



PROTECTION OF PERSONS FROM ENFORCED DISAPPEARANCE: A FOCUS ON SUDAN'S CURRENT CRISIS

Introduction

The act of enforced disappearance, a crime against human dignity and a grave violation of human rights, has become a pressing concern in Sudan amidst the ongoing conflict between the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF). This crisis, which erupted in April 2023, has led to numerous reported cases of enforced disappearances, highlighting the urgent need for international intervention and adherence to the [International Convention for the Protection of All Persons from Enforced Disappearance](#) (hereinafter "the Convention").

The situation in Sudan exemplifies how enforced disappearances deprive individuals of their legally mandated protections and inflict severe pain on victims and their families. Reports from human rights organizations indicate that both the SAF and RSF have been implicated in such acts, violating fundamental rights including:

1. The right to recognition as a person before the law
2. The right to liberty and security of person
3. The prohibition against torture and other cruel, inhuman, or degrading treatment
4. The right to life

These rights, protected under [Article 2 of the Convention](#), are being systematically violated in Sudan, underscoring the critical need for international action.

Legal Framework and Sudan's Obligations

It is crucial to note that Sudan ratified the [International Convention for the Protection of All Persons from Enforced Disappearance](#) (hereinafter "the Convention") in 2021. This ratification marks a significant step in Sudan's commitment to combating enforced disappearances and protecting human rights. However, there remains a critical gap between international commitments and domestic legal implementation.

Key aspects of Sudan's current legal framework include:

1. **Ratification of the Convention:** As a State Party to the Convention since 2021, Sudan has committed itself to the principles and obligations outlined in this international instrument. The [official UN treaty collection](#) confirms Sudan's ratification on August 10, 2021.

2. **Lack of Specific Domestic Legislation:** Despite ratification, Sudan has not yet enacted specific legislation criminalizing enforced disappearance. This legislative gap poses significant challenges in addressing and prosecuting cases of enforced disappearance within the domestic legal system. This information is corroborated by reports from human rights organizations such as the [African Centre for Justice and Peace Studies](#).
3. **Sudan Penal Code Limitations:** The current Sudan Penal Code does not explicitly criminalize enforced disappearance as a distinct offense. This omission creates a legal vacuum that hampers effective prosecution and accountability for such acts. The [Sudan Penal Code of 1991](#) can be referenced for verification of this gap.

Prohibition of Superior Orders and Force Majeure in the Sudanese Context

The ongoing conflict in Sudan does not justify the practice of enforced disappearance. As per international law standards reflected in [Article 6\(1\) of the Convention](#), no order from any public authority be it the SAF, RSF, or any other entity can be invoked to justify an act of enforced disappearance.

This is particularly relevant in Sudan, where the chain of command in both the SAF and RSF has been implicated in human rights abuses. It is crucial that individual soldiers and officers understand their right and duty to refuse orders that would result in enforced disappearances.

Preventive Measures Needed in Sudan

To address the crisis of enforced disappearances in Sudan, the following measures, aligned with the Convention's principles, must be implemented:

1. All individuals detained by either the SAF or RSF must be held in officially recognized detention facilities.
2. Detainees must be promptly brought before a judicial authority, as stipulated in [Article 17\(2\)\(f\) of the Convention](#).
3. Accurate and up-to-date information regarding detentions must be made available to families and legal counsel, as per [Article 18 of the Convention](#).
4. Official registers must be maintained in all detention facilities, including those operated by the SAF and RSF.

Enhancing Access to Justice in Sudan

Given the breakdown of judicial systems in many parts of Sudan due to the ongoing conflict, special measures are needed to ensure access to justice:

1. Establish mechanisms for Sudanese citizens and international observers to report cases of enforced disappearance safely.
2. Ensure that both the SAF and RSF cooperate fully with investigations into alleged cases of enforced disappearance.
3. Involve international bodies, such as the UN Human Rights Council, in monitoring and investigating cases of enforced disappearance in Sudan.

Reparations and Compensation for Sudanese Victims

As the conflict in Sudan eventually resolves, it will be crucial to address the harm inflicted on victims of enforced disappearance and their families. In line with [Article 24\(4\) and \(5\) of the Convention](#), any future peace agreement or transitional justice mechanism in Sudan should include provisions for:

1. Compensation for victims and their families
2. Psychological and social rehabilitation programs
3. Establishment of the truth about the disappearances

The ongoing crisis in Sudan starkly illustrates the devastating impact of enforced disappearances on individuals, families, and society at large. While Sudan is not a party to the Convention, the principles it embodies represent universal standards that must be upheld, especially in times of conflict.

The international community, regional bodies like the African Union, and any future Sudanese government must prioritize addressing the issue of enforced disappearances. This includes not only preventing future occurrences but also investigating past cases, holding perpetrators accountable, and providing justice and reparations to victims and their families.

By adhering to these principles and taking concrete action to combat enforced disappearances, Sudan can take a significant step towards peace, reconciliation, and the restoration of the rule of law.

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