## Special initiative marking the 30th anniversary of the Declaration on the Protection of All Persons from Enforced Disappearance

https://www.ohchr.org/EN/Issues/Disappearances/Pages/30th-anniversary-DPAED.aspx

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**Introduction**

1. This report investigates the influence of the Declaration on the Protection of All Persons from Enforced Disappearance on local legislation in the Hashemite Kingdom of Jordan, as the Amman Center for Human Rights (ACHRS) is situated in Jordan and therefore specializes in Jordan.
2. The report responds to the questionnaire of the Working Group on Enforced or Involuntary Disappearances with the purpose to study to mark the 30th anniversary of the Declaration on the Protection of All Persons from Enforced Disappearance.
3. In response to the questionnaire, Jordan is one of the countries in the Middle East where enforced disappearances seem to occur the least. ACHRS salutes this finding but is wary of assuming the accuracy of the found numbers. Research shows that the State puts little to no effort into investigating the actual/factual numbers of people who have been involuntarily displaced.
4. After careful consideration, ACHRS concludes that the government of Jordan does not prioritize enforced disappearances, mainly because of their statement that these endeavours do not occur in Jordan.

**Methodology**

1. This report is a) a review of current Jordanian legislation and practices in relation to enforced disappearances and b) an investigation of the practices of the Jordanian government on the same matter, using secondary sources. As not all questions were applicable or in our power to adequately answer, we have committed to answering the most applicable questions to Jordan.

**Background**

1. While the government states that enforced disappearances do not happen at all in Jordan, the Human Rights Council states differently.
2. According to the Human Rights Council (A/HRC/48/57 of August 4th, 2021), there have been eight cases of enforced or involuntary displacement between 1980 and 2021. Of these eight people, two cases have been transmitted to the government, but both are still outstanding. Three people have been liberated, while three are still in prison. Five of the eight cases have been clarified by third sources, only one by the government.
3. Yet, whether involuntary disappearances happen or not, it is difficult to hold the State responsible, as Jordan is no State party to neither the Declaration nor the Convention.

**Answer to question 1:**

1. In the Jordanian context, this question is not applicable. The Government claims that the ratification of the Declaration is not necessary as the Convention covers ‘the important parts’ of the Declaration. According to the Prime Minister, Convention Articles 7 and 8 cover the Declaration, which guarantee personal freedom and the prohibition of detention or imprisonment except in accordance with the provisions of the law.

**Answer to Question 2:**

1. See answer to Question 1.

**Answer to Question 4:**

1. The Declaration has significantly contributed to the development of international law on enforced disappearance, as it is the very first document specifically addressing the issue. Furthermore, it establishes the necessary measures that countries need to adopt in order to tackle this human rights violation, even if it is not a legally binding document; nevertheless, the Declaration represents a fundamental basis for the elaboration of the subsequent International Convention for the Protection of All Persons from Enforced Disappearance, which - being an international treaty, is legally binding in nature.

Indeed, the Declaration - and consequently, the Convention, provides a comprehensive framework tackling different elements of the issue of enforced disappearances. Furthermore, both documents result to be highly relevant when taken into consideration in relation to the Convention against Torture, as they expand and supplement the protection of certain human rights.

1. One of the most relevant aspects lies in the fact that enforced disappearances are linked to the broader concept of torture - therefore, the prohibition of carrying out these practises is to be considered non-derogable in nature. This classification can be found in Art. 1-3 of the Declaration, and it is also stated in Art.1 of the Convention. By establishing so, the prohibition of enforced disappearances has to be interpreted as part of *jus cogens*, meaning that no violation of this principle can be justified under the pretext of state sovereignty.

**Answer to Question 5:**

1. Jordan is not party to the Convention. The Hashemite Kingdom of Jordan has not ratified, nor signed the Convention. Though, in July 2021, there was talk of possible ratification of the Convention, according to Petra, the Jordanian News Agency. The Jordanian Lower House's Public Freedoms and Human Rights Committee opened the discussion as to why the Kingdom has not yet ratified the document. The conclusion of the Prime Minister was that Jordan has no reason to not ratify the Convention because the content of the Convention is also covered in the Jordanian Constitution, foremost in Article 8, which states that no person may be detained or imprisoned except in accordance with the provisions of the law, and also because freedoms and rights in Jordan are "protected” (quotation marks original). Furthermore, the minister claimed that enforced disappearances do not occur in Jordan.
2. Whether this is true or not, the outcome should be that in the coming period, Jordan will sign and ratify the Convention. However, up until now, no follow up action has been planned yet.

**Answer to Question 6:**

1. The following cases are some examples of relevant cases that were influenced by the Convention - not directly from the Declaration, as it appears difficult to find such examples.

* The prohibition of the forced disappearance of persons and the corresponding obligations to investigate and punish those responsible, to be intended as part of *jus cogens*: Goiburú [2006] Inter-Am Court HR (ser C) No 153.
* The prohibition of secret detention: El-Megreisi v Libyan Arab Jamahiriya
* Regarding the concept of victim and need for reparations: Mapiripán Massacre v Colombia [2005] Inter-Am Court HR (ser C) No 122, [146]; Ituango Massacres v Colombia [2006] Inter-Am Court HR (ser C) No 148, [262].

**Answer to Question 7:**

1. The clearest obstacle is practical and has to do with tradition. Jawla is one of these traditional practices: an informal tradition-based law that has caused entire extended families to be uprooted from their homes for years. Jordan is a country in which tradition plays a significant role in life, which had led to tribal practices in some parts of the country almost gaining the status of ‘customary law’. In principle, Jawla means that families seek refuge in the land of an enemy tribe, as punishment for being related to someone who has committed a crime (Sutton, 2018). Sutton (2018) explains that Jawla is a centuries-old practice that has shielded vulnerable members of the criminal’s family from retaliation killings, long before the Jordanian state was created in 1946. Jalwa restores community harmony and creates a safe environment for psychological recovery.
2. While the original tribal Jalwa-law was abolished in 1976, the Jalwa procedure is still in place, but now only applies to murder, rape, and armed assault. The purpose of allowing these customs to remain is to reduce conflicts amongst persons from the same tribe or who reside in the same region. It is estimated that annually, around 15 cases of Jawla still take place.
3. The difficulty with the implementation of the Declaration because of the existence of Jawla is twofold. First, complications exist because of the cooperation of the Jordanian authorities. According to a report of local NGO Al Hayat Center for Civil Society Development (2013), “Jalwa is a social custom, unsupported by any legal framework, that takes place under the protection of the state”. An amendment to the State’s Crime Prevention Law was done in 2016 that includes Jalwa in the official legal code. Now, possible exiles to the perpetrator's immediate family are confined and the length of exile is limited to one year.
4. The second complication lies in the pure basis of the declaration: it doesn't support forced evictions, especially in cases in which the family members are not involved in the crime.
5. Legally, the Crime Prevention Law creates more obstacles than solely the legality of Jawla. It gives the administrative governor discretionary powers of administrative detention. Some pointed out that the law’s provisions are unconstitutional, and violate international conventions on human rights. Discretionary powers relating to administrative detention could flare up enforced disappearances, as it stands in the way of transparency. One example of this is the case of Ramsi Suleiman, who was detained and involuntarily disappeared, in 2017. After three months of being missing, the man spoke of being tortured and being subject to inhumane treatment.
6. However, the Crime Prevention Law being existing law, combined with the low amount of (internationally) known enforced disappearances, does not greaten the need for the Jordanian government to sign and ratify neither the Declaration nor the Convention.

**Answer to Question 8:**

1. According to OHCHR, Jordan has had an open invitation to special procedures since 20 April 2006, extended by the government to all thematic special procedures. This means that Jordan will always accept requests to visit from all special procedures.
2. In total, Jordan has had 15 Country visits of Special Procedures of the Human Rights Council since 1998. None of these visits relates to enforced disappearance. A report by the OHCHR states that in the period of 01/01/2014 - 31/12/2018, Jordan has had two country visits, with a pending approval of five or more visits since 2014. The same report states that three communications have been sent out in the same time span, but OHCHR has never received a reply.
3. The government of Jordan has received various recommendations, but none of these is related to forced disappearances, which is why they are not relevant at this point.
4. Concerning technical cooperation, the German Society for International Cooperation (GIZ) is providing technical assistance to support the criminal justice chain in Jordan in the period of 2019 to 2022. However, enforced disappearances are not mentioned.
5. Whether special procedures by means of country visits are effective measures in the dissemination and further implementation of the Declaration deserves a dual answer. ACHRS believes that country visits are a good way of holding a country accountable for its actions, for one because international recognition of the State’s good practices is important. It may improve international cooperation and stimulate international trade, for example. However, a State visit can only be successful when prior research has been conducted in the country and misbehaviour has been proven. Visiting a country claiming not to have any enforced disappearances and with little proof otherwise, will not likely be very open to changing their laws in response to the visit, when, according to them, their legal system apparently is not doing any damage.

**Answer to Question 9:**

1. Jordan is also not a member of the [International Coalition Against Enforced Disappearances](https://www.icaed.org/). As far as ACHRS knows, Jordan takes no action in this matter.

**Answer to Question 10:**

ACHRS is not aware of any training programme of this kind in Jordan.

**Sources**

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