



# INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

*" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "*

United Nations Sub-Commission on the Promotion and Protection of Human Rights  
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## **Oral Intervention**

### **The Norms on transnational corporations and the role of the Sub-Commission in the development of international human rights law**

Mr Chairman,

In elaborating a set of Draft Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with regard to Human Rights, the Sub-Commission lived up to its tradition as an independent body with a critical capacity to create new, and reinforce existing international human rights law. The Commission's Decision 2004/116, affirming that the draft norms had not been requested by the Commission and that the Sub-Commission should not perform any monitoring function in this regard, constitutes yet another step to limit the Sub-Commission's work.

Four years after its authority to adopt resolutions on countries was removed, the Sub-Commission finds itself increasingly marginalized, its mandate further restrained and its right of initiative curtailed.

In Resolution 2004/60, the UN Commission on Human Rights decided that the Sub-Commission should seek the Commission's approval before embarking on any new activity, with the exception of studies and research. The International Commission of Jurists (ICJ) is concerned that this constitutes a further step towards debilitating the mandate of this body.

As was recognized by the Commission in 2000, the Sub-Commission has a critical role to play in international standard-setting through the elaboration of drafts. It is here, in this forum of independent experts, that some of the important international human rights instruments were developed. Let us only recall the Declaration on Human Rights Defenders, the Declaration on the Protection of all Persons from Forced Disappearance, or the Declaration on the Rights of Persons

Belonging to National or Ethnic, Religious and Linguistic Minorities. All were eventually adopted by the General Assembly.

New international standards now being considered by the Commission are also the result of the initiative of the Sub-Commission: the Draft International Convention on the Protection of all Persons from Forced Disappearance, the draft Basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law and the draft Set of principles for the protection and promotion of human rights through action to combat impunity. The General Assembly has welcomed the initiative of the Sub-Commission to elaborate a treaty against enforced disappearances and the Commission itself has noted that the Sub-Commission's Principles against impunity have already been applied at regional and national level.

The role of the Sub-Commission has not been limited to the establishment of new norms. Several special procedures and mechanisms are also the fruit of the creativity of the Sub-Commission. We owe the establishment of the Working Group on Enforced and Involuntary Disappearances – the first thematic special procedure – and the mandate of the Special Rapporteur on the independence of judges and lawyers to its vigorous work.

The history of United Nations standard setting shows that the political character of the Commission on Human Rights has limited its role as an engine for new norms, procedures and mechanisms. They were frequently established thanks to the resourcefulness and drive of the Sub-Commission.

Mr Chairman,

The Commission can accept or reject proposals by the Sub-Commission. But the role of this expert body in initiating and proposing must continue. The Sub-Commission should, as a matter of priority, engage in a constructive dialogue with the Commission on Human Rights on the role of the Sub-Commission and request the Commission to review the measures that have curbed the Sub-Commission's role.

Thank you Mr Chairman