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Individual Freedoms in the Contemporary Era

## **Addressing the phenomenon of Extrajudicial Killings by State Authorities**

United Nations Human Rights Council (UNHRC)

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## Introduction

The right to life is the fundamental basis on which the declaration of Human Rights was built on. Without the protection of life, the existence of other rights seems redundant and pointless. The very existence of the phenomenon of extrajudicial executions by state authorities challenges the obligation of each state to protect its citizens' fundamental human right to life on both international and domestic level. Extrajudicial killings by State Authorities are not a new phenomenon. Targeted killings have been exercised by governmental and public figures throughout centuries worldwide. One of the earliest examples is Julius Caesar who was assassinated in 44 BC by about 60 Roman senators (Parenti 2004). The lack of international laws and human rights facilitated such killings over the past few centuries, allowing the spread of the phenomenon and reinforcing its efficiency. Nowadays, as the international community has taken steps to strengthen the application of newly established international human rights laws, the act of extrajudicial killings is used mostly to respond to terrorist threats or at times of conflict according to the United Nations High Commissioner for Human Rights (OHCHR). In many instances, these forms of executions have been practiced by state authority figures such as the government, police force, military, and the paramilitary. However, as a new wave of autocratization is occurring (Diamond 2015), this practice has sadly increased and been used as an instrument of not only acquiring power, but also retaining it.

## Interest in Knowledge

As stated above, denying and/or omitting the due process of international and domestic laws by conducting extrajudicial executions is a long occurring phenomenon that plagues the global society. From a historical perspective, extrajudicial killings were a very prominent practice in autocratic context, used to further consolidate authoritarian rule by targeting the three pillars of autocratic stability: legitimation, repression and cooptation<sup>1</sup> (Gerschewski et al. 2013). This Study Guide will focus on the repressive and legitimizing aspects of the theory to analyze the issue.

A prominent example for extrajudicial executions as government practice relating to the population's repression is considered to be the dictatorship of General Batista in Cuba, who - with the help of the police, the military and the anti-communist secret police (Buro de Represion de Actividades Comunistas)- arrested, tortured and slaughtered more than 20.000

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<sup>1</sup> The domain of legitimacy concerns the population. A regime can support its own legitimacy by undertaking measures and using strategies such as propaganda or charismatic rhetoric of the leader to generate a sense of legitimacy and render citizens loyal to it. The pillar of repression concerns a smaller group within the whole, i.e. the opponents of the regime. The third pillar, namely co-optation, refers to the mutual benefit of the ruled and the rulers and focuses mainly on the elite (Gerschewski et al. 2013: p. 114-115).



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Cuban citizens in operations such as "Bloody Christmas" and "Cabanas Massacre" (Legon 2017). In addition, the rule of Augusto Pinochet, who ordered the executions of an estimated 3.000 citizens, as well as the torture and "disappearances" of nearly 30.000 during regime-sanctioned operations such as "Operation Condor" and the "Caravan of Death" (Human Rights Watch: Pinochet). One can discern that this practice aims at the eradication of dissidents and selective "cleansing" of political opponents, as well as establishing a sense of fear in the public sphere.

A government may also seek to consolidate itself by implementing measures and strategies that cater to already existing ideologies in the general public and resolve prominent societal issues, such as increased levels of criminal activities. This applies to the case of the Philippines that is further analyzed in the Chapter "National Scale Extrajudicial Executions". Such are the main reasons as to why this Study Guide concentrates on both perpetrating countries and state actors, as well as on the democratic challenge their strategies pose.



## Methodological and Theoretical Background

Relying on sources such as reports of the United Nations Human Rights Watch, the Office of the High Commissioner on Human Rights, selective data from Freedom House and trusted data banks regarding definitions and legal background, this Study Guide offers a valid and reliable informative framework that allows delegates to delve into the issue of extrajudicial killings by State Authorities and think of feasible and fruitful solutions. This transparency of data collection process and interpretation is the key reason behind the uptake of these papers in our guide. The data used as evidence in these reports are also easily accessible and verifiable on the sources cited in the bibliography section. At the Leirion MUN Conference, the Executive Board would be extremely selective about the data delegates present. The data brought forward from delegates, when it comes to their country's position need to be in agreement with their domestic policies (for instance: delegates cannot cite sources that are considered biased or unreliable by their country, e.g. DPR Korea cannot rely on BBC/ CNN etc. as news/facts sources, due to the fact that the presented findings do not correspond to their national news broadcasts or country facts). Facts deriving from international organizations' reports such as the United Nations, North Atlantic Treaty Organization (NATO) etc. are considered credible and accepted by the conference. It is also of great importance not to spread fake news and misinformation, while both lobbying and debating at the Leirion MUN Conference.

### Definition of Key Terms

#### Extrajudicial

The word extrajudicial is explained in the UN Multilingual Terminology Database as “done outside of a court's jurisdiction; not founded upon or dependent upon the authority of a court”<sup>2</sup>. On that same topic, the term extrajudicial killing originally refers to “homicides that are committed outside the legal system with no prior judgment of a court” (The US Manual on Detainee Operations 2008). However, the definition of extrajudicial execution is extensive, since “it covers any killing by both government forces and other groups, when the government fails to investigate and prosecute them” (Investigation and Prosecution of Killings: p.10).

#### State Authority

The term State Authority refers to any entity/body/organ of the state, governed and regulated by State Law that practices any executive, legislative, judicial or any other state

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<sup>2</sup> Search: [extrajudicial \(un.org\)](https://www.un.org/terminology/).



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functions. Examples of state authorities consistent with this Study Guide's topic are State Leaders (e.g. Presidents) and Armed Forces (e.g. Police, Military) (State authorities Definition).

## Terrorism

Taking into consideration the fact that the term "terrorism" has not been universally defined yet, its understanding varies across the world. However, in order to report an action as terrorist, the following three factors are required. "Firstly, the perpetration of a crime, or the threat to commit one. Secondly, the intent to spread fear among the population by creating public danger or trying to pressure an authority into doing (or not doing) something" (UNODC: Counter-Terrorism Module 4 Key Issues: Defining Terrorism).

Also:

1. "Acts, including the ones against civilians, committed with the intention of causing death or serious physical or psychological injury, or the taking of hostages; and
2. Irrespective of whether motivated by considerations of a political, philosophical, ideological, racial, ethnic, religious, or other similar nature, acts committed for the purpose of provoking a state of terror in the general public or in a group of persons or particular individuals, intimidating a population, or compelling a government or an international organization to do or to abstain from doing an act; and
3. Acts constituting offences within the scope of and as defined in the international conventions and protocols relating to terrorism" (Human Rights, Terrorism and Counter-terrorism, The principle of legality and the definition of terrorism, Pages 40/41).

## Customary International Law

Customary international law is one component of international law. "[It] refers to international obligations arising from established international practices, as opposed to obligations arising from formal written conventions and treaties. Customary international law results from a general and consistent practice of states that is being followed and respected from a sense of legal obligation" (Legal Information Institute, Customary International Law). A prime example of customary international law is the doctrine of non-refoulement which "guarantees that no one should be returned to a country where they would face torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm. This principle applies to all migrants at all times, irrespective of migration status" (The principle of non-refoulement under International Human Rights law, Page 1).

## Enforced Disappearance

"Enforced disappearance is the act of making someone disappear against their will. It therefore refers to the arrest, detention, or abduction of a person, followed by a refusal to



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acknowledge the fate of that person. This action is considered to be a crime against humanity. It is important to note that confinement or extrajudicial execution differ from enforced disappearance, because the uncertainty inherent to the latter leads to greater psychological torture both of the targeted groups and the families of the victims". (Trial International: Enforced Disappearance 2021).

## War crime

The term war crime has been hard to define with exactness and its use has developed continually, since the end of World War I. Generally speaking, "war crimes are serious criminal acts committed within the context of an "armed conflict": a resort to armed force between states. They can also be committed in a civil war. The criminal act must be related to the armed conflict, so a murder or a theft during a war but unrelated to the war is not a "war crime". A war crime can be many different things, from illegal seizure of property to attacking civilian objects to using prohibited gases (American Bar Association: How the ICC works)".

## Crimes Against Humanity

"Crime against humanity means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack"[ : Primarily,] murder, extermination, enslavement, deportation or forcible transfer of population and imprisonment. [On the grounds of] "severe deprivation of physical liberty in violation of fundamental rules of international law, the following acts also constitute crimes against humanity: torture, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity, persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender [...], or other grounds that are universally recognized as impermissible according to international law, in connection with any act referred to in this paragraph as well as any crime within the jurisdiction of the Court" (Rome Statute of the International Criminal Court, Article 7, Crimes Against Humanity). For instance, enforced disappearance of persons, the crime of apartheid and other similar, inhumane acts are included, since they intentionally cause great suffering, or serious injury to body or to mental or physical health (United Nations Office on Genocide Prevention and the Responsibility to Protect, Article 7).



## Legal Background

What constitutes extrajudicial killings? What separates extrajudicial killings from ordinary punishable crimes? Which human rights are being violated?

### Human Rights Aspects

Life is the first and most fundamental right of individuals, without which no other right can be upheld. Extrajudicial killings violate a number of basic human rights, including, notably the right to life and the right to fair trial as they aim to the deliberate killing of individuals by state agents themselves or by giving their consent to executions; without a previous judgment affording all judicial guarantees, such as a fair and unbiased procedure. Despite those violations, there is, surprisingly, no legislation that defines what constitutes an extrajudicial killing. The absence of a uniform and accepted definition for the existing categories of political killings has created uncertainty among those seeking to end such acts. Even if some States do address killings and enforced disappearances, no guidelines have been issued that define what an extrajudicial killing is, leaving prosecutors in the dark as to the scope of what kinds of killings should be addressed as such. While Courts tend to use the term “extralegal killing” to refer to “killings committed without due process of law, i.e. without legal safeguards or judicial proceedings, Human Rights Advocates point out two defining characteristics that constitute those practices: (1) **the element of State involvement**; and (2) **the political motivation of the violations**” (Human Rights and the Phenomenon of Disappearances 1979)<sup>3</sup>. Amnesty International defined State involvement and political motivation as the “essential difference” between ordinary crimes and illegal acts like kidnappings or disappearances from acts like enforced disappearances (Human Rights and the Phenomenon of Disappearances 1979)<sup>4</sup>. Amnesty International employed the same two criteria, defining what it termed “political killings” as unlawful and deliberate killings of persons that are carried out by order of a government or with its complicity for their political beliefs or activities, ideas, religious beliefs, ethnicity, origin, sex, colour, or language.

In 1948, the **United Nations' Universal Declaration of Human Rights** recognized, among others, the right of all persons to “life, liberty and security of person” and the right against “arbitrary arrest, detention or exile” (Universal Declaration on Human Rights 1948). Similar

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<sup>3</sup> E.g. Human Rights and the Phenomenon of Disappearances, Hearings Before the H. Subcomm. on Int'l Orgs. of the Comm. on Foreign Aff., 96th Cong. 3 (1979) (Testimony of Jerome J. Shestack, President, Int'l League for Human Rts. describing the pattern of enforced disappearances "in all countries" as being "remarkably the same").

<sup>4</sup> Human Rights and the Phenomenon of Disappearances, Hearings Before the H. Subcomm. on Int'l Orgs. of the Comm. on Foreign Aff., 96th Cong. 74 (1979) (Testimony of Jerome J. Shestack, President, Int'l League for Human Rts.).



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guarantees were embedded in the **European Convention on Human Rights** (1953 – wherein **Article 2** declared that all humans have a protected right to life and **Article 6** the right to a fair trial), **the American Convention on Human Rights** (1969), the **International Covenant on Civil and Political Rights** (1976 – Article 6(1) asserts an inherent right to life, protected by law, with guarantees against arbitrary deprivations of life)<sup>5</sup>, and the **African Charter on Human and Peoples' Rights** (1981).

## Previous UN Actions

In 1980, the 6<sup>th</sup> United Nations Congress on the Prevention of Crime and the Treatment of Offenders, by a vote of 74 States in favor and 7 abstaining, approved a resolution condemning “extra-legal executions” (United Nations Office on Drugs and Crime 2021). The resolution specifically addressed itself to “murder committed or tolerated by Governments” and condemned the “practice of killing and executing political opponents or suspected offenders carried out by armed forces, law enforcement or other governmental agencies or by paramilitary or political groups acting with the tacit or other support of such forces or agencies”. The General Assembly (GA) later endorsed the resolution. These limited definitions point to the absence of a strong international legal foundation in order to hold States accountable for politically motivated killings. International humanitarian law did provide for the protection of civilians from attacks during non-international and international armed conflicts. In 1989, the UN created a manual, entitled “*Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*” (Human Rights Library 1989), which called on governments to ban all executions that were not recognized as being permissible under national criminal law.

## UN Special Rapporteur on extrajudicial, summary or arbitrary executions

In Resolution 1982/29 of 11 March 1982, the Commission on Human Rights recommended to the Economic and Social Council (ECOSOC) to appoint an international expert to the role of “Special Rapporteur” for the purpose of researching and reporting instances of summary, arbitrary, and extrajudicial executions. The Special Rapporteurs would report back to the Commission (OHCHR, Extrajudicial, summary or arbitrary executions, 2011). The ECOSOC adopted this resolution in its March 1982 session as 1982/35, and the role of Special Rapporteurs came into action. The mandate of the Special Rapporteurs is international in scope and covers all states, regardless of whether the Member State has “ratified relevant international Conventions.” Primarily, their role is to examine all potential summary, arbitrary, and extrajudicial executions and report annually to the GA, as well as to make the High

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<sup>5</sup> United Nations: *International Covenant on Civil and Political Rights* (1966/1976): <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.



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Commissioner of Human Rights aware of existing issues<sup>6</sup>. Additionally, they must review all reports and make recommendations to the Member States based upon them. Furthermore, they must monitor existing policies, ensure gender mainstreaming in all recommendations, and react quickly when the threat of a summary, arbitrary, and extrajudicial execution exists. The Special Rapporteurs must be guided by international law. Today, although much work has been done on the topic of extrajudicial, summary, and arbitrary executions, the Special Rapporteur in the 2010 report to the GA stated that “[we]...can do vastly more to prevent unlawful killings around the world and to put in place much more effective mechanisms for accountability when atrocities do occur” (United Nations Human Rights Council 2010).

## Extrajudicial killings as a war crime

Common **Article 3** of the **Geneva Conventions** provides that in armed conflicts, persons who take no active part in hostilities shall not be subject to violence to life and person including murder, **execution without judgment by a regularly constituted court**, and to outrages upon personal dignity (International Committee of the Red Cross 2021). The **Additional Protocol II extended those protections to non-international armed conflicts**. In the context of an armed conflict and under certain circumstances, extrajudicial executions can be considered war crimes. They may also amount to genocide or crime against humanity in specific cases and if they are part of a collective practice. However, these protections **do not apply** to “**situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature**”. This leaves a clear **gap in international legal protection for civilians from violence from their governments**. And while infrastructure, such as Conventions, public outcry, NGOs and more, exists to strongly discourage these situations there are gaps within Member State accountability, as well as a lack of legislation on this topic. The hope lies in the increasing number of monitoring mechanisms for the breach of the International Human Rights laws across the world.

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<sup>6</sup> More information on the role of the Special Rapporteur can be found here: <https://www.ohchr.org/Documents/Publications/FactSheet11rev.1en.pdf>. (The mandate of the Special Rapporteur).



## Analysis - Main Areas of Focus

In an effort to facilitate the drafting of resolutions in the committee during the conference, the subject is divided into three parts, namely international scale extrajudicial killings, national scale extrajudicial killings and the democratic threat that both aforementioned categories pose.

### 1. International Scale Extrajudicial Killings

#### United States of America

The United States of America have been involved in extrajudicial killing cases outside their national border in a number of instances. The American era of the “War on Terror”<sup>7</sup> and the techniques used throughout, were heavily criticized for their questionable legality and the ambiguous cover of “self-defense”. Central Intelligence Agency’s Detention and Interrogation Program was a program of systematic torture of detainees on terrorism charges that resulted in the confirmed death of Gul Rahman<sup>8</sup>. The ingenious kidnapping, torture and, in some cases, murder of detainees has not been officially attributed to anyone and no one has been held accountable for the violation of universal human rights, the rejection of the Torture Statute, and the arbitrary deprivation of the right to life in the case of Gul Rahman; where this death constitutes a form of extrajudicial killing, namely death in custody after torture (Human Rights Watch 2015: No more excuses).

Another ambiguous case involving the United States was the targeted killing of Osama Bin Laden. Being the founder and leader of the international Islamist terrorist organization Al-Qaida as well as the mastermind behind the 9/11 attacks, he constituted the primary target of America’s War on Terror. On May 2<sup>nd</sup>, 2011, because of a United States’ military special operation unit raid, Osama Bin Laden was killed. The legality of his death was questioned, as the operation was carried out outside of American soil and legal due process was neglected. The US’ claim of ‘self-defense’ could be accepted in accordance with article 51 of the UN Charter, which states that countries retain “inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations”. However, two United Nations’ reports reject the notion that a state can exercise preemptive action against non-imminent threats. Moreover, the Special Rapporteurs on summary executions, human rights and counterterrorism, as well as the United Nations’ High Commissioner for Human Rights issued a request for the provision of information on the death of Bin Laden and the

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<sup>7</sup> Initiated by George W. Bush and continued by Barack Obama.

<sup>8</sup> Gul Rahman was an Afghan man, suspected to be a Islamist insurgent that was captured by Unites States’ forces in Pakistan and died under custody (Goldman, Cannon 2010).



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operation as a whole to determine the legality thereof and evaluate potential breaches of International Human Rights Law (Thorp 2011).

Another similar, but even more complicated case is the assassination of the Iranian Major General, Qassem Soleimani, in January 2020. The attack was conducted by a drone strike on Iraqi territory, targeting the vehicle of the Iranian Major General, instantly killing him and his fellow passengers. This case was the first incident of an attack against a state actor in foreign territory that was justified by the argument of self-defense, violating Article 2 (4) of the UN Charter regarding the prohibition of the use of force. No consent from the Iraqi government for operation on Iraqi soil, no authorization of use of force by the UN Security Council. The UN Special Rapporteur on extrajudicial, summary, or arbitrary executions reported a clear violation of International Human Rights Law (IHRL). “In light of the evidence that the US has provided to date, the targeting of General Soleimani, and the deaths of those accompanying him, constitute an arbitrary killing which, under IHRL, the US is responsible.”<sup>9</sup>( Callamard 2020).

## Saudi Arabia

One of the most prominent and brutal cases of individual extrajudicial killings by state authorities is the assassination of journalist Jamal Khashoggi. Jamal Khashoggi, a Saudi dissident, and US resident was a stern critic of Saudi Arabia’s regime and the Crown Prince Mohammed Bin Salman for his authoritarian methods.

On the 2<sup>nd</sup> of October 2018, Khashoggi was seen for the last time entering the Saudi Arabian Consulate in Istanbul, Turkey, on the pretext of obtaining documents regarding his upcoming wedding with his fiancée. After he failed to emerge from the building for several hours, the authorities were notified of his disappearance. The initial stance of the Consulate was that Khashoggi left via another entrance. However, Turkish authorities contested that claim with CCTV<sup>10</sup> footage-evidence and alleged the murder of the journalist inside the Consulate. The first acceptance of Khashoggi's death by Saudi Arabia came on 20 October, following the release of audio files showing strangulation, as well as plans for the corpse’s dismemberment and disposal (Sakelaris 2019).

The UN Special Rapporteur on extrajudicial, summary or arbitrary killings conducted a six-month long investigation that resulted in a report that stated: “The circumstances of Mr.Khashoggi’s death have led to numerous theories and allegations, but none alter the responsibility of the Saudi Arabia State. His killing was the result of elaborate planning

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<sup>9</sup> A/HRC/44/38.

<sup>10</sup> Closed-circuit television.



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involving extensive coordination and significant human and financial resources. It was overseen, planned and endorsed by high-level officials. It was premeditated. “According to the Special Rapporteur, the assassination of Jamal Khashoggi was an extrajudicial execution that was in breach with several provisions of international law, such as the prohibition against arbitrary deprivation of life, **a fundamental principle of international law**; the prohibition against extraterritorial use of force **as enshrined in the UN Charter**; the use of consular missions by states for official purposes; the prohibition against torture, under the terms of the Convention Against Torture, ratified by Saudi Arabia; the prohibition against enforced disappearance, and the freedom of expression due to the victim being a journalist and open critic of the Saudi Regime. **“In killing a journalist, the State of Saudi Arabia committed an act inconsistent with a core tenet of the United Nations, the protection of freedom of expression”** (Callamard 2021).

## Russian Federation: The Case of Alexei Navalny

On 20 August 2020, the main political rival and harsh critic of Vladimir Putin and the Russian government, fell into a coma after his confirmed poisoning with the neurotoxic agent Novichok. The use of this agent has been certified by the Organization for the Prohibition of Chemical Weapons.

Agnès Callamard, the Special Rapporteur on extrajudicial, summary or arbitrary executions and Irene Khan, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression stated that the involvement of the Russian government in this case is extremely likely, since the poison has been certifiably developed by the Russian Federation and its availability is limited to other State actors. Moreover, Navalny’s close monitoring by Russian Authorities would deem poisoning by another party a highly unlikely scenario. The UN experts called for the initiation of an investigation by Russian authorities and for the immediate release of Alexei Navalny from the facility center where he was detained. They conclude that the attempted murder of the opposition leader constitutes part of a “wider trend” of attempted and/or successful extrajudicial executions by the State both within and outside of Russian territory. Navalny’s case comprises a number of violations of IHRL, namely a violation of Russia’s pledges under the Chemical Weapons Convention for the use of Novichok with the intent to kill, a violation of the right to life, the right against arbitrary killings (Callamard, Khan 2021).

## **2. National Scale Extrajudicial Killings**

Domestic extrajudicial killings are a much more widespread phenomenon, since the domestic borders factor and the absence of heavily engaged international actors render the practice much more easily carried out. This practice mainly aims at the consolidation of the regime through: 1) the fear of the population in this respect to the government or 2) through



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legitimation of the government, that was achieved by tackling a major problem of concern to society, such as high crime rates.

The Study Guide lists countries where the practice is systematically taking place. Due to the large number of countries exercising extrajudicial executions, the focus has been on the cases of the Philippines and Brazil, which have been particular areas of concern for the international community.

## Philippines - War on Drugs

In recent years, discussion around the topic of extrajudicial killings has heavily revolved around the Philippines and the so-called “War on Drugs”. The unorthodox tactics became entrenched throughout the Philippines, when in 2016 the *punitive* Rodrigo Duterte was elected president. Ignoring the warnings of the United Nations, Human Rights Organizations (e.g. Amnesty International), the national press, judges and the country's police leadership, President Duterte supports the executions of drug traffickers and users and calls on citizens to take vigilante action to combat the drug scourge.

Duterte's extra-legal campaign of punishment is considered to be ineffective, as it exacerbates violence and crime, in contempt of justice. Police and paramilitary men have killed more than 4.000 people - on the spot, without trials - since Duterte took power in June 2016. Hundreds of drug users or suspected drug traffickers have been killed by unidentified gunfire. Many of the deaths attributed to the police manhunt against drug traffickers were in fact cold-blooded executions without confirmed guilt (Bouckaert, Human Rights Watch 2017).

At least 7.000 people have been killed in police operations to crack down on drug trafficking and use in the Philippines in the past five years (Amnesty International 2020). Although official figures put the death toll at some more than 6.100 in 200.000 law enforcement operations, NGOs discount that the true death toll is much higher (Khalid 2020). In many of these cases, the question arises as to whether extrajudicial killings were committed by the police, or whether the victims were even involved in the trafficking.

International Criminal Court prosecutor, Fatou Bensunda, requested authorization to open a full criminal investigation into the Philippines' chosen Drug War, arguing that there are reasonable suspicions that crimes against humanity were committed. Human rights advocacy organizations have denounced thousands of summary executions. The police counter that those killed were violently resisting the authorities. President Duterte has repeatedly said that the International Criminal Court (ICC) has no jurisdiction in his country and that the authorities in the Philippines and he personally will not cooperate in any investigation that would be "illegal" according to him. He has even threatened to order the arrest of prosecutor



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Bensunda. Despite the Philippines' withdrawal from the ICC<sup>11</sup>, the Court maintains its jurisdiction in regards to crimes committed during the time of the Asian country's membership in the Rome Statute, the prosecutor stressed (Coalition for the International Criminal Court, the Philippines)<sup>12</sup>.

Reacting to the accusation that Philippine courts are unable or unwilling to prosecute members of the law enforcement forces suspected of having committed murders - one of the criteria for the ICC to begin a full investigation<sup>13</sup> – President Duterte assured that his country's judicial system is functioning. Nevertheless, the pending investigation suggests that there is reasonable grounds for doubting the Philippine President's claim of legitimate state-acting in accordance with International Human Rights Law.

## Brazil - Extrajudicial killing by police forces

Through observation, research and intervention the Human Rights Watch has concluded that the phenomenon of extrajudicial executions manifests itself in the form of police in the case of Brazil. Similar to the case of the Philippines, the controversial state tactics are employed as measures for the decrease of crime and promotion of domestic security. The years 2017 and 2018 marked the beginning of a long streak of human rights abuse at the hands of the Brazilian police forces, with 1.444 killed in operations in the first year alone (Roth 2021, Muñoz 2020).

The incoming President, Jair Bolsonaro, was a fervent defender of this practice, which he reinforced during his presidency, considering it a useful strategy to combat criminality. Excessive use of force by the police during operations, as well as the unformidable conditions, neglect and mistreatment of detainees were the leading causes of death in cases that are considered extrajudicial killings by state authorities. Such cases reached an all-time high in 2019 after the election of Jair Bolsonaro with a total of 6.357 deaths (Roth 2021, Muñoz 2020).

## Interim Conclusions

Despite clear violations of human rights, intentional disregard of international agreements and vast strengthening of repressive measures, both in the Philippines and in Brazil

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<sup>11</sup> in effect since the 17th of March 2019.

<sup>12</sup> <https://www.coalitionfortheicc.org/country/philippines>.

<sup>13</sup> According to the principle of complementarity, national jurisdictions must be the primary safeguards against impunity, being responsible for investigating and prosecuting crimes under the Rome Statute. The main objective of preliminary investigations is to encourage governments to conduct their own inspections and prosecutions of alleged serious crimes committed on their territory or by their citizens (Coalition for the International Criminal Court). Thus, if the national judicial system of a country is intact, the ICC does not have jurisdiction to prosecute.



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governments enjoy high popularity ratings with Duterte receiving 82% and Bolsonaro 53% in popular support (Boadle, Reuters 2020). These figures are linked to the reduction in crime, - 21.5 % drop in the Philippines (Economist 2020), 25% in Brazil (Muggah, Foreign Policy 2019)-<sup>14</sup>, and 'legitimize' both the policy of extrajudicial killings and the governments themselves in the eyes of the people.

## Alphabetical list of countries where extrajudicial killings by state authorities is common practice<sup>15</sup>

<b>Angola</b>	Abuses of HRL by state security forces, use of excessive force resulting in extrajudicial killings relating to civilian violation of Covid-19 restrictions.
<b>Bangladesh</b>	Evidence of enforced disappearances and extrajudicial killings issued by the government.
<b>Burkina Faso</b>	Unlawful executions of suspects during counterterrorism operations (Cross-border operation involving Mali).
<b>Burundi</b>	Arbitrary arrests leading up to killings of regime-opponents.
<b>Cameroon</b>	Extrajudicial killings of separatist insurgents led by state security forces.
<b>Central African Republic</b>	Evidence of extrajudicial killings.
<b>Democratic Republic of Congo</b>	Evidence of extrajudicial killings.
<b>Ethiopia</b>	Evidence of extrajudicial killings.
<b>Colombia</b>	2002-2008: surge in extrajudicial killings of guerillas by state authorities, impunity of perpetrators.

<sup>14</sup> perceived as a direct effect of draconian government strategies.

<sup>15</sup> As evidenced in the Human Rights Watch Report of 2021 (Kenneth 2021: World Report).



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<b>El Salvador</b>	2014-2016: 116 Police Killings.
<b>Honduras</b>	Deaths in Custody.
<b>India</b>	Evidence of torture in police custody and extrajudicial executions, 77 deaths in police custody, 1338 deaths in judicial custody, 62 extrajudicial killings in 2020.
<b>Iraq</b>	Killings of demonstrators by state authorities through use of excessive force.
<b>Kenya</b>	Killings relating to Police brutality.
<b>Libya</b>	Evidence of torture, enforced disappearances and extrajudicial executions of the Halifa Haftar's political opponents.
<b>Mali</b>	250 unlawful killings, extrajudicial executions during counterterrorism operations.
<b>Mexico</b>	Deaths in custody, executions of government critics.
<b>Myanmar</b>	Deaths in custody, executions of government opponents, killings relating to ethnic cleansing (Rohingya Crisis).

### 3. Democratic Challenge

As mentioned earlier, the right to life is the first principle of International Human Rights. Any deviation or outright denial of this right is a threat to democracy itself, the foundation of our world and the liberal values that strengthen peace and global security. Since 2005, there has been an increase in the phenomenon of autocratization. Already established democratic regimes have shown signs of destabilization and anti-liberalist tendencies.



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The phenomenon of extrajudicial executions by state bodies has historically been a practice of authoritarian regimes. The emergence of this practice, however, is not only evidence of authoritarianism, but it is also a manifestation of autocratic reinforcement and a direct threat to democracy worldwide.

In order to understand the global threat to democratic norms and values, the following list contains information retrieved from Freedom House on almost all countries (with a minimal margin of error in mind) where the practice of extrajudicial executions is prominent, relating to their most recent Global Freedom score (Freedom House: Global Freedom Score 2021).

<b>Country</b>	<b>Global Freedom Score</b>
<b>Angola</b>	31 (Not Free)
<b>Bangladesh</b>	39 (Partly Free)
<b>Burkina Faso</b>	54 (Party Free)
<b>Burundi</b>	14 (Not Free)
<b>Cameroon</b>	16 (Not Free)
<b>Central African Republic</b>	9 (Not Free)
<b>Colombia</b>	65 (Partly Free)
<b>Democratic Republic of Congo</b>	20 (Not Free)
<b>El Salvador</b>	63 (Partly Free)
<b>Ethiopia</b>	22 (Not Free)
<b>Honduras</b>	44 (Partly Free)
<b>India</b>	67 (Partly Free)



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<b>Iraq</b>	<b>29 (Not Free)</b>
<b>Kenya</b>	<b>48 (Partly Free)</b>
<b>Libya</b>	<b>9 (Not Free)</b>
<b>Mali</b>	<b>33 (Not Free)</b>
<b>Mexico</b>	<b>61 (Partly Free)</b>
<b>Myanmar</b>	<b>28 (Not Free)</b>
<b>Philippines</b>	<b>56 (Partly Free)</b>
<b>Russian Federation</b>	<b>20 (Not Free)</b>
<b>Saudi Arabia</b>	<b>7 (Not Free)</b>
<b>United States of America</b>	<b>83 (Free)</b>



## Major Organisations Involved

### Amnesty International

Amnesty International (AI) is an NGO focused on human rights. The stated mission of the organization is to campaign for "a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments." AI was awarded the 1977 Nobel Peace Prize and the UN Prize in the Field of human rights in 1978. Concerning extrajudicial killings, AI has published numerous reports and made groundbreaking research that has brought into light many events and details on extrajudicial executions in different countries.



### Office of the United Nations High Commissioner for Human Rights (OHCHR)

#### *The Special Rapporteur on extrajudicial, summary or arbitrary executions*

The Special Rapporteur on extrajudicial, summary or arbitrary executions is an independent human rights expert appointed by the United Nations Human Rights Council. The mandate of the Special Rapporteur was established in 1982 and has been renewed numerous times, most recently in June 2017 (HRC resolution [44/05](#)). The mandate of the Special Rapporteur covers all countries, irrespective of whether a State has ratified relevant international Conventions. Mr. Morris Tidball-Binz was appointed the UN Special Rapporteur on extrajudicial summary or arbitrary executions, on 1 April 2021. The Special Rapporteur is in charge of examining human rights violations on a worldwide scale and must submit a report to the Council on the exercising of summary and arbitrary executions. The Council requests the Special Rapporteur to carry out its mandate considering different aspects such as paying special attention to extrajudicial, summary or arbitrary executions, where the victims are children, women or individuals who are carrying out peaceful activities.



### Human Rights Watch

Human Rights Watch (HRW) is another NGO that investigates and reports on abuses happening in all corners of the world. HRW directs its advocacy towards governments, armed groups and businesses, pushing them to change or enforce their laws, policies and practices. HRW informs UN officials and member states of key findings, influences policy on a wide range of discussions and pushes for urgent action on human rights crises.





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## **TRIAL International**

Trial International is also an NGO that acts specifically against extrajudicial executions, enforced disappearances, arbitrary detention, war crimes and more. It also provides legal assistance to victims and litigates cases in order to push forward the human rights agenda. TRIAL International works mainly with the UN's Human Rights Committee, which examines violations of the International Covenant on Civil and Political Rights.



## **International Committee of the Red Cross (ICRC)**

The ICRC is an independent, neutral organization ensuring humanitarian protection and assistance for victims of armed conflict and other situations of violence. It takes action in response to emergencies and at the same time promotes respect for international humanitarian law and its implementation in national law. Along with the UN attempting to implement measures to eliminate extrajudicial executions, the ICRC extensively highlights and elaborates on the consequences of the violation of human rights.





## Addressing the Challenges

During the conference, delegates will be expected to form alliances based on their bloc positions, which will allow them to work efficiently to resolve the issue at hand<sup>16</sup>. To address the challenge posed, they must consider the pressing questions relating to the three different areas of focus, namely the question of a foreign country's sovereignty infringement (International Scale Extrajudicial Killings), the disregard of International Law, Human Rights and International Agreements (National Scale extrajudicial killings) and the democratic challenge that they constitute that could ultimately lead to the erosion of democratic values and norms. Thus, delegates must propose measures that will strengthen a country's sovereignty, facilitate the determent of extrajudicial executions on a national level and promote democratic values.

Specifically, to tackle the issue of international scale extrajudicial killings, one should consider ways to reinforce respect of borders and foreign sovereignty during state forces' operations. Possible solutions may include urging the UN Security Council to impose sanctions on countries that breach international agreements and operate without its permission or a foreign state's approval, violating state sovereignty.

The challenge posed by national scale extrajudicial killings can be combated by measures such as but not limited to: reinforcement of existing legislation against such practices, urging the ratification of the Universal Declaration of Human Rights and the Rome Statute, urging conduction of investigations by United Nations' officials (Special Rapporteur on Human Rights, UN Special Rapporteur on extrajudicial, summary, or arbitrary executions etc.) in countries where the phenomenon occurs, promote global participation in international organizations such as Amnesty International, Human Rights Watch etc. and strengthen the prosecution of perpetrators by the International Criminal Court.

Furthermore, focusing on measures that can be implemented by states on a domestic level, the following propositions can be made: 1) promoting stricter control of alleged perpetrating actors, so as to sustain prevention of such killings, 2) urge for the prosecution of proven perpetrators by legal authorities.

Further measures could include: 1) providing funding to Member States, where the practice of extrajudicial killings in custody is common, to improve the conditions of detention, as well as 2) offering training programmes for security forces to bolster orderly conduct. Additionally,

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<sup>16</sup> Please bear the instructions issued in Chapter "Methodology" in mind when it comes to forming alliances according to your country's position.



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to combat the propaganda developed by leaders in support of the practice of extrajudicial killings, promotion of public awareness through the spread of OHCHR and ICC reports could be considered an effective measure.

Based on the result of the analysis, the tactic of extrajudicial killings is used mainly by non-liberal, authoritarian regimes. It is consequently advisable to ensure the democratization of states, so that the introduction and consolidation of democratic and liberal values is favoured and respect for human rights is increased.

## Conclusion

Each time a person is killed without previous judgment affording all judicial guarantees, a strike against democracy and human rights occurs. Bearing all the aforementioned in mind, one can safely conclude that the issue of extrajudicial killings has become a pressing reality for the international community and must not be tolerated any longer. Abiding by the International Human Rights Law must become “an obligation” to state actors, rather than a selective decision on their part. It is high time Universal Human Rights were protected and due process of the law followed. Therefore, the United Nations Member States need to respond to the threat posed by the phenomenon of extrajudicial killings by taking stronger steps and working towards common and clear legal grounds, steadily eradicating the phenomenon.



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