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**Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

### **Extrajudicial, summary or arbitrary executions**

#### **Note by the Secretary-General\*\***

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions, Morris Tidball-Binz, submitted in accordance with Assembly resolution [71/198](#).

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\* [A/76/150](#).

\*\* The present report was submitted after the deadline in order to reflect the most recent information.



## **Report of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions**

### *Summary*

In the present report, the first submitted by the incoming mandate holder, the Special Rapporteur on extrajudicial, summary or arbitrary executions, Morris Tidball-Binz, outlines the vision that will drive the implementation of his mandate, together with the main thematic and strategic priorities, areas of focus and research that he intends to pursue during his tenure.

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## **I. Introduction**

1. The Special Rapporteur on extrajudicial, summary or arbitrary executions, Morris Tidball-Binz, submits the present report to the General Assembly pursuant to Human Rights Council resolution 44/5. It is the first prepared by the present mandate holder, who was appointed Special Rapporteur by the Human Rights Council at its forty-sixth regular session and who formally took up the role in April 2021. In the report, the Special Rapporteur outlines the vision that will drive the implementation of his mandate, including the main thematic and strategic priorities identified for his tenure.

2. The Special Rapporteur wishes to stress that he will approach his work with an emphasis on the prevention of extrajudicial, summary or arbitrary executions. With a spirit of cooperation, he will pay particular attention to the identification and promotion of best practices and the effective implementation of relevant standards, while ensuring a victim-centred approach throughout the mandate's activities.

3. The Special Rapporteur will endeavour to build upon the outstanding work of his predecessors and hopes to contribute his own expertise in medicolegal sciences to the mandate's activities, including supporting efforts to investigate and document extrajudicial, summary or arbitrary executions, to promote accountability for those crimes, including truth, justice and reparations for victims.

4. The Special Rapporteur wishes to pay a special tribute to Christof Heyns, who passed away unexpectedly in March 2021. His phenomenal work, for the mandate and for the protection and promotion of human rights the world over, leaves a vast and lasting legacy.

## **II. Cross-cutting themes guiding the Special Rapporteur's vision of the mandate**

5. In this section, the Special Rapporteur sets out the key themes that will underpin and guide the approach to the work he will carry out during his tenure. This will be followed by a description of specific research areas and projects he wishes to undertake.

### **Implementation of relevant standards**

6. The primacy of the right to life, enshrined in article 3 of the Universal Declaration of Human Rights and article 6 of the International Covenant on Civil and Political Rights and its corollary, the absolute prohibition of the arbitrary deprivation of life, drive the Special Rapporteur to promote the effective implementation of relevant standards for the prevention and investigation of extrajudicial, summary or arbitrary executions. In each of the proposed areas of work and research projects, as outlined further below in the text, the Special Rapporteur will seek to introduce an implementation perspective and provide guidance to States and other stakeholders, on practical measures to respect, protect and fulfil the right to life. Where needed, the Special Rapporteur will seek to supplement existing international norms and standards, such as the Minnesota Protocol on the Investigation of Potentially Unlawful Death,<sup>1</sup> with a fuller, authoritative account of the practical steps duty bearers should take in order to meet those standards.

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<sup>1</sup> The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) (United Nations publication, Sales No. E.17.XIV.3).

7. An implementation approach will involve the identification and promotion of best practices wherever possible. Identification of best practices will lend clarity to what is intended by international law and will offer pathways towards the fulfilment of normative obligations. In his work, the Special Rapporteur will try to identify examples where effective steps have been taken towards the prevention of extrajudicial, summary or arbitrary executions, or to their investigation, with a view to demonstrating, in practice, what measures have proven to be valuable and useful to protect the right to life.

8. The year 2022 will mark the fortieth anniversary of the creation of the mandate, the Special Rapporteur believes it may be helpful to revisit the recommendations issued by the mandate since its creation, to examine the extent to which they have been implemented, and to assess their impact. Within this context, particular focus will be given to the main standards of relevance to the mandate, namely the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and the Minnesota Protocol.

## **Prevention**

9. Preventing human rights abuses is central to the work of the United Nations system. The Secretary-General stated in his recent call to action that prevention was a top priority and a common thread across the work of the Organization, both in his reform efforts and in key decision-making and programming.<sup>2</sup> Indeed, the Human Rights Council also recognized its own role, as well as that of States, in the prevention of human rights violations (Human Rights Council resolution 38/18), asserting that prevention should include structural prevention, which is meant to unlock systemic violations and to reduce the long-term likelihood of violations (A/HRC/43/37).

10. The focus on prevention has also been central to the work of the mandate since its inception and is reflected in the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted unanimously by the Economic and Social Council in 1989. Actions to prevent the arbitrary loss of life may take many forms and the systems created to do so will operate at a number of levels. Clarifying what prevention is and how it may operate is necessary to the achievement of comprehensive and inclusive outcomes.

11. Public health, for instance, has long adopted a model that incorporates three levels of prevention. Primary prevention aimed at preventing people from becoming sick or injured and improving population health and safety. Secondary prevention aimed at early detection of disease and injury to minimize their impact. Tertiary prevention aimed at limiting the effect of diseases and injuries experienced by individuals.

12. This model has been adopted in the field of gender violence where primary prevention involves creating strategies to prevent violence before it occurs, secondary prevention is intervention to address early signs of violence and victimization, and tertiary prevention focuses on responses to the crime, accountability and preventing recurrence. In her report on extrajudicial, summary or arbitrary executions on a gender-sensitive approach to arbitrary killings, Special Rapporteur Agnès Callamard refers to a duty to prevent, which she suggests includes a “State obligation to modify, transform and eliminate wrongful gender stereotyping in recognition of the fact that the perpetuation of harmful gender stereotypes constitutes one of the determining factors of discrimination and violence” (A/HRC/35/23, para. 67).

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<sup>2</sup> António Guterres, Secretary-General, “The highest aspiration: a call to action for human rights”, remarks to the Human Rights Council, Geneva, 24 February 2020.

13. The responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity follows a similar approach. It is said to rest on three pillars: the responsibility of each State to protect its populations (primary prevention); the responsibility of the international community to assist States in protecting their populations (if the presumption here is that the populations are at risk, this would be secondary prevention); and the responsibility of the international community to protect when a State fails to protect its own population (tertiary prevention).

14. In cases of arbitrary deprivation of life, tertiary prevention involves responses to unlawful killings, ensuring full and effective investigations in accordance with applicable international standards, accountability of those responsible, reparation to families and prevention of recurrence. Secondary prevention identifies and addresses early indicators revealing risk factors, including the intention of government agents and/or other actors (including private individuals) of breaching the right to life; and primary prevention entails the adoption of strategies against any arbitrary deprivation of life. This categorization helps guide the effective implementation of the duties of every State to respect, protect and fulfil the right to life. The Special Rapporteur will give due consideration to each level of prevention in the conduct of his proposed work, including through the promotion and implementation of applicable standards.

### **Victim centred approach**

15. Article 2 of the International Covenant on Civil and Political Rights requires that effective remedies be made available to any person whose rights have been violated and that these remedies be enforced. The updated set of principles for the protection and promotion of human rights through action to combat impunity outlines a number of rights as they apply to victims of human rights abuse and their families.<sup>3</sup> This includes the right of victims and families to know the truth about what happened and what led to the rights violations. A victim-centred approach is required to help fulfil these rights. This includes a way of engaging with victims that prioritizes listening to the victims, avoids retraumatization, and systematically focuses on their safety, rights, well-being, expressed needs and choices, thereby giving back as much control to victims as feasible and ensuring the empathetic and sensitive delivery of services and accompaniment in a non-judgmental manner.<sup>4</sup>

16. The Minnesota Protocol places special emphasis on the rights of victims, in particular families and close relatives of deceased and disappeared persons, and it also provides practical guidance for safely making effective their potential contribution to investigations and their rights in this regard.

17. In line with those principles, due consideration will be given to the needs and rights of families of deceased or disappeared persons in projects undertaken by the Special Rapporteur, as victims, as rights holders and also as fundamental actors in efforts for ensuring truth, accountability and reparations in cases of extrajudicial, summary or arbitrary executions.

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<sup>3</sup> See [E/CN.4/2005/102/Add.1](#).

<sup>4</sup> Office of the United Nations High Commissioner for Refugees, “Policy on a victim-centred approach in UNHCR’s response to sexual misconduct: sexual exploitation and abuse and sexual harassment”, December 2020.

## **Gender perspective**

18. The Special Rapporteur considers the adoption of a gender perspective as an essential element of the work of the mandate. The phenomenon of femicide, the killing of women because they are women, is a critical example.

19. Persons may be targeted for not conforming to the gender binary, for being intersex, same sex attracted, questioning, trans or non-binary. A gendered perspective (complemented by consideration of intersectionalities) is necessary to uncover and respond to patterns of behaviour by public or private actors that would otherwise remain hidden, to ensure perpetrators are brought to justice, to provide reparations to victims, and in the treatment of the dead.

## **Forensics: transversal considerations**

20. While substantive areas of concern in their own right, considerations relevant to the prevention and investigation of potentially unlawful death and the respectful management of the dead will also inform other areas of concern. For example, when considering epidemics and pandemics from a right to life perspective, thought must also be given to how deaths are recognized and investigated, and how human remains are handled. These same issues – death investigations and the treatment of human remains – are similarly relevant to deaths in custody, to femicide and to disaster management and response. They shall therefore be given specific attention.

21. The implementation of the Minnesota Protocol and the respectful management of the dead will form important components of the Special Rapporteur's country visits, including consideration of recommendations for trainings, capacity-building and technical cooperation.

## **Accountability**

22. The primary goals of unlawful deaths' investigations are to establish the truth; ensure that perpetrators are held accountable and that victims and their families are provided with adequate reparations, including the prevention of recurrence. Promoting accountability will therefore be central to the work of the Special Rapporteur, as this forms much of the purpose of the mandate.

## **III. Topics identified by the Special Rapporteur for research and action**

23. In this section, the Special Rapporteur sets out the direction and broad content of the topics identified for research and action during his tenure.

### **A. Death investigations, the Minnesota Protocol and forensic capacity within the United Nations**

24. These undertakings will build on the work undertaken by Christof Heyns on the role of forensic investigations in the protection of the right to life ([A/70/304](#)), and his efforts in instigating and driving the review of the United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, now known as the Minnesota Protocol on the Investigation of Potentially Unlawful Death.

25. The Minnesota Protocol is a fundamental document that provides a general framework for death investigation. The Protocol requires that death investigations be prompt, effective, thorough, independent, impartial and transparent. It has informed an increasing number of reports by special procedures of the Human Rights Council,<sup>5</sup> concluding observations by Treaty Bodies<sup>6</sup> and independent inquiries.<sup>7</sup> Yet, although the Minnesota Protocol has been variously referred to and relied on by some regional and national courts,<sup>8</sup> the extent to which States are aware of it, are willing to adopt it as a standard for death investigations and are implementing it, is unknown. Whereas perhaps a larger proportion of forensic medical practitioners are aware of the existence of the Protocol, whether practitioners have deep knowledge of it and comply with it, remains a matter of conjecture.

26. In the view of the Special Rapporteur, the fact that the Protocol is to be used, in practice and, to a large extent, by medically-trained professionals represents a significant challenge to its implementation. In clinical medicine, it is generally considered that it may take 10 or more years for original research to come into routine practice.<sup>9</sup> Furthermore, knowledge discovered from research tends to make its way into medical practice in a relatively informal way. Being a set of guidelines for the investigation of potentially unlawful deaths, unless the Protocol is mandated by a domestic court and/or a professional regulatory body or incorporated into curricula for qualification and training of forensic doctors, scientists or investigators, its implementation is likely to be slow and ineffectual.

27. As the Minnesota Protocol should, nonetheless, be the standard for investigation of potentially unlawful deaths, assessing the understanding of it, and level of compliance with it, is key. Challenges to its implementation must be identified and resolved. States' ability to meet the criteria set in the Protocol is a matter of ensuring justice to victims and communities. Empirical data will be collected in order to identify best practices and difficulties in the implementation of the Protocol and its usefulness in resolving and preventing unlawful deaths. Concrete measures will be proposed to support the effective implementation of the Protocol.<sup>10</sup>

28. Within this context, the Special Rapporteur will consider the pertinence, need and feasibility for updating the Principles on the Effective Prevention and Investigation of Extra-legal, Summary or Arbitrary Executions, in order to bring them in line with the revised and updated Minnesota Protocol.

29. The Minnesota Protocol is a comparatively rare instance of international attention given to forensic investigation, in this case, the investigation of death from a human rights perspective. Even less attention has been given to the practical challenges facing medicolegal death investigation systems. While the Minnesota Protocol deals with much of the "what" and "why" of the investigation systems, it

<sup>5</sup> See, for example, [A/HRC/46/26/Add.1](#), [A/HRC/45/13/Add.4](#) and [A/HRC/41/36](#).

<sup>6</sup> See, for example, [CAT/C/SEN/CO/4](#) and [CAT/C/GTM/CO/7](#) (also see [CAT/C/SR.1689](#), for prior context).

<sup>7</sup> See, for example, [A/HRC/40/CRP.2](#) and [A/HRC/39/CRP.3](#).

<sup>8</sup> Christof Heyns, Stuart Casey-Maslen, Toby Fisher, Sarah Knuckey, Thomas Probert, Morris Tidball-Binz. Investigating Potentially Unlawful Death under International Law: The 2016 Minnesota Protocol. *The International Lawyer* 2019, Vol. 52 (1), p.47–80.

<sup>9</sup> C Lenfant, "Clinical research to clinical practice – lost in translation?" *New England Journal of Medicine* 2003; 352: 2714–2720.

<sup>10</sup> The first iteration of the Minnesota Protocol was included in the 1991 Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. Annex I to the Manual reproduced Economic and Social Council resolution 1989/65 of 24 May 1989, entitled "Effective prevention and investigation of extra-legal, arbitrary and summary executions". The Principles deal with prevention, investigation and legal proceedings and are still applicable in full. As the work on the Minnesota Protocol proceeds, the Special Rapporteur will be mindful of the Principles and any challenges related to their implementation.



leaves much of the detail to the variable knowledge and experience of investigation systems officers. In other words, although the current version of the Minnesota Protocol makes significant advances in describing the functions of forensic medical and scientific officers and the reasons why these functions ought to be carried out in certain ways, how these functions might actually be carried out is less clear.

30. Examination of the independence and impartiality of medical and scientific officers (and how they can be strengthened), their capabilities and resourcing will form the central focuses of the Special Rapporteur's work in this area. Standards shall be progressively developed for the range of relationships between forensic services and police, prosecution, coroners and the judiciary in domestic, as well as international settings and in different legal systems. Many forensic medical and scientific services operate within police departments or prosecutorial offices or have direct reporting obligations to them. This is ostensibly inconsistent with the Minnesota Protocol, which requires that investigators be, and be seen to be, independent of undue influence.

31. Independence is given a broad meaning and includes institutional and formal independence, as well as independence in practice and perception. In paragraph 31 of the Minnesota Protocol, it is stated that investigators analyse all evidence objectively and impartially and pursue both exculpatory and inculpatory evidence. Without clarity on what independence means, why it is important and how it is to be achieved in practice, pressure of different kinds, including political pressure, may easily be exerted on medical and scientific investigators hampering their ability to perform their work effectively.

32. Independence and impartiality are not the only criteria to evaluate medicolegal death investigation systems. Other questions must also be addressed to ensure that families and communities can obtain justice. For example, to what extent do domestic forensic services have the skills and resources needed to collect, manage and analyse evidence and produce reliable data, including examining the death scene? What practical problems do forensic officers and systems face and have solutions to address them been identified? What is the minimum infrastructure States should provide? Are there specific capacity-building needs? When and how should international technical assistance be invoked and be expected to be available (and how might it be provided, including opportunities for South-South cooperation)?

33. In order to ensure that work in this area is of value and of practical use, the Special Rapporteur intends to collect data from different sources, including forensic practitioners, Departments of Justice, lawyers and law societies, police, prosecutors, victims and families groups, and relevant non-governmental organizations and intergovernmental organizations. It will be important to understand, for example, the extent to which the provision of forensic services is governed by police forces and/or prosecutorial services or is independent of them, and what proportion of such services has been privatized, and to whom. How are standards for forensic services determined and maintained, including quality assurance and accreditation processes? Existing resources, such as the publication by the United Nations Office on Drugs and Crime (UNODC) *Forensic Autopsy: Manual for Forensic Pathologists* will serve as a guide and reference document. In the *Manual*, the importance of frameworks and systems in which forensic work, such as autopsies, takes place is noted and some of the important elements of those arrangements in order to comply with international standards of best practice are addressed. In the *Manual* it is also stated that even if resources preclude their full implementation, it is important that those involved understand and implement those arrangements to the greatest extent possible.

34. Ultimately, based on best practices, as they may be identified, a model code of practice for forensic professionals will be developed, setting out their rights and

responsibilities, including attention to the role and the rights of victims' families, in the conduct of death investigations. Such a code might also provide guidance to governments on how to improve death investigations arrangements at the domestic level.

35. Finally, research in this area will also examine the desirability of developing independent forensic capacity within the United Nations, in particular to support the work of its human rights mechanisms, as has been acknowledged in a number of reports and resolutions. The United Nations has mandated a number of missions, for instance to the Democratic Republic of the Congo, Iraq, Rwanda, South Sudan, the Syrian Arab Republic and the former Yugoslavia, where forensic experts have played a central role in the establishment of facts and in the identification of victims. On occasions, special procedures of the Human Rights Council have also sought assistance of independent forensic experts in order to elucidate situations of human rights violations. As of today, however, there is no specialized forensic capacity within the United Nations human rights system, which therefore continues to rely on external expertise.

36. In 1992, the Commission on Human Rights decided that it would be desirable to create, under United Nations auspices, a standing team of forensic experts who could be requested to assist in the exhumation and identification of probable victims of human rights violations or in the training of local teams. The Secretary-General was asked to consult with forensic science organizations in order to determine the viability of such a scheme and to develop workable arrangements for its management.<sup>11</sup> At its forty-second plenary meeting in 1994, the Economic and Social Council, took note of the Commission on Human Rights resolution 1994/31 of 4 March 1994,<sup>12</sup> and it approved the Commission's request to the Secretary-General: "to maintain and enlarge the list of forensic experts and experts in related fields who could be requested to help international mechanisms in the field of human rights, Governments and the Centre for Human Rights of the Secretariat in providing technical and advisory services, in regard to the monitoring of human rights violations and training of local teams and/or assistance in the reunification of families of the disappeared" and to find resources to fund the Centre for Human Rights to implement the resolution. In 2003, the Commission recognized the important role played by "forensic investigations in combating impunity by providing the evidentiary basis on which prosecutions can successfully be brought against persons responsible for grave violations of human rights and international humanitarian law" and welcomed the increased use of forensic experts and the establishment and continuous updating of a consolidated database of forensic experts at the Office of the United Nations High Commissioner for Human Rights.<sup>13</sup> More recently, the Human Rights Council recognized the importance of forensic genetics in situations of gross violations of human rights, in establishing the truth and in the identification of victims. The Council asked that consideration be given to the development of a manual for the application of forensic genetics and the voluntary creation of genetic banks with appropriate safeguards.<sup>14</sup>

37. At present, it appears that the Standing List of Forensic Experts and Institutions is no longer relied on and that most of the forensic appointments to United Nations missions involving specialties, such as forensic archaeology, anthropology, pathology and others, are made on an ad hoc basis. As a result, what is investigated and how investigations are performed may not necessarily be consistent with any international standards. Whereas UNODC has a laboratory and a forensic science service to support investigations in its area of administration, no similar service exists for the

<sup>11</sup> See [E/CN.4/RES/1992/24](#).

<sup>12</sup> See [E/CN.4/RES/1996/31](#).

<sup>13</sup> See [E/2003/23](#) and [E/CN.4/2003/135](#).

<sup>14</sup> See [A/HRC/15/60](#).

investigation of gross human rights violations, be they related to unlawful killings, disappearances or torture and other inhuman or degrading treatment. The Special Rapporteur will seek to consult widely within and outside the United Nations on the need for, feasibility and potential establishment of structural forensic capacity to provide specialized expertise and support to the forensic needs of the United Nations.

## **B. Deaths in custody**

38. Understanding when custody of persons begins is not a straightforward matter. In the criminal law context, for example, some believe custody begins from the moment police begins the pursuit of a suspect, partly because deaths have been reported at that stage. According to the International Committee of the Red Cross, custody begins when someone is deprived of their liberty by agents of the State, or another entity, and includes placement of the person in a custodial setting where they cannot leave at will.<sup>15</sup> In its general comment No. 35 (2014) on liberty and security of person, the Human Rights Committee understands deprivation of liberty to involve more severe restrictions of motion within a narrower space, imposed without the person's consent, than mere interference with liberty of movement. According to the Working Group on Arbitrary Detention, deprivation of liberty occurs when a person is being held without their consent and cannot leave when they wish to do so.

39. Whether or not a person is deprived of liberty is a question of fact.<sup>16</sup> In his 2006 report, Special Rapporteur Philip Alston pointed at the implications of the custodial context for the State's human rights obligations drawing attention to the heightened level of diligence required on the authorities to prevent and respond to custodial death as a possible human rights violation with its own legal specificity ([A/61/311](#)).

40. Previous mandate holders have paid significant attention to the investigation of deaths in custody. For example, prior reports have found that when an individual dies in State custody, there is a presumption of State responsibility (*ibid.*). It has been recognized that the State's obligation to respect the right to life requires the exercise of due diligence by acting to prevent murders, this duty being considerably higher in the custodial context ([A/HRC/4/20/Add.2](#)). It has been further stated that reforms instituted to prevent deaths in custody must consider the systemic causes of custodial deaths ([E/CN.4/2006/53/Add.5](#)). The establishment and maintenance of national preventive mechanisms under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment has been recommended ([A/HRC/29/37/Add.4](#)). It has also been observed that deaths of persons belonging to racial and ethnic minorities while in police custody or prison reinforce those communities' experience of systemic and structural racism, overpolicing and criminalization. Moreover, the lack of adequate investigation and prosecution results in impunity for racist actions ([A/HRC/41/54/Add.2](#)). More recently, the structural causes of violence against women in institutions or detention have been discussed, as has the management of prisoners' gender-based vulnerability. Of particular concern in this latter regard is the increased risk of killings of transgender persons in conditions of detention that fail to address the specific risks they face ([A/HRC/35/23](#)).

<sup>15</sup> International Committee of the Red Cross, Guidelines for Investigating Deaths in Custody, October 2013.

<sup>16</sup> Working Group on Arbitrary Detention, Fact Sheet No. 26, 8 February 2019. The Working Group on Arbitrary Detention also stated that "It must also be noted that international instruments do not always use the same terminology to refer to deprivations of liberty: they may refer to 'arrest', 'apprehension', 'holding', 'detention', 'incarceration', 'prison', 'reclusion', 'custody', 'remand', etc. For this reason, the Commission on Human Rights, in its resolution 1997/50, opted for the term 'deprivation of liberty', a term that eliminates any differences in interpretation between the different terminologies".

The coronavirus disease (COVID-19) pandemic has also produced further reflection on the issue of deaths in custody. The topic is of central importance to the mandate and the Special Rapporteur will continue to work on it by producing human rights informed guidance for States, institutions and practitioners, with a focus on prevention and investigation.

41. This work will be informed by, and build upon, the Guidelines for Investigating Deaths in Custody produced by the International Committee of the Red Cross, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), relevant reports of the special procedures of the Human Rights Council and other United Nations bodies. Attention will be given to the potential role and contribution of international cooperation, in particular South-South cooperation.

### **C. Femicide: a preventable global tragedy of pandemic proportions**

42. Femicide is an act of gender-based violence, namely the intentional murder of women because they are women. Femicides are most commonly committed by partners or ex-partners, but they may also be committed by others. Femicide is a violation of the right to life and of many other rights.

43. Femicide and violence against women have been the subject of many reports by United Nations mechanisms and actors. Primary, secondary and tertiary prevention of femicide has remained a natural focus of those reports. In the Declaration on the Elimination of Violence against Women, for example, it was resolved that States should exercise due diligence in preventing acts of violence against women (General Assembly resolution [48/104](#), article 4). In 2017, the Special Rapporteur on extrajudicial, summary, or arbitrary executions sought to examine gender as a factor in killings and death and the predictability of such harm occurring. In doing so, she again noted that a State's obligation of due diligence to protect the right to life is more than the mere enactment of formal legal provisions and that it requires the State to act in good faith to effectively prevent violence against women ([A/HRC/35/23](#)). The focus on prevention of femicides from a right to life perspective will be continued.

44. Many States do not acknowledge femicide as a specific form of homicide, thus cannot collect data on it, are unable to identify its characteristics or adopt strategies to prevent or properly investigate it, bring those accountable to justice and ensure reparations for victims, including assurances of non-repetition. Yet nothing about femicide is random. Femicides are, in fact, a consequence of the social and cultural context where they occur and their recognition an essential prerequisite for their prevention and the protection of potential victims. Also, once recognized as a distinct phenomenon, it becomes possible to collect and analyse data, and based on them, to develop and implement necessary policies to eradicate femicide.

45. The UNODC Global Study on Homicide 2019<sup>17</sup> describes femicide as a social phenomenon, not isolated acts, affecting women and girls who, in the majority of cases, are killed by intimate partners or other family members. The report describes offenders as having different characteristics from the perpetrators of other homicides. Offenders tend to have an average personality and are comparatively highly educated, with higher rates of employment, have fewer criminal convictions and do not generally exhibit psychopathologies. In the Global Study, it was observed that half of the offenders do not show empathy for the victim and one third do not express remorse. While there is an acceptance of guilt and consequences for their actions, offenders seem not to recognize the degree of violence they have inflicted. In the Global Study it was also indicated that policies of a general nature aimed at reducing

<sup>17</sup> UNODC, Global Study on Homicide: Gender-Related Killing of Women and Girls (Vienna, 2019).

homicides are not necessarily effective in cases related to gender-based violence. This indicates that a response adapted to the reality of femicides is urgently needed.

46. Following consultations, including, in particular, with the Special Rapporteur on violence against women, its causes and consequences, the proposed contribution of this mandate to the consideration of the question of femicide will entail the collection and examination of common findings from around the world in clinical forensic medicine, forensic pathology and criminalistics generally, especially the predictive and diagnostic signs and symptoms that indicate that there is a risk of femicide or that the death could be classified as femicide.

47. Within this context, femicide will be understood as an extreme form of gender violence affecting women, including transgender women, in order to differentiate it from other forms of unlawful killings and to facilitate its effective investigation and documentation. Based on this, a set of practical recommendations will be prepared to support the work of investigators in femicide prevention and investigation, and to promote accountability of perpetrators.

#### **D. Protection of the remains of victims of unlawful killings**

48. Extrajudicial, summary or arbitrary executions are a violation of the right to life, to which the bodies of the executed are testament. As such, the international community has a responsibility to protect and safeguard human remains. The protection of the bodies of victims of unlawful killings is important in establishing accountability and in allowing families and societies to heal. Safeguarding human remains is also important in preventing the phenomenon of missing persons and in combating enforced and involuntary disappearances. Building on the work of his predecessors, and prompted by the 2020 thematic report on the protection of mass graves (A/75/384), the Special Rapporteur plans to further explore the topic of the protection of the bodies of the victims of unlawful killings.

49. The protection of mass graves is a global necessity (*ibid.*). The protection of the contents of those graves and of individual resting places of those unlawfully killed is equally important. The deliberate violation of the bodies of the deceased out of disrespect, to instil fear or to frustrate identification processes, has a significant impact on families and societies.<sup>18</sup> Safeguarding the bodies of the deceased contributes to social healing by enabling identification of the missing and supporting justice processes.

50. The notion that the bodies of the dead deserve dignified treatment is long-standing and common between different cultures. From the late 1800s onward<sup>19</sup> obligations related to the treatment of the dead appeared in humanitarian law and gained recognition after World War II.<sup>20</sup>

<sup>18</sup> The 2014 transition of the International Commission on Missing Persons into a treaty-based international organization is evidence of the growing support of the international community to the plight of the families of missing persons.

<sup>19</sup> For example, in The Laws of War on Land (1880); the Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field; the Treaty of Peace between the Allied and Associated Powers and Germany signed at Versailles, June 28, 1919; the Geneva Convention for the Relief of the Wounded and Sick in Armies in the Field.

<sup>20</sup> Examples include the Geneva Conventions of 12 August 1949 and Protocols Additional thereto; General Assembly resolution 3220 (XXIX); Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-traps and Other Devices (Protocol II); Rome Statute of the International Criminal Court; Convention on the Rights of the Child; International Convention for the Protection of All Persons from Enforced Disappearance; International Convention on the Protection of the Rights of All Migrant Workers and their Families.

51. Laws on the treatment of dead bodies in situations of violence, armed conflict, occupation and natural and human-made disasters – situations that carry a considerable risk of unlawful killings – are mainly to be found in the framework of international human rights and international humanitarian law, and in the relatively recent international disaster response law. The treatment of dead bodies is also of concern to international criminal law. Violation of the bodies of the dead is increasingly recognized as an element of crime, as an attack on personal dignity.<sup>21</sup> Discussion of the treatment of the body of the deceased has emerged in the Human Rights Committee jurisprudence related to complaints about violations to the right to life. The Committee has indicated that the disrespectful treatment of remains may amount to cruel, inhuman or degrading treatment of the family of the deceased.<sup>22</sup> The protection of the right to life, the rights of family members of the deceased and the treatment of the dead are therefore closely intertwined.

52. Other documents deal with the protection of graves. These include the recently launched International Committee of the Red Cross Guiding principles for the dignified management of the dead in humanitarian emergencies and to prevent them becoming missing persons and the Bournemouth Protocol on Mass Grave Protection and Investigation.<sup>23</sup>

53. The Special Rapporteur will examine the question of the protection of the dead from a human rights perspective, with a view to informing a set of practical guidelines to promote the respect, protection and preservation of the remains of those unlawfully killed. The first step will consist of a review of existing law, standards and guidelines in consultation with experts, and a call for inputs which will form the platform for the development of practical recommendations. This will include the processes involved in the search for, and recovery of, bodies and human remains, their identification and documentation, their dignified management, proper final disposal and memorialization and respect for the rights of the families and their communities. Recommendations will also be formulated on the role of international cooperation to support the proper and dignified management of the bodies and the remains. It is the hope of the Special Rapporteur that such recommendations will contribute positively to efforts everywhere to ensure the proper and dignified recovery of the bodies and remains of victims of unlawful deaths, their identification and the determination of the cause, manner and time of their deaths, and contribute to the determination of justice and reparations for families.

## E. The death penalty

54. In 1980, only 16 States had abolished the death penalty in law or practice.<sup>24</sup> Today, over half of the countries of the world (109) have abolished the death penalty. In December 2020, 123 states voted to adopt General Assembly resolution [75/183](#) calling for moratorium on the use of the death penalty. There is little doubt that a forty-year review of the United Nations jurisprudence on the right to life would find

<sup>21</sup> For outrages on personal dignity of the dead as a war crime, see Elements of Crimes of the Rome Statute of the International Criminal Court, art. 8 (2) (b) (xxi). National case law includes: German Oberlandesgericht, Frankfurt am Main, ECLI:DE:BGH:2017:270717U3STR57.17.0; Dutch International Chambers, The Hague, ECLI:NL:RBDHA:2019:7430; Swedish court, Malmö, HR B 3187-16 Dom 2017-04-11.

<sup>22</sup> For example, Tikanath and Ramhari Kandel ([CCPR/C/126/D/2560/2015](#)), Shanta and Nisha Neupane ([CCPR/C/120/D/2170/2012](#)), Dalisa and Sakiba Dovadzija ([CCPR/C/114/D/2143/2012](#)), Ram Maya Nakarmi ([CCPR/C/119/D/2184/2012](#)).

<sup>23</sup> Melanie Klinkner and Ellie Smith, *The Bournemouth Protocol on Mass Grave Protection and Investigation*, Bournemouth University (2020).

<sup>24</sup> Amnesty International, *List of Abolitionist and Retentionist Countries*, 1 April 2008.

the global move away the death penalty as one of its key achievements. Yet, challenges remain in pursuit of the abolition of the death penalty in all countries.

55. States continue to execute individuals as a form of criminal punishment: in 2020 at least 466 individuals were executed globally.<sup>25</sup> Death sentences continue to be handed down even in countries that have not carried out executions for years. At the end of 2020 the number of persons facing the death penalty worldwide was at least 28,567.<sup>26</sup> In some cases, death penalty laws and practices have regressed: in recent years, some governments expanded the scope of the death penalty, resumed executions or attempted to reintroduce the death penalty.

56. While each execution is significant because the State is taking away life, so too is the treatment of those awaiting execution. The death row phenomenon – the prolonged detention under harsh death row conditions with the constant anguish of awaiting execution – was first recognized in 1989 in *Soering v. United Kingdom*.<sup>27</sup> Extreme delays in carrying out the execution, exceeding any reasonable period of time necessary to exhaust all legal remedies, may amount to torture or other cruel, inhuman or degrading treatment or punishment. This is especially so when the prolonged time on death row exposes sentenced persons to harsh conditions, including solitary confinement.<sup>28</sup> Conditions of detention on death row are frequently worse than those for the general prison population and often violate the Nelson Mandela Rules.<sup>29</sup>

57. Research and advocacy on the death penalty tend to treat individuals on death row as a homogenous group and have paid little attention to how certain existing capital offences, including as they exist in some countries, same-sex sexual acts and blasphemy, target specific minorities. Little information is available on prisoners on death row, including their gender,<sup>30</sup> sexual orientation,<sup>31</sup> as well as their ethnic and religious identities. Furthermore, the death penalty not only affects those sentenced to death, but their families, including children.<sup>32</sup> Children may lose both parents in cases where the death penalty is enforced as the punishment of the one parent who killed the abusive other parent.<sup>33</sup>

58. The Special Rapporteur will continue to monitor the implementation of standards relating to the imposition of capital punishment. Research will be conducted on the impact of the death penalty on the dignity and rights of human beings, including the right not to suffer torture or other cruel, inhuman or degrading treatment (A/67/279, para. 36). Research will also examine the “death row phenomenon” and its impact on the rights of family members, including children, of persons sentenced to death (ibid., paras. 42 and 52).

<sup>25</sup> This number does not include the number of executions carried out in China, estimated to be in thousands. For more information, see <https://www.amnesty.org/en/what-we-do/death-penalty/>.

<sup>26</sup> Amnesty International, “Death penalty in 2020: Facts and figures”, 21 April 2021.

<sup>27</sup> See *Soering v. United Kingdom* 161 European Court of Human Rights (1989).

<sup>28</sup> Human Rights Committee, General comment No. 36 (2018) on the right to life.

<sup>29</sup> Ibid., para. 40; A/HRC/42/28; and the United Nations Standard Minimum Rules for the Treatment of Prisoners.

<sup>30</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: a Global Overview of Women Facing the Death Penalty*. September, 2018.

<sup>31</sup> Mai Sato and Christopher Alexander. *State-Sanctioned Killing of Sexual Minorities: Looking Beyond the Death Penalty*. Monash University, 2021.

<sup>32</sup> Human Rights Commission, General comment No. 36 (2018) on the right to life.

<sup>33</sup> Helen F. Kearney, “Children of parents sentenced to death”. Quaker United Nations Office, February 2012.

## **F. Lessons learned from the coronavirus disease pandemic and the Ebola epidemic of 2014/15**

59. In the face of epidemic and pandemic infectious disease, it is critically important to maintain a human rights-based approach. While, under very limited circumstances, the exercise of some human rights may be restricted, such as the rights to freedom of movement, work and education, the right to life allows no derogation. It was Jonathan Mann, then head of the Global Programme for AIDS of the World Health Organization, who consciously placed human rights at the heart of the response to disease.<sup>34</sup> Initially, this was because there was no treatment for HIV/AIDS (and there is still no vaccine), and neither provision of information nor behavioural change programmes were making significant inroads into the incidence of the disease. Fairly soon, however, the general synergies between the respect for rights and promotion and protection of health were more fully understood. These synergies are reflected in article 3 (1) of the International Health Regulations (2005) which require the Regulations to be implemented with full respect for the dignity, human rights and fundamental freedoms of persons, and are well explained in the United Nations publication on COVID-19 and human rights.<sup>35</sup>

60. It is worth reiterating here the words of the first holder of this mandate, Amos Wako, on the right to life. He stated that the right to life is “the fountain from which all other human rights spring (...) if it is infringed, its effects are irreversible” (E/CN.4/1983/16).

61. By conducting research on this issue, the Special Rapporteur hopes to be able to identify best practices and gaps in the response of States, and other actors concerned, including international governmental organizations, to protect the right to life in the face of epidemic and pandemic diseases.

62. The special procedures of the Human Rights Council have already contributed significantly to enhancing understanding about observance of human rights in the context of the current pandemic and continue to do so. The special procedures have thoroughly examined the impact of COVID-19 jointly and through the lens of their own mandates.<sup>36</sup> Importantly, the Independent Panel for Pandemic Preparedness and Response has issued its report<sup>37</sup> in which they sought to develop evidence-based strategies to enable countries and global institutions to effectively address future health threats. Sound evidence was, and continues to be, necessary to inform the advice given by the Independent Panel, the special procedures and the many United Nations mechanisms that have contributed their efforts to address the COVID-19 pandemic and prevent associated human rights violations. Unfortunately, in one key aspect, the evidence base, at a global level, is unreliable. During the current pandemic, public attention has been specifically drawn to problems caused by the lack of comprehensive and accurate death certification.

63. Ideally, a death certification system identifies who has died, the cause of death, and when and where the individual died. The World Health Organization (WHO) has estimated that in 2015, less than half of all deaths worldwide were registered on a national death registration system with information on cause of death.<sup>38</sup> When registration occurred, certification of the medical cause of death may have not met WHO standards. The Statistics Division of the Department of Economic and Social

<sup>34</sup> B. Lee Ligon-Borden. “Dr. Jonathan Mann: Champion for Human Rights in the Fight Against AIDS”, *Seminars in Pediatric Infectious Diseases*, Vol 14, No 4 (October), 2003: pp. 314–322.

<sup>35</sup> United Nations, “COVID-19 and human rights: we are all in this together”, April 2020.

<sup>36</sup> See “Special Procedures and COVID-19: a human rights response to the pandemic”.

<sup>37</sup> Independent Panel for Pandemic Preparedness and Response, *COVID-19: Make it the Last Pandemic* 2021.

<sup>38</sup> World Health Organization *World Health Statistics 2017: Monitoring Health for the Sustainable Development Goals, Sustainable Development Goals*. (Geneva, 2017).



Affairs of the United Nations states that some death statistics can only be obtained from population censuses and sample surveys, which tend to suffer from random errors, recalling errors and lack of continuity. They estimate that “for death registration, only 68 per cent of the countries, territories and areas have at least 90 per cent coverage”.<sup>39</sup> They rely on a number of sources to reach their estimate, including the “Quality of vital statistics” obtained from the civil registration page of the United Nations Demographic Yearbook Vital Statistics Questionnaire, Statistics Division workshops with country representatives, estimates by the International Institute for Vital Registration and Statistics, the United Nations Children’s Fund (UNICEF) multiple indicator cluster survey, the United States Agency for International Development (USAID) Demographic and Health Surveys Programme and/or WHO.

64. Furthermore, the cause of death provided on a death certificate may not be the actual underlying cause of death or the cause may be ill-defined.<sup>40</sup> If there is no death certification system, or the system is unreliable or ineffective, true death rates are unknown and patterns of deaths cannot necessarily be discerned. From a justice perspective, many deaths that should be investigated, are not. In the context of the present pandemic, the evidence base for the number of deaths by country cited in the report of the Independent Panel and by other sources is likely to be a poor approximation of the actual death rate. Globally, the number of deaths as a result of the COVID-19 pandemic is likely to have been significantly underestimated.<sup>41</sup>

65. Death investigation and certification systems are linked and are both fundamental to respect the right to life. States have a duty to certify the cause of death of any person who dies within their territorial control and to investigate when the cause of death is unclear or there is a public health or legal concern. The lack of comprehensive, well-designed and functional death certification systems hampers public health surveillance, planning and responses. Properly functioning death certification and investigation systems assist in the identification of emerging diseases and patterns of disease within populations, and in better targeting the allocation of scarce health resources. Monitoring the progress towards meeting the Sustainable Development Goals also relies, in part, on the data produced by such systems.

66. It is probable that the greatest proportion of uncertified deaths are among populations who suffer other forms of rights deprivation. Deaths of women and girls as a direct or indirect consequence of COVID-19 are most likely to have been significantly under-recorded. Other deaths likely to have been significantly under-recorded include, among others, those of persons without birth certificates, who will face many challenges as a result of being unrecognized as persons before the law, refugees, undocumented migrants and displaced persons.

67. The obligations owed to victims and families as described in the present report, cannot be met without properly functioning death investigation and certification systems. For example, some countries are now offering compensation to families for COVID-19-related deaths. However, although compensation is dependent upon the presentation of death certificates, surviving family members have been unable to obtain them. COVID-19 has brought the critical importance of death certification (and the dignified management of the dead<sup>42</sup>) into sharp focus.

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<sup>39</sup> United Nations, “Demographic and social statistics: civil registration coverage of cause-of-death”, UNdata database. Available at [http://data.un.org/Data.aspx?q=deaths+registration&d=WHO&f=MEASURE\\_CODE%3aWHS10\\_8](http://data.un.org/Data.aspx?q=deaths+registration&d=WHO&f=MEASURE_CODE%3aWHS10_8) (accessed on 12 July 2021).

<sup>40</sup> Examples include where the cause of death is associated with stigma and results in disadvantage for the family of the deceased.

<sup>41</sup> See, for example, Our World in Data at <https://ourworldindata.org/covid-deaths#deaths-from-covid-19-background> and BBC News, “Measuring Africa’s Data Gap: the cost of not counting the dead” at <https://www.bbc.com/news/world-africa-55674139>.

<sup>42</sup> Effective death certification systems improve the chances of the dead being properly identified, an integral part of their dignified management.

68. Examination of death certification systems will form a part of the consideration of epidemic and pandemic diseases from the perspective of the right to life. It will consist of a thorough and general review of death certification with a view to identifying best practices. It will begin with an examination of the gaps in death certification during the COVID-19 pandemic and their consequences. Guidance shall subsequently emerge to help identifying best practices in death certification, in particular in low- and middle- income countries. Within this context, opportunities for South-South and international cooperation may also be identified.

69. One example of international cooperation already in operation is the Bloomberg Philanthropies Data for Health Initiative.<sup>43</sup> Also, the CDC Foundation is supporting the establishment of a global medicolegal death investigation community of practice to improve dialogue among relevant stakeholders on clinical, administrative and operational system improvements. This development is built on the recognition that there are gaps in globally available information about clinical, administrative and operational best practices for medicolegal death investigation systems.

70. One such gap identified by the Data for Health Initiative is the quality of cause of death data. Other examples include the limited legal framework within which medicolegal death investigation systems operate and system bottlenecks. The community of practice operates by having regular virtual meetings that offer opportunities to share and discuss problems, and recently it added opportunities for peer-to-peer mentoring sessions. In a field which is small by any standards, the creation of international networks opens avenues not available locally for sharing of problems and arriving at solutions.

71. Deaths owing to COVID-19 and to Ebola have raised and continue to raise additional issues of significance to this mandate, some of which have been addressed by other special procedures of the Human Rights Council. Epidemic and pandemic diseases should not lead to arbitrary or otherwise preventable loss of life. Excess mortality is usually defined as the difference between the observed and the expected numbers of deaths in specific time periods.<sup>44</sup> The COVID-19 pandemic has caused more deaths than would have otherwise been expected had there been no pandemic. However, the actions of some governments and failures in international cooperation and provision of support<sup>45</sup> have caused deaths that may have likely been avoided.

72. Actions that have reportedly led to arbitrary deaths include reckless failure on the part of some governments to act based on scientific evidence.<sup>46</sup> Additional deaths may have been caused by lack of attention to those who ordinarily exist in situations of deprivation and marginalization, and the failure to prevent or address vulnerabilities created by discriminatory policies and actions. There has been an increased incidence of violence against women (A/75/144) and gender-based violence (A/75/258). Deaths have occurred in places of detention as a result of prison overcrowding,<sup>47</sup> in closed residential facilities for the elderly<sup>48</sup> and in other closed

<sup>43</sup> See: <https://mispgh.unimelb.edu.au/dataforhealth>. Last visited on 14 July 2021.

<sup>44</sup> Francesco Checchi and Les Roberts. Interpreting and using mortality data in humanitarian emergencies: a primer for non-epidemiologists. Humanitarian Practice Network, No. 52, 2005.

<sup>45</sup> A/HRC/46/13 and A/HRC/46/14.

<sup>46</sup> E/C.12/2020/1.

<sup>47</sup> Office of the United Nations High Commissioner for Human Rights, "US Government urged to do more to prevent major outbreaks of COVID-19 in detention centres – UN experts", Geneva, 29 May 2020. See also United Nations Institute for Training and Research, COVID-19 preparedness and response in places of detention: information package; UNODC, "Ensuring access to justice in the context of COVID-19", Guidance note, May 2020; UNODC, "COVID-19 preparedness and responses in prisons" Position paper, March 2020.

<sup>48</sup> Office of the United Nations High Commissioner for Human Rights, "COVID-19: violence and neglect increases for older persons during lockdown, says UN expert", Geneva, 14 June 2021; and A/75/205.

environments. It is notable, however, that a number of jurisdictions did provide early release to prisoners, converted prison sentences to other forms of punishment, and some jurisdictions have seen an increase in non-custodial sentences during this period.<sup>49</sup> The lives of many persons living with disability have also been at a greater than ordinary risk.<sup>50</sup> Health system failures (A/75/163) and inadequate or corrupt supply chains (A/HRC/44/43) have also reportedly led to needless loss of life. Beyond this, difficulties have arisen with identification and management of the dead, which, in some cases, have also affected people's ability to observe religious practices.<sup>51</sup>

73. Important lessons have already been learned from the experience gained in combating HIV/AIDS, Ebola virus disease and COVID-19. These lessons are critical to effectively respond to future outbreaks of infectious diseases. Although overshadowed by the COVID-19 pandemic, outbreaks of Ebola virus disease continue to occur in Africa. On 14 February 2021, the Republic of Guinea announced the latest outbreak. The average case fatality rate for Ebola is around 50 per cent, but it may be as high as 90 per cent. The experience gained in combating Ebola also highlights the importance of adopting a rights-based approach to the protection of public health. As noted, the Special Rapporteur will identify best practices and gaps in responding to past and current epidemic and pandemic diseases in order to inform future strategies for protection of the right to life in such contexts, and to avoid preventable deaths as a result of government inaction, recklessness and arrogance in the face of diseases.

#### **G. Status of implementation of the main recommendations issued by the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary execution between 1982 and 2022**

74. With a view to assess the impact of the mandate since its establishment in 1982, the Special Rapporteur will undertake research into the status of implementation of the main recommendations issued during the past 40 years by the different mandate holders as possible drivers of change in laws, policies and practices in the fight against unlawful killings.

75. This shall include the organization of a meeting of former mandate holders and other experts to be held possibly during 2022, the year marking the fortieth anniversary of the mandate, to take stock of achievements and shortcomings, to identify new challenges and make recommendations for the future. Meeting participants will also help identify key recommendations and possible standards being progressively developed by the mandate and what remains to be done for their effective implementation.

76. The exercise shall include recommendations issued by the mandate during country visits. The Special Rapporteur recalls that, in 2006, the mandate holder at the time, Philip Alston, prepared follow-up reports on 10 country missions, and concluded that, while some countries had taken positive measures in response to his reports, many others had done little to implement the recommended reforms. Indeed, less than half of the countries reviewed responded to the requests by the Special

<sup>49</sup> See DLA Piper. "A global analysis of prisoner releases in response to COVID-19", December 2020.

<sup>50</sup> See Chair of the United Nations Committee on the Rights of Persons with Disabilities, on behalf of the Committee on the Rights of Persons with Disabilities, and the Special Envoy of the United Nations Secretary-General on Disability and Accessibility, Joint statement: persons with disabilities and COVID-19.

<sup>51</sup> See, for example, Office of the United Nations High Commissioner for Human Rights "Sri Lanka: compulsory cremation of COVID-19 bodies cannot continue, say UN experts" Geneva, 25 January 2021.

Rapporteur to provide information on the implementation of his recommendations, indicating that additional work may be needed to ensure that country visits by special procedures are treated by States as an opportunity to effectively enhance human rights protection (A/HRC/14/24). Furthermore, in a study of 76 countries, the Special Rapporteur, Christof Heyns, sought to examine compliance with existing international standards in respect of the right to freedom of assembly and the use of force during demonstrations. He found that many domestic legal systems do not comply with these standards (A/HRC/17/28). The Special Rapporteur is of the view that while the findings of those reports may not be encouraging, they provide important signposts for future action, and most certainly emphasize the need to monitor and encourage implementation.

## **H. Disaster preparedness and response from a right to life perspective**

77. States' duty to protect the right to life, and in particular life with dignity, also includes an obligation to adopt any appropriate laws or other measures in order to protect life from all reasonably foreseeable threats.<sup>52</sup> Within this context, States are encouraged to develop contingency and disaster management plans for life-threatening natural disasters and disasters that result from human activity.

78. The loss of human life as a result of catastrophic events, in particular natural disasters, is largely preventable with today's technology. From timely tsunami alerts to highly effective and efficient anti-seismic building methods and materials; from reliable meteorological prediction tools to drought resistant crops, humanity today has the means to anticipate many disasters and to prevent the avoidable loss of life when they strike. However, the number of persons killed in different contexts by disasters of similar kinds and magnitudes sometimes differs by a factor of 10 or more. Preventable deaths resulting from insufficient or inadequate disaster prevention, preparedness, mitigation and response may amount to an arbitrary loss of life, which falls within the scope of the mandate.

79. The Special Rapporteur intends to conduct a study to examine policies and practices in disaster prevention (mitigation), preparedness and response in a diversity of contexts and geographical regions with a view to identifying best practices for preventing avoidable deaths and formulating practical recommendations in this regard for policymakers and practitioners. It is hoped that this research will also contribute to the implementation of the Sendai Framework for Disaster Risk Reduction 2015–2030 (General Assembly resolution 69/283, annex II), adopted at the Third United Nations World Conference on Disaster Risk Reduction, held from 14 to 18 March 2015, which advocates for the substantial reduction of disaster risk and losses in lives, livelihoods and health and in the economic, physical, social, cultural and environmental assets of persons, businesses, communities and countries. In particular, the practical recommendations emanating from the report are expected to assist in making effective the first of the seven targets of the Sendai Framework, which calls for substantially reducing "global disaster mortality by 2030, aiming to lower the average per 100,000 global mortality rate in the decade 2020–2030 compared to the period 2005–2015" (*ibid.*, para. 18 (a)).

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<sup>52</sup> Human Rights Committee, General comment No. 36 (2018) on the right to life.