

United Nations General Assembly, Third Committee, 25 October 2007
**Statement by Professor Philip Alston, Special Rapporteur on extrajudicial,
summary or arbitrary executions**

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Mr. Chairman, distinguished delegates,

This year marks the twenty-fifth anniversary of the creation of the first human rights thematic special rapporteurship. It deals with extrajudicial killings. I am not sure if it is appropriate to talk of 'celebrating' this fact, but it is nonetheless an important milestone. For that reason, and because of the review of mandates currently being undertaken by the Human Rights Council, my report to the Assembly this year contains a historical review of the evolution of the mandate. I have selected several specific themes to illustrate the ways in which the mandate has evolved to deal with changing threats and challenges. They are counter-terrorism, the protection of refugees and IDPs, and the role of non-state actors.

Because of the importance and complexity of the issue I want to say a brief word about the latter. Over the past three years I have made a special effort to demonstrate that the special procedures can, and generally should, respond to abuses committed by rebels and other armed opposition groups. This was not a view that was widely accepted a decade ago. Today, however, there is wider acceptance of the notion that accusing a group of committing human rights abuses does not somehow enhance that group's legal status or transform it into an international actor. The Human Rights Council has every right to uphold the norms contained in the Universal Declaration of Human Rights and other instruments in relation to any armed group that violates them. In my experience, most of the Governments confronting armed groups recognize that cutting off access during missions and discouraging the sending of allegation letters only leads to an unbalanced perception of the situation in which the Government is accused of violating human rights law while the abuses of armed groups are ignored.

Several themes emerge from my review of 25 years of practice. The **first** concerns what I term the 'organic evolution' of most special procedures mandates. The initial formulation is initially narrow. But mandates evolve in response to factors such as additional demands by States, new forms of violations, increasing public demands for effective responses, and the development of new techniques and expectations within the overall human rights regime. This ability to adapt and evolve is essential.

Second, in recent discussions of reform of the system it has often been said that too many of the Special Procedures involve Western experts focusing overwhelmingly and unfairly on the problems confronted by the Governments of developing countries. The experience of the extrajudicial executions mandate flatly contradicts this stereotype. I am the first Special Rapporteur on this mandate in a quarter of a century to come from a developed country. My predecessors have come from Kenya, Senegal and Pakistan. Despite this regional diversity the concerns addressed and the general approach adopted have remained consistent over time. In addition, many of the incidents addressed have alleged violations developed country Governments.

Third, procedures go to the heart of the potential effectiveness of a mandate such as that concerning extrajudicial executions. I have sought to streamline the system of communications by sending fewer, making them more detailed and informative, responding to the specific concerns of States, publishing the correspondence in full as far as possible, and reaching a clear conclusion at the end of the exchange. My reports on country visits have been careful to respect the confines of the mandate while acknowledging the broader context, and I have endeavoured to limit the scope of my recommendations and be as precise as possible. I have also developed a system of follow-up reports designed to do full justice to the responses by Governments over time and to show the evolution of situations.

But despite these endeavours to improve the functioning of the mandate there remains an overwhelming challenge of trying to engage productively with Governments and with the Human Rights Council. A particularly prominent theme in the debates surrounding the shaping of the Council's new procedures and practices is accountability. One manifestation of this was the adoption of the Code of Conduct for Special Procedures mandate-holders. I consider this to be an important principle and I warmly welcome the subsequent initiatives taken by the mandate-holders themselves to promote appropriate forms of accountability.

But the concept of accountability goes in both directions. Its most fundamental manifestation is in the accountability of States which is the sole *raison d'être* of this system. From the perspective of my mandate to respond to alleged killings, the majority of Governments are failing the basic test of accountability. This is illustrated most dramatically in relation to requests for visits. I note in my report that 90 per cent of countries I have identified as warranting a country visit have failed to cooperate. Neither this Assembly nor the Human Rights Council has done anything in response. The result of this abdication of responsibility is to discourage cooperation by other States, to reward uncooperative States, and to establish a system of impunity in relation to the most serious concerns relating to extrajudicial executions. Close to 30 States have now failed to issue requested invitations. They range from Security Council members like China and Russia to members of the Human Rights Council such as Bangladesh, China, India, Indonesia, Pakistan and Saudi Arabia, in addition to others such as Myanmar, El Salvador, Kenya, Thailand, Uzbekistan and Venezuela. The impotence of the Special Rapporteur in such situations makes a mockery of the special procedures in relation to extrajudicial executions.

I am pleased to report that since my report was submitted I have received an invitation to visit from the USA. I will soon be visiting Brazil.

In the course of the past year I have also received invitations from Guinea, Yemen and the Central African Republic, but none of those three has subsequently agreed to schedule a visit. I call upon them to do so.

The remainder of my remarks will be devoted to specific country situations.

Iran

Since 1991 Iran has been a party to both the Covenant on Civil and Political Rights and the Convention on the Rights of the Child. Each treaty explicitly and unequivocally bans the execution of juveniles (those who were under the age of 18 at the time of committing the relevant crime). Yet Iran executes more juveniles than any other country. Its prisons

currently contain at least 75 such juveniles who have been sentenced to death. Over the past year alone I have written on nine occasions to the Iranian Government concerning these juveniles. I have not received a single response from the Government.

Other major problems include the imposition and carrying out of the death penalty for a wide range of crimes which by no reasonable measure meet the requirements of international law to restrict executions to those guilty of the most serious crimes. Adultery, unlawful sexual relations, homosexuality, rape, insulting religious sanctions laws, acts against national security, and abduction are among the crimes for which at least 173 individuals have been executed in the first eight months of this year. Mass executions have been increasingly reported this year, sometimes occurring only a short time after arrest. The circumstances make a mockery of any pretence to have respected due process rights. And the provisions of the Penal Code which provide for adulterers and others to be stoned to death remain in force. These laws are barbaric by any standards.

Mr Chairman, it is long past time that this Assembly stood up and responded to these chronic violations of human rights.

The Philippines

My report on the challenges confronting the Philippines has not yet been made public. I have had constructive discussions in recent days with the authorities of the Philippines and I am aware that a significant number of initiatives have been taken since my visit. The bottom line is that only the elimination of such killings and the ending of the impunity enjoyed to date, by the Armed Forces of the Philippines in particular, will signal that the situation has turned the corner. Yet I continue to receive deeply disturbing reports.

The national summit convened by the Chief Justice brought together civil society and representatives of the various organs of Government in a truly encouraging manner. The Supreme Court's decision to establish a writ of amparo to facilitate the prompt resolution of alleged extrajudicial executions and forced disappearances is also encouraging. It only came into effect earlier this week, however, and whether the judiciary will use its powers to overcome the military's resistance to clarifying the case of Jonas Burgos — a missing activist who may have been disappeared or killed — will be an important test.

The Government's decision to continue to establish barriers to Congressional oversight is disappointing, especially after my interim note on the mission identified these barriers as a key problem.

Sri Lanka

I warned this Assembly last year of an impending crisis in Sri Lanka. The Government continues to contest my characterization while the crisis continues to worsen. I firmly believe that the establishment of an international human rights monitoring presence by the UN would significantly reduce the number of human rights abuses in Sri Lanka. It is time for the General Assembly and the Human Rights Council to act, and it's time for the Government to adopt a calm, measured, and engaged attitude toward those concerned with the human rights of all Sri Lankans.