group of people from the territory of a party to this convention is prohibited.

Article IX: Equality before the Law

All persons are equal before the law within the jurisdictions of all parties to this convention. Consequently, they are entitled, without discrimination, to the equal protection of the law, including, but not limited to, those categories of persons who are identified within chapter I, article I of this convention.

Chapter III: Economic, Social, and Cultural Rights

Article I: Labor Rights

1. The right of persons working under the jurisdiction of parties to this convention are free to exercise their labor, freely. They may associate with each other, without impediment, to establish and join organizations of their own choosing to advance and defend their interests.

2. Organized workers may freely engage in collective bargaining on matters concerning the terms and conditions of employment.

3. Workers enjoy the right to strike in order to defend their collective interests and the parties to this convention are obligated to protect that right.

4. All forms of forced or compulsory labor (except for types of compulsory work generally considered acceptable by the parties to this convention, such as

compulsory military service, certain civic obligations, prison labor not for private purposes and work exacted in cases of emergency) are prohibited.

5. The employment of children and young persons that are likely to jeopardize the full physical, mental, and moral development of young persons (including schooling and safety requirements) is prohibited.

6. Workers have the right to the establishment of minimum employment standards, such as minimum wages and overtime pay, including standards not covered by collective agreements.

7. Employment discrimination is prohibited (including upon race, religion, age, gender, sexual orientation, or other grounds) is prohibited and will be and parties to this convention are obligated to enforce that standard. The only exceptions to that prohibition may be made upon the basis of applicable, *bona fide* occupational requirements or qualifications and established practices or rules governing retirement ages and special measures of protection or assistance for particular groups designed to take into account the effects of discrimination.

8. Equal wages for women and men (applying the principle of equal pay for equal work in the same establishment) will be enforced by the parties to this convention.

9. The parties to this convention will prescribe and implement standards to minimize the causes of occupational injuries and illnesses.

10. The parties to this convention will establish and maintain a system providing benefits and compensation to workers or their dependents in cases of occupational injuries, accidents, or fatalities arising out of, linked with, or occurring in the course of employment.

11. Migrant workers within the jurisdiction of a party to this convention will be accorded the same legal protection as that party's nationals in respect of working conditions.

Article II: Environmental Protections

1. The governments of the parties to this convention have the obligation to foster the protection and improvement of the environment in the territories of those parties through economically efficient and effective environmental measures for the well-being of their respective citizens and future generations.

2. The parties to this convention have the authority to protect, preserve, and enhance their respective natural resources on behalf of their citizens and future generations, notwithstanding conflicting claims that may arise under the property rights provisions of this convention.

3. Citizens of the parties to this convention have the right to transparency and public participation in the development of environmental laws, regulations, and policies.

4. All proceedings addressing the environmental well-being of the societies of parties to this convention will be open to the public, except in cases in which the fair administration of justice otherwise requires.

5. All environmental proceedings will be conducted in a manner that is not unnecessarily complicated and does not entail unreasonable charges, unreasonable time limits, or unwarranted delays.

6. All judicial and regulatory proceedings relating to the environment that are conducted by parties to this convention will comply with due process guarantees stipulated in chapter II, article II of this convention.

Article III: Language and Cultural Rights

1. Parties to this convention may advance and protect the cultural identity and interests of distinct groups who fall under their respective jurisdiction. Those policies may allow for reasonable accommodations other provisions found within this convention.

2. Anything that occurs within the jurisdictions of parties to this convention that has the effect of demonstrably harming culturally significant groups and their members may be prohibited by the respective governments of those parties.

3. All official proceedings and administrative instruments that occur within the scope of this convention, the North America Free Trade Agreement, and all other treaties, agreements, or conventions that pertain exclusively to the relationship of the parties to this convention will be conducted in the English, French, and Spanish languages. All persons falling under the jurisdiction of parties to this convention have the right to participate in its activities and proceedings in those languages.

4. The parties to this convention will make reasonable efforts to accommodate persons who cannot communicate in English, French, or Spanish when such persons participate in proceedings and administrative instruments as described within the previous clause of this article.

Article IV: Rights of Indigenous Peoples

1. Indigenous peoples have the collective right to live in freedom, peace, and security as distinct peoples within the jurisdictions of the parties to this convention.

- 2. Indigenous peoples of the parties to this convention have the right to enjoy, fully, all rights established under this convention and the constitutional systems of their respective countries.**
- 3. Indigenous peoples have the right not to be subjected to forced assimilation or destruction of their culture.**
- 4. Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned, under the overall jurisdiction of the relevant parties to this convention.**
- 5. Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation.**
- 6. Indigenous peoples have the right to practice and revitalize their cultural traditions and customs, including the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies, and visual and performing arts and literature.**
- 7. The parties to this convention shall provide redress for grievances through due process as guaranteed in chapter II, article II of this convention.**
- 8. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.**
- 9. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions.**
- 10. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.**
- 11. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources, consistent with the provisions of chapter IV, article II of this convention.**

12. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

13. All the rights and freedoms of indigenous peoples within the jurisdictions of the parties to this convention are equally guaranteed to male and female indigenous persons.

Article V: Progressive Intent

The parties to this convention undertake to adopt measures, both internally and through cooperation with each other, to achieve, by legislation or other appropriate means, the full realization of the rights and benefits that are implicit in the economic, political, social, and cultural standards set forth by this convention, the North American Free Trade Agreement, and all other current and subsequent agreements among these parties. That realization will include, but not be limited to, the advancement of the educational, scientific, technological, health, and welfare standards of the people of the states that are party to this convention.