

Q&A

ENFORCED DISAPPEARANCES IN AFRICA



This Q&A aims to help journalists navigate the complexities of reporting on enforced disappearances in Africa, a particularly cruel human rights abuse that is prevalent on the continent, frequently used by governments as a method of repression, terror, and stifling dissent. Human rights advocates, political opposition, union leaders, journalists and minority groups are often targeted.

The Q&A addresses key concepts and terminology; the main contexts in which it happens in Africa; the main obstacles faced by victims seeking justice; and the shortcomings in the available data. It also offers guidance on how to mitigate the risks to journalists and victims when reporting on enforced disappearances.



WHAT'S THE ROLE OF JOURNALISTS?

Because the practice of enforced disappearance thrives in contexts where there is a lack of scrutiny, the media can play a vital role in breaking the silence surrounding the crime. Through accurate reporting journalists can help expose the prevalence of the practice, who is being targeted and why, and who is carrying out enforced disappearances. In some cases, public reporting might prevent the crime from taking place. By contributing to uncovering the truth about what happened in a given case, journalists can also help advance steps to hold perpetrators accountable, deliver justice to victims, challenge a culture of impunity, and deter repetition of this abhorrent crime.

Journalists can also provide important insights into the impact of the crime on its victims and the broader community, as well as the challenges that may be preventing victims from obtaining justice. More awareness about the crime can help promote dialogue on why it happens and how it can be eradicated and generate a firmer resolve by both governments and the public to eliminate its use.

However, reporting on enforced disappearances is often challenging. Many African states deny that enforced disappearances take place, or that they have taken place, and do not investigate or keep official records to track cases. Therefore, accessing reliable statistics and information on this crime can be difficult. Underreporting of enforced disappearances is also widespread because of fear of reprisals and weak rule of law. Journalists can also face risks when covering this crime, and even be subjected to enforced disappearance or other human rights abuses themselves. Additionally, the COVID-19 pandemic has recently made it more difficult to combat this crime.

WHAT IS ENFORCED DISAPPEARANCE?

The International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), which came into force in 2010, provides the definition of enforced disappearances most used in international law. This human rights treaty also outlines the legal obligations of States to protect, prevent, prosecute, and provide reparations to victims. Implementation of the Convention is monitored by the Committee on Enforced Disappearances, which also receives and examines reports of disappearances submitted by relatives of disappeared persons or human rights organisations.

Article 2

For the purposes of this Convention, “enforced disappearance” is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

Therefore, three elements are essential to meet the definition of enforced disappearance:

- 1** The person is deprived of their liberty against their will by State agents, persons, or groups whose actions are supported or condoned in some way by the State;
- 2** The State refuses to acknowledge that deprivation of liberty or reveal the fate or whereabouts of the disappeared person;
- 3** The disappeared person is placed outside of the protection of the law as a result.



KEY CONCEPTS

Victims: The ICPPED defines victims broadly, including not only the disappeared person but also any individual who has suffered harm as a result of an enforced disappearance or in intervening to assist victims. As such, enforced disappearance also constitutes a violation of the rights of the families and loved ones of the victims, who often have to wait years to find out the truth about what happened, or never find out at all.

Short-term disappearances: There is no time limit on how long an enforced disappearance lasts: it can be hours, days, or decades. The crime starts at the time of abduction and refusal to acknowledge the fate and whereabouts of the disappeared and continues until the truth is established, even if this happens many years later. This means that the State will be responsible for the disappearance of a person as long as their fate and whereabouts remain unknown.

Non-state actors: While the involvement of States in enforced disappearance is one of the essential elements of this crime, increasingly in recent decades non-state actors have resorted to acts that are similar to enforced disappearances. These include '*de facto* authorities', such as rebel and insurgent groups, which exercise prerogatives that are comparable to those normally exercised by governmental authorities.

Violation of multiple human rights: Since victims of enforced disappearance are placed outside of the protection of the law and left at the mercy of their captors, they often suffer multiple human rights violations, such as torture, sexual violence, and execution.

'Missing' or 'disappeared': 'Missing person' is usually considered to be broader than that of 'person subjected to enforced disappearance'. The International Committee of the Red Cross defines a 'missing person' as someone who is reported missing in connection with an international armed conflict, civil war, or internal violence or unrest. In some situations, missing persons can also be victims of enforced disappearance, and often these two terms are used interchangeably. However, while 'missing person' does not always imply the commission of a crime, 'enforced disappearance' is always a crime.

HOW PREVALENT ARE ENFORCED DISAPPEARANCES IN AFRICA?

The use of enforced disappearance has been a widespread problem in Africa since colonial times and continues to be prevalent today. However, the full extent to which this practice takes place is difficult to assess since governments often deny existing and past cases, which has caused a lack of official data and significant underreporting of the crime.

The ICPPED does not require States to publish data on the number of enforced disappearances within their borders, and in any case, only 18 out of 54 African countries have ratified the ICPPED.

The UN Working Group on Enforced and Involuntary Disappearances (WGEID) has noted that some of the factors contributing to underreporting include fear of reprisals, weak rule of law, climate of impunity, ineffective reporting channels, poverty, illiteracy, and language barriers.

Below are the three main sources of data that is currently available on enforced disappearance in Africa:

UN data

The WGEID produces an annual report with statistics about the cases of enforced disappearance which it has received and is considering from different countries around the world.

In its 2021 report, the WGEID was considering 46,490 cases of enforced disappearance of which 4,785 (10.3%) were from African countries. Most of the cases were from Algeria (3,253), Egypt (289), Burundi (250), Sudan (177), Morocco (153), and Ethiopia (113).

However, these numbers only reflect the cases reported to the WGEID, but they fail to mirror the full scale of the practice in Africa. As far back as 2005, the WGEID noted that underreporting in Africa “is particularly dramatic”.

African Commission of Human and Peoples' Rights

In 2018, the African Commission expanded the mandate of its Working Group on Arbitrary Killing to include Enforced Disappearance and, in particular, to include collecting information and keeping a database of reported instances of enforced disappearance in Africa. It is hoped that the African Commission's database will assist with raising awareness of the prevalence of the crime in Africa.

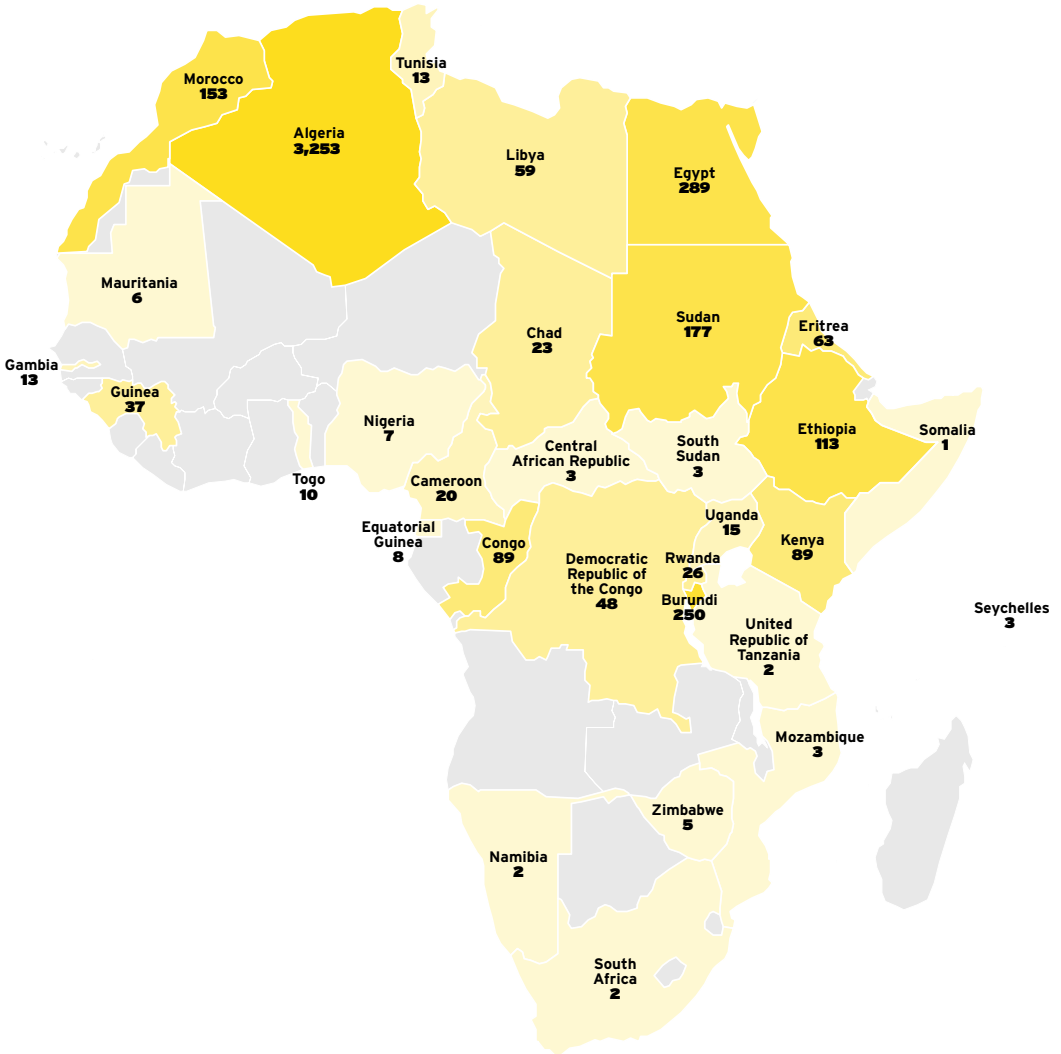
Civil society

Reports from civil society have been crucial to expose the widespread under-reporting of the crime and to document instances of enforced disappearance. However, figures can vary between organisations, and sometimes cannot be confirmed by an independent authority. For this reason, it is crucial to compare various sources when reporting on enforced disappearances.

For instance, in 2021 the WGEID only had five cases from Zimbabwe under consideration. While national official statistics are not available, data gathered by civil society organisations suggest that thousands of Zimbabweans have been subjected to enforced disappearance in recent decades, including more than 20,000 people who were forcibly disappeared because of the massacres perpetrated by the Zimbabwe National Army against the Ndebele population in the 1980s.



Cases of enforced disappearance considered by the WGEID in 2021



WHEN AND WHERE DO THEY OCCUR IN AFRICA?

Despite the lack of statistics, the circumstances in which enforced disappearance frequently take place in Africa are clear. Governments deploy enforced disappearances as a mean to exert pressure during times of armed conflict and civil unrest, as part of ‘security and counter-terrorism’-related operations, and in the context of managing migration and internal displacement. Additionally, enforced disappearances are used to silence the opposition, to deter dissent and to instil fear in the population as a way to hold on to power.

Armed conflict and civil unrest

Many enforced disappearances have occurred, and continue to occur, in the context of armed conflict. The collapse of the rule of law during conflict, and the lack of will or inability of governments in holding perpetrators accountable, can exacerbate or create the conditions for the commission of enforced disappearances.

An example of the use of enforced disappearances in conflict include the Algeria civil war in the 1990s, where approximately 8,000 people were forcibly disappeared. In many cases, those who had been disappeared, but then reappeared months or even years later, reported having been tortured.

Migration and internal displacement

The perilous nature of migratory journeys, including the militarisation of borders, can heighten the risk of exposure to enforced disappearance. However, this issue has gained little attention from governments and the international community. The transnational aspect of a migrant or refugee’s journey crossing several countries and the involvement of criminal groups such as smugglers and traffickers put migrants and refugees at a greater risk of enforced disappearance. Moreover, the role that such criminal actors play in this context also makes it easier for States to blame them and clear themselves of any responsibility.

Many smuggling or trafficking operations are facilitated, directly or indirectly by State agents, such as border and immigration officials, law enforcement officials, members of the armed forces, or port authorities. One such smuggling network has been identified in Egypt and Sudan, where a combination of smugglers, traffickers and local government officials work together to sell Eritrean migrants. Similarly, State actors in Libya reportedly have and continue to collaborate with armed groups, militias and criminal gangs involved in smuggling and trafficking activities and effectively running official detention centres and places of captivity. Thousands of migrants and refugees in Libya remain unaccounted for and have been subjected to enforced disappearance in detention settings controlled by state-affiliated militias and other armed groups, who refuse to provide any information on their fate and whereabouts.

The threat of enforced disappearance can itself also be a cause of migration, with many individuals fleeing their home country due to fear of persecution or the social and economic consequences of being victim to an enforced disappearance.

Extraordinary renditions, counter-terrorism and security operations

There are many examples of the use of enforced disappearance against those perceived as sympathisers or collaborators with known extremist groups in the region. Such counter-terrorism operations may involve the arrest of suspected individuals without a warrant, often by State agents or security officers who are not uniformed or fail to identify themselves.

Many States, including African States, collaborated with US officials during the “War on Terror” between 2003-2008 to capture and render detainees to those officials. Mohammed Al-Asad was one of such detainees. A Yemeni national, he was transferred by Tanzanian officers to Djibouti in 2003, where it is believed he was detained by CIA officials at a secret location, interrogated, subjected to ill-treatment and later transferred to another secret detention site.

Enforced disappearances may also be conducted by local law enforcement and police forces as part of “anti-crime” campaigns. For instance, in the Democratic Republic of Congo in 2013, the government launched ‘Operation Likofi’, in which police officers forcibly disappeared at least 33 men and boys as part of an effort to end crime by members of organised crime gangs.

Non-State actors

A concerning trend that warrants special attention is the use by non-State actors of acts analogous to enforced disappearance in Africa. One publicised case was Boko Haram’s abduction and disappearance of 276 schoolgirls in 2014 in Chibok, Nigeria, many of whom have not been released or found. In total, the group is estimated to have abducted more than 1,000 girls since 2013. Despite Nigeria having ratified the ICPED, State authorities have not yet taken adequate steps to punish the perpetrators and provide reparations to victims.





WHO IS AFFECTED?

Victims of enforced disappearance range from political opposition leaders, human rights defenders and activists, journalists, union workers, ethnic minorities, women and children, as well as migrants and refugees, and internally displaced people.

Political opposition and human rights defenders

Political opposition leaders and human rights defenders have frequently been the target of enforced disappearances by States often for peacefully expressing their views that are considered critical to one side of the conflict. In Sudan, for example, during the Al-Bashir era, political dissent was not tolerated and was often met with torturing and forcibly disappearing the opponents.

Journalists

Another group commonly targeted are journalists, who can be disappeared for simply doing their job. Following the expansion of the mandate of the African Commission's Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary Killings to include enforced disappearances, the first reported case of enforced disappearances concerned Ibrahim Abu Mbaruco. He is a community radio journalist in Mozambique allegedly disappeared by soldiers near his house in the town of Palma and his whereabouts are still unknown.

Civilians

Civilians have also been known to have fallen victim to enforced disappearances. During the civil war in Algeria, the victims of enforced disappearance

were those deemed to be supporting the Islamist regime, including not only the militia but also the civilian population, considered the 'breeding ground' for armed groups.

Ethnic minorities

Minorities are often subjected to enforced disappearance. For example, in Libya, following the fall of Muammar Gaddafi in 2011, several tribes, such as the Tawerghans and Tuareg, who were perceived by anti-Gaddafi forces as loyal to the former regime, were targeted and often became victims of enforced disappearance.

Women and children

While men are the predominant victims of enforced disappearance, women and children are also subjected to this crime, although the extent of the practice is unknown due to lack of reporting and official information. In 2021, the WGEID had only 82 active cases concerning disappeared women from Africa, and since 1980 it has only received 125 cases of women.

Examples of the use of the practice against women include, for example, Sudan, where women and children have been abducted either for the purpose of slavery or as part of an ethnic cleaning strategy within armed conflicts. In Egypt, it has been documented that children have been detained, tortured and forcibly disappeared in custody.

Women and children are also indirect victims of enforced disappearance. As the wives, mothers, daughters and sisters of disappeared men, women often lead the search for their loved ones. They are also more likely to suffer exploitation, abuses and economic hardships, especially if the male victim was the main breadwinner.

WHAT ARE AFRICAN STATES' OBLIGATIONS?

States that have ratified the ICPPED have an obligation to make enforced disappearance a crime under their domestic law; to hold perpetrators accountable through criminal investigation and prosecution; to take measures to prevent this crime, and to provide justice and full and effective reparation to the victims.

However, to date only 18 out of 54 African countries have ratified the ICPPED, and most African States who have ratified it, have not made enforced disappearance a crime under their domestic laws or use a definition of enforced disappearance inconsistent with ICPPED. Only Burkina Faso, Senegal and Tunisia have criminalised enforced disappearance, or have stated that they are in the process of doing so.

The Rome Statute of the International Criminal Court recognises enforced disappearance as a crime against humanity when it is carried out as part of a widespread and systematic attack against a civilian population. However, only 33 African States are parties to the Rome Statute.

Within the African human rights system, which encompasses the African Commission, the African Court on Human and Peoples' Rights (ACtHPR), and the Economic Community of West African States Court of Justice (ECOWAS), a regional legal instrument prohibiting the practice of enforced disappearance does not exist.

At the African level, individual cases of enforced disappearance can be reported to the African Commission, ACtHPR and ECOWAS. At the international level, victims in Africa can file claims before the UN Committee of Enforced Disappearances; the Committee against Torture; the UN Human Rights Committee (provided the State has consented to the jurisdiction of these committees); and WGEID.

WHAT ARE THE OBSTACLES FACED BY VICTIMS?

One of the main obstacles victims face in seeking justice is the absence of political will to acknowledge and confront the practice of enforced disappearance. Many African States refuse to acknowledge that the practice has taken or took place and do not investigate nor do they keep official records to track cases. As a result, impunity for this crime is rampant.

The absence of political will to address the problem is reflected in the lack of adequate domestic laws to prevent and protect against this crime. As a result, many victims in Africa are left with no meaningful prospect of redress for what happened to them or their loved ones.

In some instances, States have adopted laws effectively preventing families of disappeared persons from pursuing justice and uncovering the fate or whereabouts of their relatives, as well as granting amnesties to perpetrators. For example, two decades after the Algerian civil war, relatives are still searching for their loved ones. Former President Abdelaziz Bouteflika offered a full amnesty for members of the security forces responsible for gross human rights violations in 2005.

As stated previously, the factors contributing to victims not reporting the crime include a fear of reprisals, weak rule of law, ineffective reporting channels, a climate of impunity, poverty, illiteracy, and language barriers.





WHAT ARE THE RISKS FOR JOURNALISTS?

In the most extreme cases, journalists reporting on enforced disappearance risk becoming targets of enforced disappearance and other human rights abuses themselves, as the information they expose may criticise or question State authorities' actions.

Journalists and their families may also be targeted through harassment and intimidation in order to frighten them into halting journalistic investigation or the publishing of certain stories. Libel lawsuits can also be a risk for journalists if the information they publish is perceived to be untrue, unproven, or defamatory. In some cases, governments may respond by banning independent media outlets, criminalising the publishing of certain information and prosecuting editors and journalists on charges such as inciting civil unrest or spreading propaganda. Journalists should know the applicable laws in the countries where they work and where their articles are published or disseminated. They must also be aware that in particularly repressive countries, these laws may be vague or subject to change at short notice.

Journalists should develop and implement plans to mitigate the risks they face, such as undertaking a continuous risk assessment while in the process of documenting and following up on a case. For example, it is important for journalists to stay connected with colleagues both inside and outside of the country, so that they can alert others if problems arise or obtain urgent assistance.

There are several organisations that provide free advice and resources on how to report safely, conduct risk assessments, manage the stress of reporting on difficult situations and how to protect you against digital attacks that can put you and your sources at risk. Some also provide funding and legal defence for journalists. Some of these resources are listed below:

- ▶ **The Committee to Protect Journalists** ([Risk Assessment Kit](#))
- ▶ **The International Journalists' Network** ([Mental Health and Journalism toolkit](#))
- ▶ **International News Safety Institute** ([Hostile Environment Training](#))
- ▶ **The International Women's Media Foundation** ([Physical Safety and Hostile Environment Training](#))
- ▶ **James W. Foley Legacy Foundation** ([Journalist Safety Resources](#))
- ▶ **Media Defence** ([Training Resource Hub](#))
- ▶ **Reporters Instructed in Saving Colleagues** ([Safety training](#))
- ▶ **Reporters Without Borders** ([Safety Guide Handbook](#))
- ▶ **Rory Peck Trust** ([Freelance Resources, including Digital Security Guide](#))

Another important aspect is the psychological impact suffered by journalists covering enforced disappearance. Covering traumatising stories and circumstances puts those who report at risk of secondary or tertiary trauma, and journalists will need to develop coping mechanisms, which may include seeking psychological support.

HOW TO INTERVIEW VICTIMS OF ENFORCED DISAPPEARANCE?

Reporting on enforced disappearance can put the victim, their family, the wider community, lawyers, and supporters at risk. This does not mean that reporting should be avoided – to the contrary, journalists should take all steps to ensure that anyone who they interview gives informed consent, and journalists should take all possible care to avoid risks from materialising for their interview subjects and others affected by the interview. This might include changing names, dates, places or other identifying details and refraining from publishing photographs of the victim unless there is express consent.

The following advice is based on two decades' worth of collective experience in interviewing and assisting survivors of torture and enforced disappearance by the five human rights organisations involved in the making of this toolkit. The tips also take into account these organisations' work in the areas of litigation, rehabilitation, advocacy, and training.

Security and Data Protection Issues

- ▶ Pick a location that is safe and appropriate for the interviewee, allowing for privacy without interruption.
- ▶ Be aware that there will be additional challenges in interviewing survivors who remain incarcerated. For example, individuals in detention may not feel safe disclosing allegations of human rights violations in front of a guard, whose presence would breach confidentiality boundaries.
- ▶ Ensure that the interviewee consents to having their name published and that you are not disclosing any information that they do not wish to disclose. Ask permission from them beforehand if you want to take audio recordings, photographs, or a video. Beware, as an image, voice, or key piece of information (even an item in a room) could reveal the identity of a victim, which may put them or their family at risk of persecution.

- ▶ Take steps to prevent your digital profile from digital attacks that can put you or your resources at risk.

Wellbeing of the Interviewee

- ▶ Consider sending a female reporter to conduct interviews with any female survivors of enforced disappearance, particularly if the enforced disappearance involved sexual abuse or if there are other cultural sensitivities involved in discussing intimate matters.
- ▶ Make it clear who you are working for and why, what you expect from the interview, and what you wish to report on.
- ▶ Consider sharing in advance the questions you wish to ask, so that the interviewee is prepared to discuss the subjects you wish to cover.
- ▶ Be aware of potential communication barriers such as shame and avoidance of particular aspects of torture or physical discomfort. Disclosures likely to produce a shame response include sexual violence or harming others; be understanding of but do not collude with stigma attached to an event.
- ▶ Asking open-ended questions will allow the survivor to tell their story on their own terms, without feeling pressure to disclose information they do not want to disclose. Respect their decision not to answer any questions they are not comfortable with and allow them to control the amount of detail they include in their narrative. Consider offering a break if the interviewee appears to be affected by the discussion you are having.
- ▶ Try to be careful when expressing sympathy or understanding (“that must have been awful”) as this may appear patronising. Avoid expressing shock or horror when survivors are recounting details of the events.
- ▶ Beware of overpromising results to the victims, as the coverage might expose the truth and have certain effects, but the victim would still need proper legal representation to seek justice.

- ▶ Be particularly aware of specific sensitivities regarding the rights of children and do not expose minors. For example, how should you construct interviews with children?

Writing Up and Publication

- ▶ Do not use graphic images of victims without prior permission. Respect for human dignity is an internationally observed ethical standard for journalists.
- ▶ Try to cross-reference details and compare stories to ensure accuracy. Medical reports or court documents may give a journalist the necessary background and accurate insight on a case, especially when survivors might have difficulties recalling the specific details of their ordeal.
- ▶ It may be challenging for journalists to interpret some of the medical and legal jargon in a case. When this happens, talk to experts and break down the reports for better understanding. It is important to use correct medical or legal terms.



FURTHER RESOURCES

[Zimbabwe Lawyers for Human Rights](#)

[REDRESS](#)

[MENA Rights Group](#)

[Lawyers for Justice in Libya](#)

[African Centre for Justice and Peace Studies](#)

See also the report *The Forgotten Victims: Enforced Disappearance in Africa* (available in [English](#), [French](#) and [Arabic](#)) and the additional resources on the above websites.



About the Authors

This Q&A is part of a joint project by Zimbabwe Lawyers for Human Rights (ZLHR), REDRESS, MENA Rights, Lawyers for Justice in Libya (LFJL) and the African Centre for Justice and Peace Studies (ACJPS) to end enforced disappearances in Africa. The project supports human rights lawyers and victims' groups to bring cases challenging enforced disappearances. It seeks to empower victims to speak about their own experiences, set up victims' networks and advocate for justice on their own behalf. It raises awareness around this issue at the Africa and international levels.





CONSTANTINE

OU AVEZ-VOUS
ENTERRE,
NOS PERES?

مصادوي منور
Maddoui Menouar

Disparu le 07 - 05 - 1997

