

General allegation

127th session (9-13 May 2022)

Rwanda

The Working Group received information from sources concerning alleged violations and obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance (hereafter, 'the Declaration') in Rwanda.

1. According to information received there is a practice of enforced disappearances of Rwandan political opponents, human rights defenders, journalists, and other perceived critics of the Government, both within and outside the country.
2. According to the sources, the current regime has engaged in a systematic campaign of targeting anyone who expresses any form of opposition or dissenting opinion, particularly those whose views differ from the Government's narrative on genocide.
3. It has been reported that the patterns of enforced disappearance in the country start as early as 1993 and continued throughout these years. Between 1993 and 2004, the practice of enforced disappearance reportedly mainly targeted Hutus for a variety of reasons, including their perceived affiliation to the former Hutu-dominated regime, allegations of crimes committed during the genocide, and attempts to reduce the majority of Hutus.
4. It has been reported that Rwandans who have attempted to draw attention to allegations of crimes committed by the Rwanda Patriotic Front (hereafter, 'RPF') have been subjected to several human rights violations, including enforced disappearance. It is further reported that Hutu survivors of RPF crimes, who sought information from authorities on the fate and whereabouts of their loved ones, were often targeted, while those who tried to hold members of the RPF accountable during grassroots Gacaca hearings also faced persecution or prosecution. According to the information received, witnesses of RPF crimes who were believed to be willing to testify before the United Nations International Criminal Tribunal for Rwanda (hereafter, 'ICTR') were threatened in some form, often subjected to enforced disappearance, within Rwanda and in the neighbouring countries where they had fled, including Uganda, Tanzania, Zambia, Burundi, Kenya or the Democratic Republic of Congo (hereafter, 'DRC').
5. According to the information received, the practice of enforced disappearance targeting refugees – which commenced after the 1994 genocide - continues until today. It is reported that, between 1996 and 1997, the Rwandan Defence Force (hereafter, 'RDF') have conducted several security operations in the eastern part of the DRC to track down members of the Rwandan Armed Forces, leading to the killing and enforced disappearance of thousands of Rwandan refugees, mainly Hutus. Within this context, it is further reported that, between March and September 2014, the Government conducted military operations in the districts bordering DRC, resulting in the enforced disappearance and killing of hundreds of refugees. The fate and whereabouts of at least 150 people who disappeared in those circumstances remain unknown. In addition, Rwandan refugees who tried to raise international awareness of, or were willing to talk about, RPF crimes were allegedly tracked down and killed or disappeared; including former RPF soldiers who were willing to testify before a French court regarding the downing of the presidential plane on 6 April 1994, that triggered the genocide.
6. The information received further refers to the practice of enforced disappearance against Tutsis who were part of the RPF's ruling inner circle and who subsequently fell out of favour with the Government.

7. The Working Group has also received information that Rwandese, including journalists and civil society actors who have been outspoken critics of the RPF's political and economic governance, have mysteriously disappeared ahead in the run-up to the 2015 Constitution referendum, which amended the presidential term limits and the 2017 presidential elections. Furthermore, according to the sources, since the referendum, the Government has increased its crackdown on potential political opposition, with the ongoing targeting, intimidation, and harassment and enforced disappearance of those opposed to the Government.
8. According to the information received, the practice of enforced disappearance has also included the targeting of the Rwandan diaspora activists who have sought to raise awareness about the human rights abuses happening in Rwanda and who were living in various African countries, as well as in the United States of America, Australia and Europe.
9. The information received further highlights patterns of transnational enforced disappearance, targeting Rwandan living abroad. In such circumstances, while some of the victims later reappear in a Rwandan Court; others' fate and whereabouts remain unknown. It is further alleged that, in order to carry out successful operations against its own citizens abroad, the Government of Rwanda likely relies on the co-operation of other Governments.
10. The sources also reported that information and communication technology (hereafter, 'ICT') has been used in the furtherance of the practice of enforced disappearance. It has been mentioned that, in the more recent cases of enforced disappearance, after the victims have been forcibly disappeared, their cell phones were disconnected. Furthermore, according to the information received, surveillance software such as Pegasus has been used to monitor the WhatsApp messaging services of the targeted individuals. It is further stated that several high-profile critics of the regime, including opposition members and commentators who have used social media or YouTube to express themselves were subjected to enforced disappearance.
11. It is reported that Rwanda does not have specific legal provisions criminalising enforced disappearance as an autonomous offence and the existing legislation fails to offer sufficient protection against this crime, leaving persons vulnerable to the discretionary practices of the institutions holding criminal justice powers. Pursuant to the information received, several key provisions, including in the Penal Code and in the legislation concerning genocide ideology, have been drafted in a vague and ambiguous manner, therefore enabling politically motivated judicial proceedings of persons previously subjected to enforced disappearance, as well as the crack down on civic spaces, i. e., the suppression of political dissent, limitation of registration and operation of independent non-governmental organizations.
12. According to the information received, while families reported the cases of enforced disappearance to several State institutions, including the Rwandan Investigation Bureau, the Ministry of Justice, and the National Human Rights Commission, little progress has been made in uncovering the fate and whereabouts of the disappeared or in holding accountable the perpetrators of such crimes, in particular, when concerning civilian officials and some members of State security forces.

The Working Group would like to bring to the Government's attention the following provisions of the Declaration, which are directly related to the present allegation:

Article 1

1. Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international instruments in this field.

2. Any act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of

international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life.

Article 2

- 1. No State shall practice, permit or tolerate enforced disappearances.*
- 2. States shall act at the national and regional levels and in cooperation with the United Nations to contribute by all means to the prevention and eradication of enforced disappearance.*

Article 3

Each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction.

Article 4

- 1. All acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness.*
- 2. Mitigating circumstances may be established in national legislation for persons who, having participated in enforced disappearances, are instrumental in bringing the victims forward alive or in providing voluntarily information which would contribute to clarifying cases of enforced disappearance.*

Article 6

- 1. No order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance. Any person receiving such an order or instruction shall have the right and duty not to obey it.*
- 2. Each State shall ensure that orders or instructions directing, authorizing or encouraging any enforced disappearance are prohibited.*
- 3. Training of law enforcement officials shall emphasize the provisions in paragraphs 1 and 2 of the present article.*

Article 9

- 1. The right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances, including those referred to in article 7 above.*
- 2. In such proceedings, competent national authorities shall have access to all places where persons deprived of their liberty are being held and to each part of those places, as well as to any place in which there are grounds to believe that such persons may be found.*
- 3. Any other competent authority entitled under the law of the State or by any international legal instrument to which the State is a party may also have access to such places.*

Article 13

- 1. Each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.*
- 2. Each State shall ensure that the competent authority shall have the necessary powers and resources to conduct the investigation effectively, including powers to compel attendance of witnesses and production of relevant documents and to make immediate on-site visits.*
- 3. Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal.*
- 4. The findings of such an investigation shall be made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation.*
- 5. Steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished.*
- 6. An investigation, in accordance with the procedures described above, should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified.*

The Working Group would be grateful for your Excellency's Government's cooperation and observations on the following questions:

1. Please provide any additional information and/or any comment you may have on the above-mentioned allegations.
2. Please explain what measures have been taken by your Government to ensure that Rwandese people, including journalists, human rights defenders and lawyers and political opponents can carry out their activities without any fear of threat of enforced disappearance or any other restrictions.
3. Please inform on how does your Government ensure the right to a prompt and effective judicial remedy as a means of determining the fate and whereabouts of persons deprived of their liberty?
4. Please provide information on how does your Government ensure that any person, having knowledge or legitimate interest, who alleges that a person has been subjected to enforced disappearance is able to lodge a complaint to a competent and independent State authority? How does your Government ensure that complaints are promptly, thoroughly and impartially investigated by that authority? What steps does your Government take to protect relatives of disappeared persons from any form of reprisals?
5. How does your Government ensure the right of victims and their relatives to an effective remedy, which should at minimum guarantee cessation of violations, restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition?
6. Please indicate any measures taken by the Rwandan Government to stop and prohibit targeted violence, including the practice of enforced disappearance, against Hutus.

7. Please list concrete measures taken to stop the practice of enforced disappearance allegedly committed by Rwandan security forces within and outside the country and to investigate on the corresponding allegations, identify those responsible and hold them accountable.
8. Please provide detailed and updated information on the status of investigations on all the case cases of enforced disappearance that have been reported to State institutions including, the Rwanda Investigation Bureau. Kindly inform on the measures in place to search for disappeared persons and establish their fate and whereabouts.
9. Please provide information on measures taken to prevent the use of surveillance software for illegal purposes, including the monitoring of communications of individuals. Please provide information on the measures taken to guarantee freedom of expression, including online, without the fear of being subjected to enforced disappearance.
10. Please provide information on the applicable criminal provisions vis-à-vis enforced disappearance, specifying whether the latter is codified as an autonomous offence under the domestic legislation, sanctioned with penalties that are commensurate to its extreme seriousness.
11. Please provide information on enforced disappearances of Rwandan citizens, including refugees, allegedly perpetrated abroad – both in neighbouring countries and in other continents. What measures have your government taken to afford to other States the greatest measures of mutual legal assistance in connection with criminal investigations and proceedings. Similarly, which measures are taken by Rwanda to afford other States assistance to support victims of enforced disappearance and, in the event of death, exhuming, identifying and returning their remains?

The Working Group requests the Sudanese authorities to provide a response to the above questions within 60 days.