



**Economic and Social
Council**

Distr.
LIMITED

E/CN.4/1999/L.54
19 April 1999

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Fifty-fifth session
Agenda item 11

CIVIL AND POLITICAL RIGHTS

Albania*, Argentina, Australia*, Austria, Belgium*, Brazil*, Bulgaria*, Canada, Chile, Costa Rica*, Côte d'Ivoire*, Cuba, Cyprus*, Czech Republic, Denmark*, Ecuador, Finland*, France, Germany, Greece*, Guinea*, Hungary, Ireland, Italy, Liechtenstein*, Lithuania*, Luxembourg, former Yugoslav Republic of Macedonia*, Madagascar, Netherlands*, New Zealand*, Norway, Poland, Portugal*, Romania, Senegal, Slovakia*, Spain*, Sweden*, Switzerland*, United Kingdom of Great Britain and Northern Ireland: draft resolution

1999/... Question of enforced or involuntary disappearances

The Commission on Human Rights,

Recalling its resolution 20 (XXXVI) of 29 February 1980, in which it 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, its resolution 1995/75 of 8 March 1995 on cooperation with representatives of United Nations human rights organs, and its resolution 1998/40 of 17 April 1998,

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling also General Assembly resolution 47/133 of 18 December 1992, by which the Assembly adopted the Declaration on the Protection of All Persons from Enforced Disappearance as a body of principles for all States, and Assembly resolutions 51/94 of 12 December 1996 and 53/150 of 9 December 1998,

Deeply concerned, in particular, by the intensification of enforced or involuntary disappearances in various regions of the world and by the growing number of reports concerning harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of persons who have disappeared,

Emphasizing that impunity is simultaneously one of the underlying causes of enforced disappearances and one of the major obstacles to the elucidation of cases thereof,

1. Takes note of the report submitted by the Working Group on Enforced or Involuntary Disappearances pursuant to Commission resolution 1998/40 (E/CN.4/1999/62 and Add.1 and 2);

2. Welcomes with satisfaction the work of the Working Group and encourages it, in the execution of its mandate:

(a) To continue to promote communication between families of disappeared persons and the Governments concerned with a view to ensuring that sufficiently documented and clearly identified individual cases are investigated and to ascertain whether such information falls under its mandate and contains the required elements;

(b) To continue to observe, in its humanitarian task, United Nations standards and practices regarding the handling of communications and the consideration of government replies;

(c) To continue to consider the question of impunity in the light of the relevant provisions of the Declaration on the Protection of All Persons from Enforced Disappearance and of the final reports submitted by the Special Rapporteur appointed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

(d) To continue to pay particular attention to cases of children subjected to enforced disappearance and children of disappeared persons and to cooperate closely with the Governments concerned in searching for and identifying these children;

(e) To pay particular attention to cases transmitted to it that refer to ill-treatment, serious threatening or intimidation of witnesses of enforced or involuntary disappearances or relatives of disappeared persons;

(f) To pay particular attention to cases of disappearance of persons working for the promotion and protection of human rights and fundamental freedoms, wherever they occur, and to make appropriate recommendations for preventing such disappearances and improving the protection of such persons;

(g) To continue to apply a gender perspective in its reporting process, including in information collection and the formulation of recommendations;

(h) To provide appropriate assistance in the implementation by States of the Declaration on the Protection of All Persons from Enforced Disappearance and of the existing international rules;

(i) To continue its deliberations on its working methods and to include these aspects in its report to the Commission at its fifty-sixth session;

3. Deplores the fact that some Governments have never provided substantive replies concerning the cases of enforced disappearances in their countries or acted on the recommendations concerning them made in the reports of the Working Group;

4. Urges the Governments concerned:

(a) To cooperate with the Working Group and help it to carry out its mandate effectively, in particular by inviting it freely to visit their countries;

(b) To intensify their cooperation with the Working Group on any action taken pursuant to recommendations addressed to them by the Working Group;

(c) To take steps to protect witnesses of enforced or involuntary disappearances and the lawyers and families of disappeared persons against any intimidation or ill-treatment to which they might be subjected;

(d) That have long had many unresolved cases of disappearances, to continue their efforts to shed light on the fate of the individuals concerned and to set in train with the families of those individuals appropriate settlement machinery;

(e) To make provision in their legal systems for machinery for victims of enforced or involuntary disappearances or their families to seek fair and adequate reparation;

5. Reminds Governments:

(a) That all acts of enforced or involuntary disappearance are crimes punishable by appropriate penalties which should take due account of their extreme seriousness under penal law;

(b) Of the need to ensure that their competent authorities proceed immediately to conduct impartial inquiries in all circumstances where there is reason to believe that an enforced disappearance has occurred in territory under their jurisdiction;

(c) That, if such belief is borne out, all the perpetrators of enforced or involuntary disappearances must be prosecuted;

(d) That impunity is simultaneously one of the underlying causes of enforced disappearances and one of the major obstacles to the elucidation of cases thereof;

6. Expresses:

(a) Its thanks to the many Governments that have cooperated with the Working Group and replied to its requests for information and to the Governments that have invited the Working Group to visit their countries, asks them to give all necessary attention to the Working Group's recommendations and invites them to inform the Working Group of any action they take on those recommendations;

(b) Its commendation of the efforts by Governments which investigate, or develop appropriate mechanisms to investigate, any cases of enforced disappearance which are brought to their attention and encourages all the Governments concerned to expand their efforts in this area;

7. Invites States to take legislative, administrative, legal and other steps, including when a state of emergency has been declared, to take action at the national and regional levels and in cooperation with the United Nations, if appropriate through technical assistance, and to provide the Working Group with concrete information on the measures taken and the obstacles encountered in preventing enforced, involuntary or arbitrary disappearances and in giving effect to the principles set forth in the Declaration on the Protection of All Persons from Enforced Disappearance;

8. Takes note of the assistance provided to the Working Group by non-governmental organizations and their activities in support of the implementation of the Declaration and invites those organizations to continue their cooperation;

9. Takes note of the draft International Convention on the Protection of All Persons from Enforced Disappearance (E/CN.4/Sub.2/1999/19) transmitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 1998/25 of 26 August 1998 and requests the Secretary-General to renew the invitation to States, international organizations and non-governmental organizations to submit their views and comments on this matter;

10. Requests the Working Group to report on its activities to the Commission at its fifty-sixth session;

11. Requests the Secretary-General:

(a) To ensure that the Working Group receives all the assistance and resources it requires to perform its function, including, inter alia, support for the principles of the Declaration on the Protection of All Persons from Enforced Disappearance, carry out and follow up missions, hold sessions in countries that would be prepared to receive it and update the database on cases of enforced disappearance;

(b) To keep the Working Group and the Commission on Human Rights regularly informed of the steps he takes for the wide dissemination and promotion of the Declaration on the Protection of All Persons from Enforced Disappearance;

12. Decides to consider this matter at its fifty-sixth session under the same agenda item.
