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HUMAN RIGHTS COUNCIL  
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### **PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT**

**Written statement\* submitted by Amnesty International,  
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 May 2008]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

**Review, rationalization and improvement of the Special Procedures mandates:  
the Special Rapporteur on extrajudicial, summary or arbitrary executions**

*“In 2006, the UN Special Rapporteur on arbitrary, summary, and extrajudicial killings, Mr. Philip Alston, visited Nigeria to conduct a fact-finding inquiry, and subsequently released the report of his findings and recommendations. The Special Rapporteur established, amongst other findings, that the Police Service Commission (PSC), the body with oversight responsibility over police conduct, had been inert and had failed to live up to its constitutional responsibilities.*

*A number of civil society organizations, including Access to Justice, subsequently initiated a meeting with the PSC, and at that meeting, drew the PSC’s attention to the findings of the Special Rapporteur regarding the weakness of the PSC in fighting police abuse. The civil society groups challenged the PSC to rise up to their responsibilities, and become an effective oversight institution. The PSC has resolved now to strengthen its oversight over police misconduct, and to undertake direct investigation of police misconduct in at least three types of complaints, inter-alia; arbitrary, summary and extrajudicial killings, torture, and sexual violence.”*

The citation comes from an interview in 2007 with a representative of a Nigerian non-governmental organization, Access to Justice, and illustrates the value that the mandate of this Special Procedure adds to enhancing civil society’s work at the national level.

The impetus for the establishment, in 1982, of the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions (Special Rapporteur) came from a growing concern about the failure of many states to respect established safeguards against abuse of the death penalty, as well as numerous reports of state killings.<sup>1</sup> Resolution 1982/29 expressed deep alarm about “the occurrence of summary or arbitrary executions, including extra-legal executions, that are widely regarded as being politically motivated”. The Special Rapporteur was tasked with seeking and receiving information relevant to the mandate from governmental and non-governmental sources. It was not until the mandate was renewed 10 years later in 1992 that the former Commission on Human Rights extended the title to include “extrajudicial” executions, signalling a broad approach to violations of the right to life.<sup>2</sup> Subsequently, the mandate has developed through the adoption of various resolutions by the Commission on Human Rights and the General Assembly.

The first holder of the Special Rapporteur’s mandate, Amos Wako, developed working methods aimed at providing an effective response to information received, including using an urgent action procedure to take up cases of imminent deaths with governments, transmitting allegations of cases of summary or arbitrary executions and requesting information from the state concerned, undertaking country missions and presenting an annual report setting out his findings. These working methods have been further

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<sup>1</sup> Resolution 1982/29 creating the mandate was adopted by the Commission on Human Rights resolution at its 38<sup>th</sup> meeting.

<sup>2</sup> Note that the current Special Rapporteur has emphasized that the mandate is not best understood through efforts to define individually the terms “extrajudicial”, “summary” or “arbitrary”, or to categorize any given incident accordingly, but rather by focusing on the mandate itself, as it has evolved over the years through resolutions of the Commission on Human Rights and the General Assembly. See UN doc. E/CN.4/2005/7, *report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*.

developed, and now include providing an in-depth legal analysis of pertinent issues and making recommendations thereon, and systematically following up on the outcome of missions in order to assess implementation.

In his latest report to the Human Rights Council (the Council), the Special Rapporteur records that during the period 1 December 2006 to 15 March 2008, he has sent 127 communications to 46 countries, including 58 urgent appeals and 69 allegation letters.<sup>3</sup> The topics covered in his correspondence are: the death penalty, including as its application relates to minors, deaths in custody, excessive use of force, impunity, attacks or killings, armed conflict and death threats. The Special Rapporteur categorizes the quality of government responses to these communications so that the Council can identify which states are failing to cooperate with him. As in previous reports to both the Council and the General Assembly, the Special Rapporteur emphasizes that the proportion of government replies received is “problematically low”.

In addition, the holders of this mandate have undertaken missions to countries in all regions, including jointly with other special procedures, and on occasion at the request of the former Commission on Human Rights and the Council as part of the response of those bodies to serious situations of human rights violations.<sup>4</sup> Regrettably, a number of states – including some which are members of the Council – have persistently failed to give a positive response to the Special Rapporteur’s requests to visit. According to the latest report of the Special Rapporteur, those which have not done so are: Algeria, Bangladesh, El Salvador, Guinea, India, Indonesia, the Islamic Republic of Iran, Israel, Kenya, the Lao People’s Democratic Republic, Nepal, Pakistan, Saudi Arabia, Singapore, Thailand, Trinidad and Tobago, Togo, Uganda, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam and Yemen.<sup>5</sup> The lack of willingness of some states to facilitate visit requests, together with the Council’s failure to encourage those states to do so, has led to the Special Rapporteur describing the situation as a “system close to crisis”.<sup>6</sup>

Both in relation to responses to communications and to facilitating mission requests, the Special Rapporteur has repeatedly called on the Council to establish a procedure for dealing with persistent or especially problematic non-cooperation with mandate-holders, so that these situations are flagged and taken up by the Council. Amnesty International supports that call.

The Special Rapporteur has undertaken important analysis and recommendations on key issues falling within the mandate. For example, regarding the death penalty, and within the framework of the mandate, the Special Rapporteur has considered the subjective interpretation by some states of international law which provides for imposition of the

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<sup>3</sup> See UN Doc. A/HRC/8/3 and addendum 1, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, 2 May 2008.

<sup>4</sup> The Special Rapporteur was requested to go on mission to the Democratic Republic of Congo by the High Commissioner for Human Rights in response to Security Council action following the massacre in Kisangani on 14 May 2002. See UN Doc. E/CN.4/2003/3/Add.3, *Report of the Special Rapporteur, Mission to the Democratic Republic of Congo*, 4 November 2002.

<sup>5</sup> Iran has issued a standing invitation to the Special Procedures. See UN.Doc A/HRC/8/3/Corr.1.

<sup>6</sup> See UN Doc. A/61/311, *Extrajudicial, Summary or Arbitrary Executions*, report presented to the General Assembly, 5 September 2006.

death penalty for the “most serious crimes”. He has considered and made recommendations about the use of mandatory death sentences, transparency surrounding the death penalty, and the right to seek pardon and commutation of death sentences. The holders of this mandate have looked at violations of the right to life and the application of international law in the context of armed conflict, the use of lethal force, shoot to kill policies, and the use of excessive and indiscriminate force, including in the context of counter-terrorism measures. They have highlighted killings perpetrated by non-state actors, and presented information and recommendations concerning killings with a gender dimension, such as “honour killings”, the right to life and sexual orientation, and violations as they relate to specific groups, including children, and refugees.

The fact that mandate-holders have been able to serve for two consecutive three-year terms has enabled them to develop an in-depth understanding of a broad range of issues falling within their mandate. Through the experience of receiving communications over a long period, of looking at aspects of the mandate in some depth, and of undertaking 2/3 missions each year to countries and territories with different political, legal, social and economic systems, the mandate-holders are well-placed to identify trends, to formulate concrete recommendations and to measure implementation.

Amnesty International is calling on the Council to renew the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions. The organization recommends that the Council encourage states to give positive consideration to the recommendations of the Special Rapporteur and take steps to ensure that member states cooperate fully with the mandate-holder, so that his efforts to fulfil the terms of the mandate are not frustrated.

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