

INTERNATIONAL CONVENTION FOR PROTECTION FROM ENFORCED DISAPPEARANCE PROCEDURAL HISTORY

The process that led to the creation of the convention began with the introduction of a draft resolution by Colombia, and co-sponsored by twenty-four other nations, in the Third Committee of the General Assembly, at its thirty-third session, in 1978, on “Disappeared persons” (A/C.3/33/L.76/Rev.1). On the recommendation of its Third Committee (A/33/509), the General Assembly adopted [resolution 33/173](#) of 20 December 1978 (“Disappeared persons”), in which it requested the Commission on Human Rights to consider, *inter alia*, the question of disappeared persons with a view to making appropriate recommendations. On 10 May 1979, the Economic and Social Council adopted [resolution 1979/38](#), recalling General Assembly [resolution 33/173](#), by which it requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to consider the subject at its thirty-second session, in 1979, with a view to making general recommendations to the Commission on Human Rights.

The Sub-Commission considered the topic at its thirty-second session held in 1979 ([E/CN.4/1350](#)). At its thirty-sixth session, the Commission on Human Rights adopted [resolution 20 \(XXXVI\)](#) of 29 February 1980 (“Question of missing and disappeared persons”), by which it requested the Sub-Commission to, *inter alia*, continue studying the most effective means for eliminating enforced or involuntary disappearances ([E/CN.4/1408](#)). The Sub-Commission thereafter considered the question of missing or disappeared persons at its thirty-third, thirty-fourth and thirty-fifth sessions, held in 1980, 1981, and 1982, respectively. By the same resolution, the Commission decided to establish a working group consisting of five of its members, to serve as experts in their individual capacity, to examine questions relevant to enforced or involuntary disappearances. The mandate and terms of reference of the Working Group on Enforced or Involuntary Disappearances were renewed by the Commission and approved by the Economic and Social Council each subsequent year. The Working Group focused on communications concerning individual cases of disappearance and investigations thereof.

On 5 September 1983, during its thirty-sixth session, the Sub-Commission adopted resolution 1983/23 in which it, *inter alia*, requested its sessional Working Group on Detention to prepare a first draft of a “Declaration Against Unacknowledged Detention of Persons, Whatever Their Condition”, and to submit the draft to the Sub-Commission for review and possible revision at its thirty-seventh session (Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, [E/CN.4/1984/3](#)).

The Working Group on Detention worked on the draft declaration in 1984 and 1985. In 1985, the Working Group agreed to adopt a short declaration against unacknowledged detention of persons and recommended its immediate adoption by the Sub-Commission (E/CN.4/Sub.2/1985/17). In addition, the Working Group also decided, *inter alia*, to suggest to the Sub-Commission that the text of the draft declaration should be further studied by the Working Group in the following year (E/CN.4/Sub.2/1985/17).

On 29 August 1985, the Sub-Commission adopted resolution 1985/26 in which it recommended for adoption by the Commission on Human Rights, *inter alia*, draft resolution VI, by which the Commission would adopt the draft declaration against

unacknowledged detention of persons, and would recommend the draft declaration for adoption by the Economic and Social Council and the General Assembly. The Sub-Commission also requested the Working Group on Detention to continue to consider any possible further provisions relating to the draft declaration at the thirty-ninth session of the Sub-Commission ([E/CN.4/Sub.2/1985/57](#)).

On 13 March 1986, at its forty-second session, the Commission on Human Rights adopted decision 1986/106 by which it decided, *inter alia*, not to take action on the draft resolution recommended by the Sub-Commission for adoption by the Commission, and invited the Sub-Commission to reconsider the question of a declaration against unacknowledged detention of persons, with a view to submitting a new text to the Commission at its forty-third session ([E/CN.4/1986/65](#)).

Due to a financial crisis, the Sub-Commission did not meet in 1986. The Working Group on Detention considered the draft declaration in 1987, 1988, 1989 and 1990. In 1990, the Working Group on Detention submitted a completed draft declaration on the protection of all persons from enforced or involuntary disappearances to the Sub-Commission, and recommended it for approval ([E/CN.4/1991/2](#)). On 31 August 1990, the Sub-Commission, at its forty-second session, adopted resolution 1990/33 by which it adopted the draft declaration and transmitted it to the Commission on Human Rights, with the recommendation that it be endorsed and transmitted to the Economic and Social Council and the General Assembly for final adoption ([E/CN.4/1991/2](#)).

In 1991, at its forty-seventh session, the Commission on Human Rights requested the Economic and Social Council to authorize an open-ended working group of the Commission, *inter alia*, to consider the draft declaration submitted by the Sub-Commission, with a view to its adoption by the Commission at its forty-eighth session ([E/CN.4/1991/91/Add.1](#)). The Economic and Social Council authorized the creation of the Open-ended Working Group by [resolution 1991/27](#) of 31 May 1991. The Open-ended Working Group held 20 meetings, from 28 October to 8 November 1991 and on 29 January 1992. On 8 November 1991, the Working Group adopted the final text of the draft declaration. On 29 January 1992, the Working Group adopted its report to the Commission on Human Rights with the final text of the draft declaration included as an annex ([E/CN.4/1992/19/Rev.1](#)).

On 20 July 1992, the Economic and Social Council adopted [resolution 1992/5](#), on the recommendation of the Commission on Human Rights ([E/CN.4/1992/84](#)), by which it submitted the report of the Open-ended Working Group to the General Assembly for consideration, with a view to the adoption of the declaration by the Assembly at its forty-seventh session. On 18 December 1992, at its forty-seventh session, the General Assembly adopted [resolution 47/33](#), entitled “Declaration on the protection of all persons from enforced disappearance”, on the recommendation of its Third Committee ([A/47/678/Add.2](#)).

During the forty-fifth session of the Sub-Commission, held in 1993, the Working Group on Detention decided to consider at its next session, to be held in 1994, follow-up measures to the Declaration on the Protection of All Persons from Enforced Disappearance, and added an item on the topic to its provisional agenda for the next session ([E/CN.4/Sub.2/1993/22](#)).

On 2 August 1994, during its forty-sixth session, the Sub-Commission decided, by decision 1994/104, to establish a sessional Working Group on the Administration of

Justice and the Question of Compensation in the place of a sessional Working Group on Detention ([E/CN.4/1995/2](#)). In the same session, the Working Group on the Administration of Justice took up the provisional agenda that the Working Group on Detention had adopted for the 1994 session ([E/CN.4/Sub.2/1994/22](#)). The Working Group on the Administration of Justice requested Mr. Louis Joinet, a member of the Sub-Commission but not the Working Group, to draft a working paper on the subject of follow-up measures to the Declaration on the Protection of All Persons from Enforced Disappearance. The Working Group deferred consideration of the item to its 1995 session, pending the submission of the working paper.

At the 1995 session, the Working Group on the Administration of Justice considered the working paper, prepared at the request of the working group at its previous session, on follow-up measures to the Declaration ([E/CN.4/Sub.2/1995/16](#)). The author of the working paper, Mr. Joinet, who had been appointed a member of the Working Group and elected its Chairman-Rapporteur for the 1995 session, orally proposed, *inter alia*, that the working group should submit at the next session a preliminary draft “International Convention on the Prevention and Punishment of Enforced Disappearances,” and that a meeting of experts to prepare a working paper on the subject should be organized to that effect, under the auspices of the United Nations Centre for Human Rights ([E/CN.4/Sub.2/1995/16](#)). The Working Group asked Mr. Joinet to submit, at its forty-eighth session, a preliminary draft international convention on the prevention and punishment of enforced disappearances ([E/CN.4/Sub.2/1996/16](#)).

At the forty-eighth session of the Sub-Commission, held in 1996, the Working Group on the Administration of Justice considered the preliminary draft convention prepared by Mr. Joinet ([E/CN.4/Sub.2/1996/16](#)). The Working Group decided to ask Mr. Joinet, elected as Chairman-Rapporteur for the 1996 session, to make, *inter alia*, any contacts which would facilitate study of the conditions under which the United Nations Centre for Human Rights could organize an inter-sessional meeting of experts which would include the participation of members of the Working Group ([E/CN.4/Sub.2/1996/16](#)). If that proved impossible, the Rapporteur should contact governments and non-governmental organizations with a view to examining possible ways of raising the funds needed to organize such a meeting. On that occasion, the group of experts would conduct a drafting review of the text on an article-by-article basis while attempting, to the extent possible, to avoid straying from the wording of the Declaration ([E/CN.4/Sub.2/1996/16](#)). Due to financial difficulties, it was not possible to hold a drafting meeting before the 1997 session of the Working Group to consider further the preliminary draft, with the object of facilitating the task of the Working Group ([E/CN.4/Sub.2/1997/21](#)).

Mr. Joinet, in his capacity as Chairman-Rapporteur, approached two international non-governmental organizations, Amnesty International and the International Commission of Jurists, which agreed to organize a meeting to examine the preliminary draft convention. The meeting was held on 16 and 17 June 1996 with the Chairman-Rapporteur attending; additionally attending were the persons responsible for the thematic procedures concerned, namely, the Special Rapporteur on the question of torture, Mr. Nigel Rodley (written contribution); the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Bacre Ndiaye; the Vice-Chairman of the Working Group on Arbitrary Detention, Mr. Roberto Garretón; and a member of the secretariat of the Working Group on Enforced or Involuntary Disappearances. The meeting had also been attended by a representative of the International Committee of the Red Cross (ICRC) and experts who had taken part in the drafting of the Inter-American Convention on Forced Disappearance

of Persons. However, due to the short time available for the meeting, not all the preliminary draft could be considered. At its forty-ninth session, held in 1997, the Working Group on Administration of Justice decided to postpone consideration of the preliminary draft until the Working Group's fiftieth session ([E/CN.4/Sub.2/1998/19](#)).

In November 1997, Mr. Joinet attended a meeting held in Geneva on the preliminary draft convention, organized by Amnesty International, the International Commission of Jurists, the Latin American Federation of Associations of Relatives of Disappeared Detainees and the International Service for Human Rights ([E/CN.4/Sub.2/1998/19](#)). In addition to the aforementioned, the meeting was attended by, *inter alia*, a member of the Working Group on Enforced or Involuntary Disappearances and experts who, in the past, had taken part in the drafting of the Inter-American Convention on Forced Disappearance of Persons ([E/CN.4/Sub.2/1998/19](#)).

In 1998, at the Sub-Commission's fiftieth session, the Working Group on the Administration of Justice considered the preliminary draft convention, which was subject to some amendments. The Working Group, thereafter approved the amended draft as a whole and requested that the Sub-Commission transmit the revised draft convention, with the comments and suggestions contained in the Working Group's report, to the Commission on Human Rights ([E/CN.4/Sub.2/1998/19](#)).

On 26 August 1998, the Sub-Commission adopted resolution 1998/25 by which it decided to transmit the draft international convention on the protection of all persons from enforced disappearance to the Commission on Human Rights for its consideration, together with the comments of the Sub-Commission thereon, as well as those of the Working Group on the Administration of Justice ([E/CN.4/Sub.2/1998/45](#)).

On 26 April 1999, at its fifty-fifth session, the Commission on Human Rights adopted [resolution 1999/38](#), in which it took note of the draft convention transmitted by the Sub-Commission, and requested the Secretary-General to renew the invitation to States, international organizations and nongovernmental organizations to submit their views and comments on the matter, which was a regular component of the Commission's resolutions on the topic.

On 3 August 1999, at the second meeting of its fifty-first session, the Sub-Commission (which was renamed "Sub-Commission on the Promotion and Protection of Human Rights" by the Economic and Social Council's [decision 1999/256](#) of 27 July 1999) decided not to establish a sessional Working Group on the Administration of Justice at its fifty-first session ([E/CN.4/Sub.2/1999/54](#)). On 26 August 1999, the Sub-Commission passed resolution 1999/24 in which it urged, *inter alia*, the Commission on Human Rights to give priority consideration to the draft international convention on the protection of all persons from enforced disappearance ([E/CN.4/Sub.2/1999/54](#)).

On 20 April 2000, the Commission on Human Rights adopted [resolution 2000/37](#), in which, *inter alia*, it requested the Secretary-General to ensure the wide dissemination of the draft convention, and to ask States, international organizations and non-governmental organizations to submit their views and comments, as a matter of high priority, on the draft convention, on the follow-up thereto, and, in particular, on whether an inter-sessional working group should be set up to consider the draft convention. On 17 August 2000, the Sub-Commission on the Promotion and Protection of Human Rights adopted resolution 2000/18 in which it recommended that the Commission on Human

Rights establish an inter-sessional working group to consider the draft convention ([E/CN.4/Sub.2/2000/46](#)).

At its fifty-fifth session, on 4 December 2000, the General Assembly adopted [resolution 55/103](#), on the recommendation of its Third Committee ([A/55/602/Add.2](#)), in which it took note, *inter alia*, of the transmission by the Sub-Commission to the Commission on Human Rights of a draft convention on the protection of all persons from enforced or involuntary disappearance.

On 23 April 2001, the Commission on Human Rights adopted [resolution 2001/46](#), by which, *inter alia*, it requested the Chairperson of the fifty-seventh session of the Commission to appoint an independent expert to examine the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearance. It also decided, *inter alia*, to establish, at its fifty-eighth session, an inter-sessional Open-ended Working Group of the Commission, with the mandate to elaborate, in the light of the findings of the independent expert, a draft legally binding normative instrument for the protection of all persons from enforced disappearance. In addition, it took note of the replies received by the Secretariat on the draft international convention on the protection of all persons from enforced disappearance ([E/CN.4/2001/69](#) and [Add.1](#)).

On 26 March 2002, the appointed independent expert, Mr. Manfred Nowak, introduced his report ([E/CN.4/2002/71](#)) to the Commission on Human Rights ([E/CN.4/2002/200](#)). On 23 April 2002, the Commission on Human Rights adopted [resolution 2002/41](#), in which it requested the inter-sessional Open-ended Working Group to prepare, for consideration and adoption by the General Assembly, a draft legally binding normative instrument for the protection of all persons from enforced disappearance, on the basis of the Declaration on the Protection of All Persons from Enforced Disappearance, in the light of the work of the independent expert and taking into account, *inter alia*, the draft international convention on the protection of all persons from enforced disappearance ([E/CN.4/Sub.2/1998/19](#), annex) transmitted by the Sub-Commission in its resolution 1998/25 of 26 August 1998 ([E/CN.4/2002/200](#)).

On 18 December 2002, the General Assembly, acting on the recommendation of its Third Committee ([A/57/556/Add.2](#)), adopted [resolution 57/215](#), in which it welcomed, *inter alia*, the report of the independent expert, and the decision of the Commission on Human Rights to convene the inter-sessional Open-ended Working Group before its fifty-ninth session.

The inter-sessional Open-ended Working Group held its first session from 6 to 17 January 2003 ([E/CN.4/2003/71](#)). It concluded that, in order to ensure further significant progress within a reasonable timeframe, it should meet again formally before the sixtieth session of the Commission on Human Rights ([E/CN.4/2003/71](#)). The inter-sessional Open-ended Working Group therefore held its second session from 12 to 23 January 2004 wherein it continued its work on the draft convention ([E/CN.4/2004/59](#)).

On 19 April 2004, the Commission on Human Rights adopted [resolution 2004/40](#) in which, *inter alia*, it requested the inter-sessional Open-ended Working Group to meet for two sessions of ten and five working days, respectively, before the sixty-first session of the Commission, and requested the United Nations High Commissioner for Human Rights to invite the former independent expert, Mr. Nowak, and the former Chairman-Rapporteur of the sessional Working Group on the Administration of Justice, Mr. Joinet, to participate

in the activities of the Open-ended Working Group. The Open-ended Working Group continued its work during its third and fourth sessions held from 4 to 8 October 2004 and from 31 January to 11 February 2005, respectively ([E/CN.4/2005/66](#)). It held its fifth and final session from 12 to 23 September 2005, during which all the provisions of the draft convention were approved, and there were no objections to the transmission of the text to the Commission on Human Rights, for approval by the General Assembly ([E/CN.4/2006/57](#)).

On 29 June 2006, the Human Rights Council (which had been established by General Assembly [resolution 60/251](#) of 15 March 2006 in replacement of the Commission on Human Rights) adopted [resolution 1/1](#), whereby, *inter alia*, it adopted the International Convention for the Protection of All Persons from Enforced Disappearance, and recommended the adoption of the Convention by the General Assembly .

At the sixty-first session of the General Assembly, the Convention was considered by the Third Committee ([A/61/448](#)) and, on its recommendation, the Assembly adopted and opened for signature, ratification and accession the International Convention for the Protection of All Persons from Enforced Disappearance by [resolution 61/177](#) of 20 December 2006. The Convention entered into force on 23 December 2010, on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession, in accordance with its article 39, paragraph 1.