

4. Appeals for the humanitarian action of the International Committee of the Red Cross and its delegates to be respected in all circumstances;
5. Calls upon States to take any measures necessary to prevent and punish the taking of hostages and to put an immediate end to cases of abduction and unlawful restraint on their territory;
6. Requests the Secretary-General, whenever so requested by a State, to employ all means at his disposal in order to secure the immediate release of persons held hostage;
7. Decides to remain seized of the question at its forty-eighth session.

52nd meeting

5 March 1991

[Adopted without a vote. See chap. X.]

1991/41. Question of enforced or involuntary disappearances

The Commission on Human Rights,

Bearing in mind General Assembly resolution 33/173 of 20 December 1978, in which the Assembly requested the Commission on Human Rights to consider the question of disappeared persons with a view to making appropriate recommendations, and all other United Nations resolutions concerning missing or disappeared persons,

Convinced of the need to continue the implementation of the provisions of General Assembly resolution 33/173 and of the other United Nations resolutions on the question of enforced or involuntary disappearances,

Recalling its resolution 20 (XXXVI) of 29 February 1980, by 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, and its resolutions 1987/27 of 10 March 1987, 1988/34 of 8 March 1988, 1989/27 of 6 March 1989 and 1990/30 of 2 March 1990,

Recalling also its decision 1986/106 of 13 March 1986, by which it invited the Sub-Commission on Prevention of Discrimination and Protection of Minorities to reconsider the question of a declaration against unacknowledged detention of persons,

Recalling further its resolution 1990/76 of 7 March 1990, on cooperation with representatives of United Nations human rights bodies,

Recalling General Assembly resolution 45/165 of 18 December 1990,

Profoundly concerned at the fact that the practice of enforced or involuntary disappearances is continuing in various regions of the world,

Concerned also at the reports concerning harassment of witnesses of disappearances or relatives of disappeared persons,

Having considered the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1991/20 and Add.1),

1. Expresses its appreciation to the Working Group on Enforced or Involuntary Disappearances for the way in which it has done its work, and thanks the Working Group for submitting to the Commission at its forty-seventh session a report in accordance with its resolution 1990/30;
2. Takes note of the report of the Working Group, and thanks it for continuing to improve its methods of work and for recalling the humanitarian spirit underlying its mandate;
3. Requests the Working Group to report on its work to the Commission at its forty-eighth session and reminds the Working Group of the obligation to discharge its mandate in a discreet and conscientious manner;
4. Also requests the Working Group, in its efforts to help eliminate the practice of enforced or involuntary disappearances, to submit to the Commission all appropriate information it deems necessary and all concrete suggestions and recommendations regarding the fulfilment of its task;
5. Reminds the Working Group of the need to observe, in its humanitarian task, United Nations standards and practices regarding the receipt of communications, their consideration, their evaluation, their transmittal to Governments and the consideration of government replies;
6. Notes with concern that some Governments have never provided substantive replies concerning disappearances alleged to have occurred in their country;
7. Deplores the fact that, as the Working Group points out in its report, some Governments have not acted on the recommendations contained in the reports by the Working Group concerning them or have not replied to the requests by the Working Group for information on those matters;
8. Urges the Governments concerned, particularly those which have not yet responded to communications transmitted to them by the Working Group, to cooperate with and assist the Working Group so that it may carry out its mandate effectively, and in particular to answer expeditiously requests for information addressed to them by the Working Group;
9. Also urges the Governments concerned to intensify their cooperation with the Working Group in regard to any measure taken in pursuance of recommendations addressed to them by the Working Group;

10. Once again urges the Governments concerned to take steps to protect the families of disappeared persons against any intimidation or ill-treatment to which they might be subjected;

11. Encourages the Governments concerned to give serious consideration to inviting the Working Group to visit their country, so as to enable the Working Group to fulfil its mandate even more effectively;

12. Urges Governments to take steps to ensure that, when a state of emergency is introduced, the protection of human rights is guaranteed, particularly as regards the prevention of enforced or involuntary disappearances;

13. Reminds Governments of the need to ensure that their competent authorities conduct prompt and impartial inquiries when there is reason to believe that an enforced or involuntary disappearance has occurred in a territory under their jurisdiction;

14. Expresses its profound thanks to the Governments which have cooperated with the Working Group and have responded to its requests for information;

15. Also expresses its profound thanks to the Governments which have invited the Working Group to visit their country, asks them to give all necessary attention to its recommendations and invites them to inform the Working Group of any action they take on the recommendations;

16. Requests the Secretary-General to ensure that the Working Group receives all necessary assistance, in particular the staff and resources it requires to perform its functions, especially in carrying out missions or holding sessions in countries which would be prepared to receive it;

17. Expresses its satisfaction to the Working Group on Detention of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which has completed preparation of the draft declaration on the protection of all persons from enforced or involuntary disappearance (E/CN.4/Sub.2/1990/32, annex);

18. Expresses its thanks to the Sub-Commission, which has finalized the draft and is transmitting it to the Commission;

19. Decides to establish an open-ended inter-sessional working group of the Commission on Human Rights to consider the draft declaration submitted by the Sub-Commission, with a view to its adoption by the Commission at its forty-eighth session;

20. Invites all Governments, the intergovernmental agencies and the non-governmental organizations to participate in the activities of the working group;

21. Requests the working group to meet for a period of two weeks before the forty-eighth session of the Commission;

22. Requests the Secretary-General to invite comments, for consideration by the working group, from Governments, intergovernmental agencies and non-governmental organizations on the draft declaration and to circulate these comments to Governments in advance of the meeting of the Working Group;

23. Requests the Secretary-General to extend all facilities to the working group for its meeting prior to the forty-eighth session of the Commission;

24. Recommends the following draft resolution to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. A, draft resolution II.]

52nd meeting

5 March 1991

[Adopted without a vote. See chap. X.]

1991/42. Question of arbitrary detention

The Commission on Human Rights,

Recalling its resolution 1985/16 of 11 March 1985, in which it requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to analyse available information concerning the practice of administrative detention without charge or trial, and to make appropriate recommendations on the use of this practice,

Recalling its resolutions 1988/45 of 8 March 1988 and 1989/38 of 6 March 1989, as well as its decision 1990/107 of 7 March 1990,

Reaffirming articles 3, 9 and 10 as well as other relevant provisions of the Universal Declaration of Human Rights,

Taking note of Sub-Commission resolution 1990/22 of 30 August 1990, in which the Sub-Commission expressed its appreciation to Mr. Louis Joinet for the revised report on the practice of administrative detention (E/CN.4/Sub.2/1990/29 and Add.1), endorsed the revised recommendations therein, decided to transmit these recommendations to the Commission on Human Rights and invited the Commission to consider the different proposals contained in these recommendations,

Conscious of the interest in giving concrete application to the analysis and recommendations formulated in the report,