



**COMMITTEE
FOR JUSTICE**

Responding to the Working Group on Enforced or Involuntary Disappearances' call for contributions in preparation for its visit to the African Union Judicial and Human Rights organs and other bodies and on the side-lines of the 77th Ordinary Session of the African Commission on Human and Peoples' Rights.

Committee for Justice – 15 November 2023



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Introduction

The Committee for Justice (CFJ) presents this report, aiming to offer a clear compilation of information on legislative frameworks and relevant jurisprudence related to enforced disappearances in the African region. This document sheds light upon some key concerns about the prominence of such practice in Africa. Our analysis is rooted in CFJ's extensive documentation work of human rights violations in North Africa, spanning from 2013 to the present, encompassing both individual cases and broader trends.

1. Please provide information on past/ongoing initiatives focusing on enforced disappearance in Africa.

Regional Initiatives:

- During the 65th ordinary session of the African Commission on Human and People's Rights which took place in October 2019, a panel on Enforced Disappearance in Africa was held.
- The African Commission on Human and People's Rights adopted The Guidelines on the Protection of All Persons from Enforced Disappearances in Africa during its 71st Ordinary Session, which was held virtually from 21 April to 13 May 2022. The Guidelines were developed under Article 45(1)(b) of the African Charter, which mandates the African Commission to formulate standards, principles, and rules on which African governments can base their legislation.

National/Local Initiatives:

Algeria: The "[Truth and Justice for the Disappeared](#)" is an online portal pushing for the implementation of the decisions (or "Views") of the Human Rights Committee (HRC) relating to cases of enforced disappearances committed during the Algerian civil war, that ravaged the country in the 1990s. It indexes all the cases addressed by the HRC.

Egypt: The [Justice Watch Archive](#) created by "CFJ" is an open-source online database that provides direct access to data and information on human rights victims in Egypt in a way that does not conflict with the interests of the victims and the 'do no harm' principle. The archive contains more than 31.500 cases of Human Rights violations involving more than 14.350 victims. It has a dedicated section for cases of Enforced Disappearance. CFJ has thus far documented over 510 cases of Enforced Disappearance in Egypt. The Justice Watch Archive is an initiative aimed at promoting the vision of CFJ, centered around the protection of victims' rights in the long term while assisting and enabling institutions working in human rights defense to work safely to achieve justice for victims and combat impunity.

The Gambia: "Increasing accountability and preventing enforced disappearances and extrajudicial killings in Mexico, Nepal, The Gambia and beyond" is a transversal project created by Trial International to bring cases of enforced disappearance before judicial authorities, to build

capacities of national actors, and to share good practices in the fight against enforced disappearance and extrajudicial killings in these countries.

- 2. Please elaborate on possible reasons for the low registration/reporting of cases of enforced disappearances in the region. Please provide information on whether families, human rights defenders, humanitarian workers, prosecution, judges and lawyers, or persons in charge of investigations and search face reprisals, threats, and harassment for their work and, if so, in which form (and how this could be prevented and mitigated).**

Enforced disappearances are prevalent on the African Continent. However, a large number of African States refuse to acknowledge the occurrence of such crimes, thus leading to a deliberate failure to keep an official record of the number of victims of ED and a refusal to investigate when such crimes do occur. Moreover, victims of ED often decide not to report the crime to which they were subjected out of fear of reprisals. Such fear is further exacerbated by a well-established lack of independence of judicial authorities in many African States, judiciary bodies that systematically fail to safeguard due process procedures. Insufficient awareness of the legal remedies available at the national, regional, and international levels may also explain the reasons for the low reporting of cases of ED in the region. Reprisals, threats, and harassment could be prevented and mitigated by helping victims and their families through more explicit protection programs/mechanisms, as well as training and supporting human rights organizations in witness protection, with an urgent response procedure for when reprisals occur.

According to a report published by [Redress](#), “the absence of political will and awareness among African States to address ED is also reflected in the lack of adequate legal frameworks at the national level to prevent and protect against this crime”. As a result, victims of ED in Africa find themselves confronted with a dangerous legal blackhole, with little to no prospect of securing redress.

At the regional level, Enforced Disappearance has historically not featured prominently on the agenda of the African Commission on Human and Peoples’ Rights, the continent’s principal human rights body established on 2 November 1987, in Addis Ababa. In fact, out of the 54 States constituting the African Continent, only 18 have proceeded to ratify the International Convention on the Protection of All Persons from Enforced Disappearance (ICPPED). The absence of political will to ratify international legal treaties seeking to criminalize enforced disappearances, such as the ICPPED, therefore signals a worrying failure to recognize the seriousness of the crime and encourages impunity by rendering African States unaccountable under the International Legal Justice system.

As of 2020, the United Nations Working Group on Enforced and Involuntary Disappearances was considering 4,783 reported cases of enforced disappearance in African countries, over 10% of the

global total. Reported cases on the continent were highest in Algeria (3,253), Egypt (308), Burundi (238), Sudan (177), Morocco (153), and Ethiopia (113). In its [2021 report](#), the WGEID noted that out of the 46,490 cases of enforced disappearances under consideration, only 4,765 relate to African countries.

3. Could you please share experiences, good practices, lessons learned, emerging trends, and specific features and potential solutions, in the context of the below themes and cross-cutting issues:

- Enforced disappearance in the context of migration.

Thousands of migrants disappear every year during their journey out of Africa. Recently, on 30 August 2023, the World Organization Against Torture (OMCT) submitted an amicus curiae brief to the Court of Justice of the Economic Community of West African States on the case of 68 Ghanaian migrants who disappeared in July 2005 while they were crossing the Gambia on their way to Europe. According to [OMCT](#), this case is one amongst many others and serves as an illustration of the thousands of migrants in Africa who disappear every year during their journey out of Africa, without any information or investigation carried out to find them by the governments of their country of origin. Moreover, along the Sahara and central Mediterranean routes, the risks have increased in recent years, making migrants more vulnerable to enforced disappearance. The security and immigration policies adopted by certain countries, including Tunisia, Algeria, Libya, and Morocco, the militarization of borders, and the criminalization of irregular migration in Niger, Senegal, and Burkina Faso put migrants at greater risk of ED.

On a different note, Human rights defenders carrying out their work under authoritarian regimes often choose or are forced to seek refuge abroad for their safety and security, or as a strategy to ensure the sustainability of their activism. Nonetheless, some States—like Egypt— apply quasi-systematic arbitrary travel bans to target actual or perceived opponents, and key members of civil society for their human rights work, including activists and lawyers, journalists, and their families. According to several cases documented by CFJ, victims are most likely to learn about their travel ban at the airport while boarding a flight. They are often subjected to arrest or enforced disappearance from the airport. To provide a concrete example, CFJ has documented the case of “[Ibrahim Metwally Hegazy](#)”, a human rights defender and lawyer and the founder of the Association of the Families of the Forcibly Disappeared in Egypt. Mr. Metwally was arrested and subjected to enforced disappearance on 10 September 2017 from Cairo Airport while attempting to travel to Geneva, on a visit to the United Nations to participate in the WGEID’s 113th session, as a coordinator of the Association of Families of the Forcibly Disappeared. More broadly, CFJ has detected a worrying trend taking shape between migration and enforced disappearance, as persons involved in Human Rights work fall victim to ED amidst their attempt to flee their often authoritarian countries in the quest for refuge, safety, and security abroad.

- **Acts tantamount to enforced disappearances perpetrated by non-state actors exercising de facto control over a territory or population.**

There are many examples of non-governmental entities carrying out acts analogous to forced disappearance in Africa, especially during armed conflicts or civil unrest. By way of example, in 2019, armed separatists in Cameroon kidnapped hundreds of people, including students priests, and religious leaders, and almost all of them were released after their family members paid a ransom ranging between 170 to 2,500 US dollars. According to redress, another publicized case was Boko Haram's abduction and enforced disappearance of 276 schoolgirls in 2014 in Nigeria, many of whom have not yet been released or found. More recently, in Sudan, enforced disappearances have skyrocketed since fighting broke out, between the Sudanese Armed Forces and the Rapid Support Forces on 15 April 2023. Hundreds of civilians have been forcibly disappeared by warring parties in the brutal cycle of violence. In a speech on 12 September 2023, Volker Türk, UN Human Rights Chief told the [Human Rights Council](#) that at least 500 people were reported to have disappeared in Khartoum alone since fighting broke out. Sudan's '[Missing' public Facebook group](#), which has thousands of members, has become the last strand of hope for many, to acquire information about their loved ones' whereabouts.

- **So-called short-term enforced disappearances.**

There is no limit on how long EDs last, as they can range from hours, days, and months to years. What is certain is that the victims of enforced disappearances are most likely to be subjected to psychological and physical torture, and their families are left with no information about their whereabouts. In Egypt, short-term ED has been an emerging trend since 2013, whereby police and national security arbitrarily abduct individuals without legal basis and often, by security personnel in civilian clothes. Victims are subjected to enforced disappearance for varying lengthly periods before being brought before the Public Prosecution or the Supreme State Security Prosecution. Over the past decade, more than 15000 victims have been subjected to enforced disappearance in Egypt, including women and children, some of whom are still missing. Out of the hundreds of cases of ED documented by CFJ, [395](#) were published in the Justice Watch Archive after obtaining consent from the victims' families, most of whom were subjected to short-term ED before being brought to the prosecution. The main purpose of short-term ED is to extract forced confessions using torture (psychological and physical) from the victims. Confessions which are later used to put them behind bars, often indefinitely.

Place: Geneva

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