

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on minority issues

Ref.: RWA 1/2025
(Please use this reference in your reply)

17 January 2025

Excellency,

We have the honour to address you in our capacities as Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 54/14, 53/4, 50/17, 52/4 and 52/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged abduction and enforced disappearance of Mr. John Kasimba, Mr. Kakule Kighihere, Mr. Kambale Kighusu Arsène, and Mr. Kasereka Kighusu Clovis in North-Kivu, Democratic Republic of the Congo, by members of armed groups acting with the support and/or acquiescence of the Government of Rwanda.**

In relation to these allegations, we would also like to bring to the attention of your Excellency's Government information received concerning **reported acts of intimidation and reprisals against Mr. Anicet Katsuva, Mr. Albert Kambale and Mr. André Kakule, human rights defenders and members of the League of Voluntary Sacrifices for Human Rights and the Environment, working to establish the fate and whereabouts of victims of enforced disappearance.**

Special Procedures' mandate holders have previously raised their concerns with your Excellency's Government concerning allegations of abductions and enforced disappearances ([RWA 2/2024](#), [RWA 1/2020](#)), and of acts of harassment and intimidation against human rights defenders ([RWA 2/2021](#), [RWA 1/2021](#)). We regret that your Excellency's Government has not provided substantive responses to these allegations.

The cases of Mr. John Kasimba, Mr. Kakule Kighihere, Mr. Kambale Kighusu Arsène, Mr. Kasereka Kighusu Clovis and Mr. Kasereka Ndasimwa Obed were already transmitted to your Excellency's Government under the humanitarian procedure of the Working Group on Enforced or Involuntary Disappearances. This communication is without prejudice to the consideration of these cases under this procedure through separate correspondence.

According to the information received:

Members of the March 23 Movement (M23) and the Alliance Fleuve Congo (AFC) - two armed groups acting with the support of the Government of

Rwanda¹ - are reportedly responsible for serious human rights violations in the Province of North Kivu, including killings of civilians, enforced disappearance, torture and ill-treatment.

It is reported that the M23 and AFC are deliberately targeting local communities and ethnic minority groups, including the Nande (belonging to the Bantu peoples), for their perceived opposition to their presence in the East of the Democratic Republic of the Congo. Such armed groups are also targeting civil society organizations working to protect local communities from serious human rights violations.

The League of Voluntary Sacrifices for Human Rights and the Environment (*Ligue des Sacrifices Volontaires pour les Droits Humains et d'Environnement* 'LISVDHE') is a human rights non-governmental organization based in Rubare, Rutshuru territory, North Kivu Province, Democratic Republic of the Congo. The LISVDHE carries out human rights activities in North Kivu, focusing on the protection of civilians from serious human rights violations, including summary executions, enforced disappearance, torture and other cruel, inhuman or degrading treatment.

Abductions, enforced disappearance, torture and ill-treatment

On 12 December 2024, the Red Cross coordinator in Kanyabayonga, Mr. John Kasimba, was allegedly abducted from his home by elements of the M23. At around 7 p.m., a group of armed men in military uniforms reportedly stormed his residence apprehending and torturing him with strikes and batons before taking him away to an unknown location. The armed men accused Mr. Kasimba of being the head of the Mai-Mai (also referred as Mayi-Mayi) armed group, a militia group active in the region. Mr. Kasimba carried out essential humanitarian work for displaced populations and communities affected by the armed conflict. There were witnesses to the incident.

In early September 2024, three individuals from the Nande ethnic minority group, including **Mr. Kakule Kighihere**, resident in Kanyatsi, territory of Lubero, **Mr. Kambale Kighusu Arsène** and **Mr. Kasereka Kighusu Clovis**, residents in Rubare, territory of Rutshuru, were reportedly abducted in the town of Rubare by a group of armed men belonging to the M23 and AFC. This incident followed another abduction on 11 June 2024 of **Mr. Kasereka Ndasimwa Obed**, who was allegedly abducted from his home at night in Rubare under similar circumstances. There were also witnesses to these incidents.

It is added that the armed men accused all four individuals of belonging to the Mai-Mai armed group and forced them to confess to their belonging. According to the information received, this accusation was based solely on the basis of the individuals' ethnicity. Youth belonging to the Nande, Hunde or Nyanga ethnic groups are systematically suspected of belonging to the Mai-Mai. The armed men allegedly whipped them, tied them with their arms and feet from behind, and then subjected them to waterboarding, plunging them into a nearby pond for

¹ Please see the report of the Group of Experts on the Democratic Republic of the Congo to the President of the Security Council S/2024/969, para. 49 to 55.

minutes, or wrapping and locking them in a bag and then pouring hot water into it.

In December 2024, it is reported that Mr. Kasereka Kighusu Clovis was released from detention in military cell of Rutshuru-Centre. Persons associated with the other individuals fear that their loved ones could also be detained in the same military detention centre controlled by the M23, and that they would be at serious risk of torture and other cruel, inhuman or degrading treatment, and unlawful killing.

At the time of the present communication, the fate and whereabouts of Mr. John Kasimba, Mr. Kakule Kighihere, Mr. Kambale Kighusu Arsène and Mr. Kasereka Ndasimwa Obed remain unknown.

Intimidation and reprisals

It is reported that three human rights defenders from the LISVDHE were threatened and intimidated by unknown individuals for their work to support local communities affected by the armed conflict, and to establish the fate and whereabouts of the aforementioned individuals. According to former detainees released by the M23, the three defenders would be at serious risk of summary execution.

On 6 November 2024, **Mr. Albert Kambale** received an anonymous phone call from an unknown person who questioned his role in matters that were not “at his level” and said that he would face the consequences. On 8 December 2024, at 2:00 a.m., a group of unknown armed men wearing military uniforms went to Mr. Kambale’s family home in the Kanyatsi district of Rubare searching for him. It is reported that Mr. Kambale had been facing surveillance by M23 agents in civilian clothing. Mr. Kambale is currently absconding in an unknown location, fearing for his life and safety.

On 9 December 2024, **Mr. André Kakule** was reportedly chased by two individuals on motorcycles and wearing military uniforms, as he returned to Rubare from Kalengera, another neighboring village. Mr. Kakule became suspicious as he noticed the two individuals made the same bends and turns. He was eventually able to avoid being apprehended by the two individuals as he absconded in Kako, another nearby village.

Later in the evening, Mr. Kakule received a phone call from an unknown person using a hidden number and claiming to be a pastor. This person asked to meet him near the Community of Pentecostal Churches in Central Africa’s church in the Majengo district of Rubare. As this person refused to reveal his name, Mr. Kakule decided to abscond in an unknown location, also fearing for his life and safety.

Similarly, several days later in December 2024, **Mr. Anicet Katsuva**, President of LISVDHE, also received a phone call from an unknown person claiming to be a pastor. Also refusing to identify themselves, this person sent him an audio message threatening and calling Mr. Katsuva by his name. As Mr. Katsuva tried

to verify the phone number of this person, the number no longer worked.

Weeks later, on 10 January 2025, Mr. Katsuva received two anonymous phone calls and a WhatsApp message from an unknown number seeking to confirm his work address.

While we do not wish to prejudge the accuracy of these allegations, we express our utmost concern for the alleged abduction and enforced disappearance of Mr. John Kasimba, Mr. Kakule Kighihere, Mr. Kambale Kighusu Arsène and Mr. Kasereka Ndasimwa Obed by the M23 and AFC – i.e. armed groups operating in the Democratic Republic of the Congo with the support and/or acquiescence of the Government of Rwanda, and the serious risk to their physical and mental integrity. We reiterate that the absolute prohibition of enforced disappearances and the corresponding obligation to investigate them and hold perpetrators accountable has attained the status of *jus cogens* under international law. We add that when acts of enforced disappearances are committed as part of a widespread or systematic attack on the civilian population, they constitute crimes against humanity, which in this case may involve the responsibility of the Rwandan Government by complicity.

In this connection, we are also alarmed by what appears to be a consistent emerging pattern of intimidation, harassment and reprisals against human rights defenders and civil society organizations working to clarify the fate and whereabouts of forcibly disappeared individuals in the eastern provinces of the Democratic Republic of the Congo. These instances of intimidation, harassment and interference with the legitimate human rights activities of civil society organizations could compromise the search and related efforts to seek truth and justice against enforced disappearances, and the reparation for the harm suffered. We are concerned that the allegations of reprisals against Mr. André Kakule, Mr. Anicet Katsuva and Mr. Anicet Katsuva might be revealing a concerted effort to silence human rights defenders and any person working to clarify the fate and whereabouts of forcibly disappeared persons in the context of the North Kivu conflict.

We reiterate that the concealment of the fate and whereabouts of disappeared persons by armed groups operating with the support and/or acquiescence of the Government of Rwanda, as well as the failure or refusal to adequately acknowledge a deprivation of liberty, are constitutive of acts of enforced disappearance, regardless of the duration of the deprivation of liberty or concealment concerned. When persons deprived of liberty are not adequately acknowledged, their rights are placed in a legal limbo, a situation of total defencelessness. Enforced disappearances put the detainee outside of the protection of the law, deny the person's legal existence and prevent the enjoyment of their rights, including due process rights and judicial safeguards, and other fundamental rights and freedoms.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the measures taken to investigate the reported abduction and enforced disappearance of Mr. John Kasimba, Mr. Kakule Kighihere, Mr. Kambale Kighusu Arsène, Mr. Kasereka Kighusu Clovis and Mr. Kasereka Ndasimwa Obed by the M23 and AFC; identify those responsible, prosecute and sanction them. If no investigation has been undertaken, please explain the reasons.
3. Please provide information on the measures taken or foreseen to ensure the physical and mental integrity of Mr. Anicet Katsuva, Mr. Albert Kambale and Mr. André Kakule, and protect them against acts of intimidation and threats to their life.
4. Please also provide detailed information on the detention conditions, place of detention and current state of health of Mr. John Kasimba, Mr. Kakule Kighihere, Mr. Kambale Kighusu Arsène, and Mr. Kasereka Ndasimwa Obed, as well as the measures undertaken to ensure their access to appropriate and adequate medical care while in detention, and their due process rights and judicial safeguards.
5. Please indicate whether the aforementioned individuals and their families were informed about the reasons for the deprivation of liberty, and whether accurate information regarding their fate, whereabouts and well-being was immediately provided to their families.
6. Please provide information on the measures in place to protect the legitimate work of independent human rights organizations, activists and human rights defenders in areas under the effective control of armed groups supported by Rwanda.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to unveil the fate and whereabouts of Mr. John Kasimba, Mr. Kakule Kighihere, Mr. Kambale, Kighusu, Arsène and Mr. Kasereka Ndasimwa Obed and to prevent any irreparable damage to their life and personal integrity, to halt the alleged violations and prevent their re-occurrence and, in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please be informed that a copy of this communication was also transmitted to the Democratic Republic of the Congo.

Please accept, Excellency, the assurances of our highest consideration.

Gabriella Citroni
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Nicolas Levrat
Special Rapporteur on minority issues

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), acceded to by Rwanda on 16 April 1975. We would like to refer to articles 3, 6, 7, 9, 10, 14, 16, 19, 21, and 22 of the ICCPR, read alone and in conjunction with article 2.3, which guarantee the right to life; the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; the right to liberty and security of person; the right to be recognized as a person before the law; the right to a trial within a reasonable time, to challenge the legality of the detention before the courts, to be released subject to guarantees to appear for trial, to a fair and public trial before an independent and impartial tribunal without undue delay and with legal assistance of their choosing; the right to be treated with humanity and with respect for the inherent dignity of the human person; the right to an effective remedy, the right to freedom of opinion and expression; and the rights to peaceful assembly and of association.

We would like to refer to Human Rights Committee's general comment No. 36, providing that the obligation upon State parties to respect and ensure the right to life under article 6 of the ICCPR extends to reasonably foreseeable threats, including those emanating from private persons and entities. The duty to protect the right to life requires States to take special protective measures for persons in situations of vulnerability who have been placed at particular risk because of specific threats, including human rights defenders. States may be in violation of article 6 even if such threats and situations do not result in loss of life.

Additionally, States have a duty to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by non- state actors (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18). A failure to investigate violations of the Covenant and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR (CCPR/C/21/Rev.1/Add.13, paras. 15).

With regard to article 9 of the UDHR, we would also like to remind your Excellency's Government that it is both a norm of customary international law and peremptory norm of international law. In this regard, the use of prolonged incommunicado detention, including in unknown or unofficial detention settings that routinely deny access of detainees to their families or legal representatives of their choice could constitute one of the worst forms of arbitrary detention. The reported consistent failure to present detainees promptly before an impartial judge inherently violates the international standards relating to the right to liberty and security of the person and to arbitrary detention. In this regard, detention pending trial shall be the exception, not the rule, and it should be based on the individual circumstances of the case and subject to judicial oversight.

We would like to remind your Excellency's Government of principle 9 and guideline 8 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings

Before a Court, which state that all persons deprived of their liberty have the right to legal assistance by counsel of their choice at any time during their detention, including immediately after their apprehension, and such access shall be provided without delay. The denial of access to lawyers of one's choosing violates the right to legal assistance guaranteed under articles 10 and 11(1) of the Universal Declaration of Human Rights, principles 15, 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rule 61(1) of the Nelson Mandela Rules.

Notably, the absolute prohibition of enforced disappearances and the corresponding obligation to investigate them and hold perpetrators accountable have attained the status of *jus cogens*. In this regard, we wish to recall that the [United Nations Declaration on the Protection of All Persons from Enforced Disappearances](#) establishes that “all acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness (article 4), no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance (article 6). Furthermore, no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7), and the right to a prompt and effective judicial remedy must be guaranteed 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 (article 9).

We would also like to point out that the United Nations Declaration on the Protection of All Persons from Enforced Disappearances recognizes the right to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention in order to challenge the legality of the detention (article 10). The same provision of the Declaration establishes the obligation of the detaining authorities to make available accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest. The Declaration also establishes the obligation to maintain in every place of detention an official up-to-date register of detained persons (article 10, para. 3).

Indeed, articles 9 to 12 of the Declaration spell out the rights of detained persons to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty. Access by competent national authorities to all places of detention must be ensured and any deprivation of liberty be held in officially recognized places of detention. Detainees have the right to be released also in a manner permitting verification of whether their human rights have been fully ensured. Article 13 further stipulates 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. In this regard, 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, and that any form of interference on the occasion of lodging a complaint is appropriately punished.

The Declaration also establishes that States should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of enforced disappearance (article 14), and that the persons responsible for these acts shall be tried only by ordinary courts and not by other special tribunal, notably military courts (article 16); not benefit from any amnesty law (article 18); the victims of enforced disappearance, including relatives of forcibly disappeared persons, have the right to obtain redress and adequate compensation, including the means for as complete a rehabilitation as possible (article 19).

We also wish to recall that the [Guiding Principles for the Search for the Disappeared](#) of the United Nations Committee on Enforced Disappearances establish that the search for the disappeared should be undertaken without delay (principle 2); respect the right to participation of the family of the disappeared (principle 5); be considered a continuing obligation (principle 7); be interrelated with the criminal investigation (principle 13), and be carried out safely (principle 14).

In its [general comment](#) on the right to recognition as a person before the law in the context of enforced disappearance, the Working Group noted that, when a person deprived of liberty is not acknowledged by the State, the legal rights of this person are placed in a legal limbo, a situation of total defencelessness. The crime of enforced disappearance puts the detainee outside of the protection of the law, denies the person of legal existence and prevents the enjoyment of their rights, including due process rights and judicial safeguards, and other fundamental rights and freedoms.

In its [report](#) on standards and public policies for an effective investigation of enforced disappearances, the Working Group on Enforced or Involuntary Disappearances recommended that States define enforced disappearance as an autonomous crime in national legislation and establish different modes of criminal liability, including abetting, instigating, acquiescing and actively covering up an enforced disappearance, as well as criminal liability for command or superior responsibility; and create mechanisms that can promptly receive and process complaints of enforced disappearances, under the responsibility of authorities who are independent of the institutions to which the alleged perpetrators belong or may be linked. These mechanisms should be empowered to trigger prompt investigations of the complaints received. In this context, States cannot invoke the lack of a formal complaint as a valid reason to not initiate investigations, to help ensure that investigations take place, including in contexts where relatives are at high risk of facing reprisals.

Additionally, in the [study](#) on enforced disappearances and economic, social and cultural rights, the Working Group observed that the enforced disappearance of activists, human rights defenders or persons actively promoting the enjoyment of economic, social and cultural rights, are used as a repressive tool to deter the legitimate exercise, defence or promotion of the enjoyment of these rights. Due to their collective character, such measures also violate their economic, social and cultural rights, the rights of others engaged in related activities, and of the larger community of people who relied on the disappeared person to represent and fight for their rights.

We would also like to refer to article 19 of the UDHR, which guarantees the right to freedom of opinion and expression. The rights to freedom of opinion and

expression are further expressed in all global and regional human rights treaties on civil and political rights, confirmed in declarations and resolutions, and is considered reflective of customary international law. As expressed in UDHR article 19, “this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers”.

We would like to refer your Excellency’s Government to the fundamental principles set forth in the [Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#), also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. Article 6(c) of the Declaration provides that everyone has the right, individually and in association with others to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and to draw public attention to those matters. Article 12 requires the State to take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights (paragraph 2), and provides that “everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms” (paragraph 3).

Furthermore, we would like to draw your attention to General Assembly resolution 68/181, adopted on 18 December 2013, whereby States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. Specifically, we would like to refer to articles 7, 9 and 10, whereby States are called upon to respectively, publicly acknowledge the important role played by women human rights defenders, take practical steps to prevent threats, harassment and violence against them and to combat impunity for such violations and abuses, and ensure that all legal provisions, administrative measures and policies affecting women human rights defenders are compatible with relevant provisions of international human rights law.