

**DECLARATION ON THE HUMAN RIGHTS OF INDIVIDUALS WHO ARE
NOT NATIONALS OF THE COUNTRY IN WHICH THEY LIVE**

GENERAL ASSEMBLY RESOLUTION 40/144

The issue of the human rights of individuals who are not nationals of the country in which they live was first raised at the twenty-fifth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in the context of its basic mandate to make recommendations to the Commission on Human Rights concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms. At that session, in August 1972, the Sub-Commission adopted resolution 8 (XXV), by which it recommended that the Commission on Human Rights consider the problem of the applicability of the current regulation for the international legal protection of the human rights of individuals who are not citizens of the country in which they live and to consider what measures in the field of human rights would be desirable (Report of the Sub-Commission, E/CN.4/Sub.2/332).

At its twenty-ninth session, following a proposal by the United Kingdom (E/CN.4/L.1240 and E/CN.4/L.1240/Rev.1), the Commission on Human Rights adopted resolution 8 (XXIX) of 21 March 1973 by which it took note of Sub-Commission resolution 8 (XXV) and recommended that the Economic and Social Council authorize the Sub-Commission to consider as a matter of priority, at its twenty-sixth session, the problem of the applicability of existing international provisions for the protection of human rights to individuals who are not citizens of the country in which they live. The same resolution further recommended the Sub-Commission to consider what measures in the field of human rights, including the possibility of a declaration, would be desirable, and to submit appropriate recommendations to the Commission on Human Rights for consideration, as a matter of priority, at its thirtieth session (Report of the Commission on Human Rights, E/5265). At its fifty-fourth session, the Economic and Social Council accordingly adopted resolution 1790 (LIV) of 18 May 1973 to this effect.

At its twenty seventh session, the Sub-Commission adopted resolution 10 (XXVII) of 21 August 1974, by which it appointed Baroness Elles as Special Rapporteur for the topic, and entrusted her with the task of studying the problem of the applicability of existing international provisions for the protection of human rights to individuals who are not citizens of the country in which they live (Report of the Sub-Commission, E/CN.4/Sub.2/354).

At its twenty-eighth session, the Sub-Commission had before it part of the report submitted by the Special Rapporteur. The Special Rapporteur stated that given the dimensions and complexity of the study and the limited number of replies to her questionnaire so far received from Governments, specialized agencies, regional organizations and non-governmental organizations, she was not in a position to complete her report for the twenty-eighth session of the Sub-Commission. She would make every effort to do so for the twenty-ninth session (Report of the Sub-Commission, E/CN.4/Sub.2/364).

At its thirtieth session, the Sub-Commission adopted resolution 4 (XXX) of 31 August 1977 by which, having examined the study prepared by the Special Rapporteur (E/CN.4/Sub.2/392 and Corr.1), it requested the Secretary-General to submit to Governments the draft declaration contained in the annex of that study for their consideration and comments. Finally, the same resolution requested the Special Rapporteur, taking into account the replies of Governments and the views expressed during the discussion of the matter at its thirtieth session, to present a revised draft

declaration to the Sub-Commission at its thirty-first session (Report of the Sub-Commission, E/CN.4/Sub.2/399).

At its thirty-first session, the Sub-Commission adopted resolution 9 (XXXI) of 13 September 1978 by which, having considered the revised draft declaration (E/CN.4/1336) elaborated by the Special Rapporteur in accordance with its resolution 4 (XXX), it requested the Special Rapporteur to present the study, together with the revised draft declaration as amended in the light of suggestions made in the Sub-Commission at its thirty-first session, to the Commission on Human Rights at its thirty-fifth session (Report of the Sub-Commission, E/CN.4/Sub.2/417).

At its thirty-fifth session, the Commission on Human Rights adopted resolution 16 (XXXV) of 14 March 1979 by which, having considered the study prepared by the Special Rapporteur and the text of the draft declaration contained therein, it proposed the Economic and Social Council to consider the text of the draft declaration with a view to submitting it to the General Assembly for its consideration (Report of the Commission on Human Rights, E/1979/36). On 10 May 1979, the Economic and Social Council adopted decision 1979/36 by which it decided to transmit the draft declaration to Member States for their comments and to the Commission on Human Rights at its thirty-sixth session so that it might consider it, in conjunction with the comments received, with a view to transmitting a report on the matter to the Council at its first regular session of 1980.

At its thirty-sixth session, the Commission on Human Rights adopted resolution 19 (XXXVI) of 29 February 1980 by which, taking note of Sub-Commission resolution 9 (XXXI) and having examined once again the draft declaration, together with the comments received from Member States pursuant to Economic and Social Council decision 1979/36 (E/CN.4/1354 and Add.1-6), it recommended that the Economic and Social Council transmit to the General Assembly at its thirty-fifth session the text of the draft declaration, together with the comments received from Member States. By the same resolution, the Commission recommended that the General Assembly consider the adoption of a declaration on the subject, taking appropriate account of the comments received from Member States (Report of the Commission on Human Rights, E/1980/13). On 2 May 1980, the Economic and Social Council accordingly adopted resolution 1980/29 to this effect.

At the thirty-fifth session of the General Assembly, the draft declaration was considered by an open-ended Working Group of the Third Committee under the item of its agenda relating to the annual report of the Economic and Social Council. However, the Working Group was unable to reach final agreement on the text of a draft declaration on the human rights of individuals who are not citizens of the country in which they live (Report of the Working Group, A/C.3/35/14 and Corr.1). At the same session, following the recommendation of its Third Committee (A/35/741), the General Assembly accordingly adopted resolution 35/199 of 15 December 1980 by which, noting that the open-ended Working Group had done useful work but had not had sufficient time to conclude its task, decided to re-establish it, at its thirty-sixth session, for the purpose of concluding the elaboration of the draft declaration.

At its thirty-sixth session, following the recommendation of its Third Committee (A/36/792), the General Assembly adopted resolution 36/165 of 16 December 1981 by which, having considered the report of the open-ended Working Group (A/C.3/36/11), it took note of the fact that, although the Working Group had done useful work, it had still not had sufficient time to conclude its task. By the same resolution, the General Assembly accordingly again decided to re-establish the Working Group, at its thirty-seventh session, for the purpose of concluding its task.

At its thirty-seventh session, following the recommendation of its Third Committee (A/37/745), the General Assembly adopted resolution 37/169 of 17 December 1982 by which, having considered the report of the open-ended Working Group (A/C.3/37/8), it again took note of the fact that, although the Working Group had done useful work, it had still not had sufficient time to conclude its task. The General Assembly accordingly decided to re-establish the Working Group, at its thirty-eighth session, for the purpose of concluding its task. By the same resolution, the General Assembly also requested the Secretary-General to transmit to Governments, competent organs of the United Nations and relevant international organizations the reports of the Working Group submitted thus far and to invite them to bring up to date the comments they submitted in accordance with Economic and Social Council decision 1979/36, or to submit new comments by 30 June 1983.

At its thirty-eighth session, following the recommendation of its Third Committee (A/38/680), the General Assembly adopted resolution 38/87 of 16 December 1983 by which, having considered the comments submitted by Governments, specialized agencies, regional and intergovernmental organizations and the competent organs of the United Nations (A/38/147 and Add.1), as well as the report of the open-ended Working Group (A/C.3/38/11 and Corr.1), it took note of the fact that the Working Group had still not had time to conclude its task. By the same resolution, the General Assembly therefore again decided to re-establish the Working Group, at its thirty-ninth session, for the purpose of concluding its task.

At its thirty-ninth session, following the recommendation of its Third Committee (A/39/700), the General Assembly adopted resolution 39/103 of 14 December 1984 by which, having considered the comments submitted by Governments, specialized agencies, regional and intergovernmental organizations and the competent organs of the United Nations at its previous four sessions, as well as the report of the open-ended Working Group (A/C.3/39/9 and Corr.1), it took note of the fact that the Working Group had still not concluded its task. By the same resolution, the General Assembly therefore again decided to re-establish the Working Group, at its fortieth session, with the purpose of concluding its task. Finally, the General Assembly requested the Secretary-General to invite Governments to submit further comments and views on the draft declaration as a whole, taking into consideration the progress made by the Working Group and the present state of the draft, in time for their inclusion in a report of the Secretary-General to be submitted to the Assembly at its fortieth session.

At the fortieth session of the General Assembly, the Third Committee had before it the report of the Secretary-General submitted pursuant to Assembly resolution 39/103 (A/40/638 and Add.1-3), as well as the report of the open-ended Working Group (A/C.3/40/12). On 9 December 1985, in its report to the General Assembly (A/40/1007), the Third Committee recommended that the Assembly adopt a "Declaration on the human rights of individuals who are not nationals of the country in which they live". On 13 December 1985, the General Assembly accordingly adopted, without a vote, resolution 40/144 to this effect, with the Declaration attached as an annex.