

<b>Forum:</b>	Legal Committee
<b>Issue:</b>	Extrajudicial, Summary or Arbitrary Executions
<b>Student Officer:</b>	Daphne Farmaki
<b>Position:</b>	Co-Chair

---

## PERSONAL INTRODUCTION

Dear delegates,

My name is Daphne Farmaki and I am a student in the Law school of the University of Athens. I will have the honor of serving as the Co-Chair of the Legal Committee during this year's 8th session of Platon Model United Nations. I would initially like to express my joy for you deciding upon the Legal Committee as it is one of the most interesting and demanding committees of the United Nations and will provide you with the great opportunity of understanding international law as well as of putting the effort to practice it.

Personally, I have participated in several MUNs in many positions and have experienced the whole procedure from all different scopes. Model United Nations has opened my mind a lot about the issues circulating around the world and helped me understand how important it is to contribute to the solving of these problems in any way possible, even by just discussing them and drafting model resolutions.

My duty as your Chair is to assist you in your efforts to comprehend the issue prior to the Conference, organize your research, draft resolutions during the lobbying procedure and finally, discuss them in the Committee. The aim of this Study Guide is to provide you with basic information concerning the topic of extrajudicial, summary and arbitrary executions, a very demanding issue. It should be used as a starting point, which alongside with your country's policy, history and your general research on the topic will lead to your successful drafting of quality resolutions as well as to your fruitful contribution to the debate in general. Please keep in mind that in no case should you solely rely on this Study Guide. Nevertheless, it is crucial that you go over the PSMUN Rules of Procedure as well since lack of it can impair you from participating during debate time. Should you, however, need any further assistance, please do not hesitate to contact me on my email address: [daphne.farmakis@me.com](mailto:daphne.farmakis@me.com) or my Facebook account: Daphne Farmaki.

I expect to see well prepared delegates with knowledge on the topic and willingness to participate so as to experience interesting and fruitful debate. I am looking forward to meeting you all.

Kind regards,  
Daphne Farmaki

## INTRODUCTION

Extrajudicial, summary or arbitrary executions constitute killings of specific individuals, who are not in the physical custody of the perpetrator, by state factors or with the consent of the state without any legal basis. Individuals arbitrarily arrested and detained suffer often physical or psychological torture during interrogation, as well as other abuses in the hands of those detaining them. These punishments are considered not only illegal but also unethical since the right of individuals to life as well as to a fair and just trial based on evidence and facts is not taken into consideration and thus, is not being respected. It is very important to note, however, that extrajudicial executions have not yet been defined in any international treaty despite the frequency in which they are invoked.

The intentional use of lethal force by state agents or citizens in order to conduct the killing of an individual and the bypassing of the process of legal jurisdiction are by all means unacceptable and should be stopped. *'In a targeted killing, the specific goal of the operation is to use lethal force. This distinguishes targeted killings from unintentional, accidental, or reckless killings, or killings made without conscious choice. It also distinguishes them from law enforcement operations, e.g., against a suspected suicide bomber. Under such circumstances, it may be legal for law enforcement personnel to shoot to kill based on the imminence of the threat, but the goal of the operation, from its inception, should not be to kill.'*<sup>1</sup>

As a matter of fact, however, extrajudicial executions are often justified by the state as necessary acts in order to reassure public safety and security (e.g. Philippines' war on drugs<sup>2</sup>) or an eligible answer to terrorist attacks or asymmetric warfare (e.g. death of Osama bin Laden<sup>3</sup>). United Nations are facing difficulties concerning the prohibition of such executions but in what extent can UN eliminate killings that happen extralegally without intervening in each country's sovereignty?

Furthermore, the latest Report of the Special Rapporteur on extrajudicial executions (June 2017) considers important elements of a gender-sensitive perspective to the issue underlining that gender-based executions, even when not committed by government agents directly, constitute extrajudicial killings. In such cases, it should be investigated if the State supported these acts or did not take measures to prevent them. Such an example is the death penalty imposed in discriminatory manner on women because of their gender.

Indeed, it is widely acknowledged that the global issue of terrorism is increasing and conflicts in Middle East after Arab Spring lead governments to several executions of

---

<sup>1</sup><http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf>

<sup>2</sup>[https://en.wikipedia.org/wiki/Philippine\\_Drug\\_War](https://en.wikipedia.org/wiki/Philippine_Drug_War)

<sup>3</sup><https://www.theguardian.com/world/2011/may/03/osama-bin-laden-killing-legality>

citizens without trials or evidence. More and more states adopt policies of using targeted executions blurring the boundaries of legal framework. In addition, new technology allows the easier targeted killing without the direct accusation of the state by combat aerial vehicles, drones etc.

Thus, many legal issues have arisen. Legal frameworks have not only been clearly violated but also expanded to an unacceptable level resulting in unjust justification of such killings and violations of human rights. How and under what circumstances may the State target individuals is the question which should be discussed on all levels.

Surely, the incapability of governments to comply with human rights law as well as International Humanitarian Law obligations to provide accountability and transparency for extrajudicial executions is a matter of great concern because lack of transparency gives States a virtual allowance to kill.

Concluding, extralegal killings constitute a problem of great magnitude which should be combated both in the domain of armed conflicts and the one of non-armed situations. Propositions both concerning the prohibition of summary or arbitrary killings and the accountability of States should be found based on facts, new technology, international law and most importantly, human rights.

## KEY TERMS

**Extrajudicial execution or killing** constitutes the targeted and intentional killing of an individual by government agents –with a degree of pre-meditation- without judicial guarantees of a legal process (e.g. just and unbiased procedure) resulting in violations of the fundamental right to life. Extrajudicial killings occur by authorities such as the Government, police, armed forces as well as by other agents with the consent of the State and target leading social and political figures, terrorists etc. During war time they can amount to war crimes.

**Summary execution** is an extrajudicial practice and occurs when an individual is accused and executed simultaneously or within a short period of time without the enjoyment of the right to a full and fair trial. Such executions are performed either by police and domestic forces and armed groups of civilians in civilian jurisdiction in times of peace or the military (e.g. to war prisoners) in military jurisdiction in armed conflict and are illegal in almost all circumstances.

**Arbitrary execution** is also extra-legal and constitutes the deliberate killing of an accused without any evidence suggesting that they committed a crime against legal statute.

**International humanitarian law (IHL) (laws of war and the law of armed conflict)** is the legal framework applicable to armed conflicts and occupations. Whether a particular killing is legal or constitutes an extrajudicial execution is determined by the applicable laws of IHL. *‘Targeted killing is only lawful when the target is a “combatant” or “fighter” or, in the case of a civilian, only for such time as the person “directly participates in hostilities.” In addition, the killing must be militarily necessary, the use of force must be proportionate so that any anticipated military advantage is considered in light of the expected harm to civilians in the vicinity, and everything feasible must be done to prevent mistakes and minimize harm to civilian.’*

<sup>4</sup>

**International human rights law (IHRL)** is the body of international law designed to promote human rights on social, regional, and domestic levels. A State killing is legal only if it is strictly and directly required to protect life and there is no other means.

**Article 9 of the Universal Declaration of Human rights** ‘underlines that “no one shall be subjected to arbitrary arrest, detention or exile”; that is, no individual, regardless of circumstances, is to be deprived of their liberty or exiled from their country without having first committed an actual criminal offence against a legal statute, and the government cannot deprive an individual of their liberty without proper due process of law.’

## HISTORICAL INFORMATION

Extrajudicial executions are not a new phenomenon. In fact, in the past they were used on a wider scale and were justified easier since international law and human rights were not instituted and could not have put a barrier in such practices. They were exercised by government agents or public figures throughout centuries and took place in variety of contexts and with variety of methods.

During 18th century and earlier, legal frameworks allowed executions without trial or evidence for many crimes. Such examples are the French guillotine, the roman crucifixion or the practice of burning anyone considered as criminal at the stake. Later, in 19th century many individuals were arbitrarily arrested, tortured and sentenced to extralegal punishment with new introduced methods such as shooting at short sight, gas chambers etc.

The 20th century has been a very important one concerning extrajudicial killings. Except from the fact that it is the century in which human rights have been officially instituted, many events and practices lead global community to acknowledge the

---

<sup>4</sup><http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf>

negative impact of extralegal punishments on human rights and safety of individuals. On October 18, 1942 Adolf Hitler issued the Commando Order <sup>5</sup> underlining that each commando seen by German armed forces either in Europe or Africa should be immediately executed without trial. This order was later, during Nuremberg Trials, considered a war crime. Hitler also implemented the extrajudicial punishment of assassination in gas chambers in Nazi concentration camps as a means to execute Jews and other minorities. These civilians did not undergo a trial nor had evidence proving some kind of guilt and as a result, were executed illegally.

Another historical example is the ethnic cleansing in the Soviet Union where 'enemies of the workers' were executed extralegally in concentration camps named 'gulags'. Other examples of extrajudicial killings in the past are the Cambodian genocide (1975-1979), summary executions of guerrillas during the Guatemalan genocide (1981- 1983), the Kurdish genocide (1986-1989) where detention camps were also used, etc.

Nowadays, extrajudicial executions continue to take place and new technology has also been introduced making it easier for governments to target individuals and not take accountability for it. In fact, the 21st century is the century in which the term 'targeted killing' came officially into common usage, specifically in 2000 after Israel adopted a policy of targeted killings of terrorists in the Occupied Palestinian Territories. <sup>6</sup>

Another contemporary example is the killing of Osama Bin-Laden, a killing whose legality has been brought to question in 2011, *"with the US defended themselves claiming the killing was not an Assassination, merely an act of "National Self Defense"*.

*Furthermore, as* already mentioned, more and more states are using drones. In fact, more than 40 states are believed to use drones for targeting civilians in armed conflicts. Legally, the assassinations by targeted drone strikes are almost all Extra-Judicial killings. In armed conflicts extrajudicial executions are regulated somehow by International Humanitarian Law whereas outside of armed conflicts only by referring to the Declaration of human rights.

---

<sup>5</sup>[https://en.wikipedia.org/wiki/Commando\\_Order](https://en.wikipedia.org/wiki/Commando_Order)

<sup>6</sup>[https://en.wikipedia.org/wiki/Targeted\\_killings\\_by\\_Israel\\_Defense\\_Forces](https://en.wikipedia.org/wiki/Targeted_killings_by_Israel_Defense_Forces)

## COUNTRIES INVOLVED IN THE ISSUE

Extrajudicial killings take place all around the world and have affected several countries. The following list includes some of the most important parties involved:

### **United States of America**

The US government has used drone attacks in the armed conflicts in Iraq and Afghanistan but also against Taliban and Al-Qaeda camps justifying them as necessary to fight terrorism and promote security and safety of individuals. The USA was actually given a UN warning for using drones in a way that may violate both international humanitarian and human rights law. The US has also targeted terrorists in December 11, 2013 in Yemen killing unarmed individuals as well. As a matter of fact, United States also adopted a secret policy of extrajudicial killings conducted by CIA after 9//11 executing individuals even in the territory of other States. All targeted killings conducted by the US were said to be based on the right to self-defense and thus, were justified but there has been dispute if the criteria were met.

### **Russia**

All targeted killings of Russia in Chechnya have been characterized as part of the counter- terrorism operation. This justification, however, has troubled many specialists as large parts of the population have been considered by Russia as terrorists, which might not account for the truth. In addition, Russia has not admitted any accusation for targeted killings outside of Chechnya and refuses to cooperate in the investigation of such operations. It is very important to note that in summer 2006 Russia passed a law according to which security services are allowed to kill alleged terrorists anywhere if this is authorized by the President. Under this law, there is no general restriction on the use of military force, if it is justified as part of a mission to combat terrorism and ensure security.

### **Israel**

Israel made public in 2000 that it adopted a policy of executing individuals pursuant to which it justified targeted killings in self-defense and under international humanitarian law (IHL). *'The Palestinian Authority was failing to prevent, terrorism and, especially, suicide attacks directed at Israel.16 This was reinforced by the issuance, in 2002, of a legal opinion (only part was published) by the Israeli Defense Force Judge Advocate General on the conditions under which Israel considered targeted killings to be legal.'* One study by a human rights group found that between

2002 and May 2008 at least 387 Palestinians were killed by Israel as a result of targeted killing operations.

### Syria

In Syria both rebels and the government have conducted extrajudicial executions. It is verified by the United Nations that Sarin gas was used against civilians in four cities in 2013 killing over 1,300 people. Government forces are also accused for summary executions of villagers who were considered to be cooperating with the rebels.

### Philippines

The President Rodrigo Duterte elected in 2016 started a campaign against illegal drugs (War on Drugs) which had resulted in multiple extrajudicial killings because he urged citizens to execute alleged drug addicts or dealers, forced police officers to adopt summary execution techniques and also admitted having killed criminals himself. Philippines is considered by many as the number one country involved in the issue.

## TIMELINE OF EVENTS

<b>10/12/1948</b>	The Universal Declaration of Human Rights declared and confirmed by the UN
<b>3/11/ 2002</b>	first targeted drone killing by the United States of Qaed Senyan al-Harithi, an al- Qaeda leader responsible for the <i>USS Cole</i> bombing
<b>April 2002</b>	killing of ‘rebel warlord’ Omar Ibn al Khattab by Russian armed forces in Chechnya, killing of al Qaeda leader Ali Qaed Senyan al-Harithi and five others in Yemen
<b>2004</b>	Use of UAVs in Iraq war by USA and other countries
<b>2006</b>	law passed by the Russian Parliament permitting ‘the Russian security services to kill terrorists overseas, if authorised to do so by the President’
<b>2/5/2011</b>	Osama Bin Laden killed by US Special Forces in Pakistan

<b>2012-2013</b>	Over 2 million refugees fled from Syrian Civil War since January 2011
<b>9/4/2013</b>	UN General Assembly: Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions
<b>21/8/2013</b>	Sarin gas used in Syria
<b>13/9/2013</b>	UN, General Assembly releases a report on Extrajudicial, summary or arbitrary executions

## UN DOCUMENTS

- **A/51/457**- Report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions
- **ECOSOC Decision2001/266** - Extrajudicial, summary or arbitrary executions
- **A/RES/51/92** Extrajudicial, summary or arbitrary executions
- **A/RES/51/109** - Situation of human rights in Nigeria
- **A/HRC/14/24/Add.6**- Human Rights Council, Study on targeted killings

## POSSIBLE SOLUTIONS

Delegates are expected to write resolutions, which cope with the problem of extrajudicial, summary or arbitrary executions on the level of prohibition, transparency, accountability and punishments both in armed situations and outside. These two domains (armed conflicts and outside) should be taken into consideration on any case.

Firstly, States should cooperate in order to create more specific international legislation as well as to define punishments for the States disobeying to this framework. Stricter punishment for violation of human rights or International Humanitarian Law would be an adequate solution to the aspect of violations. Furthermore, measures should be implemented in order to control and limit the use of lethal force by state agents by e.g. defining certain objectives when, how and under what circumstances violence should be practiced by Governments.

Implementable measures concerning the minimizing of the use of drones, airstrikes and other new destructive weapons should also be found.

Last but not least, states should ensure transparency and accountability for their actions. They should make public the number of civilians killed and be accountable for their practices. Of course, they should ensure that no targeted killing is taken in revenge, or primarily to cause terror or to intimidate civilians or is happening intentionally. It is on any case suggested that delegates study and refer to already existing UN resolutions (mentioned above) as they can be used as a helpful starting point.

## BIBLIOGRAPHY

- “Extrajudicial Executions.” TRIAL, Jan. 2016, [trialinternational.org/topics-post/extrajudicial-executions/](http://trialinternational.org/topics-post/extrajudicial-executions/).
- “Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions.” International Justice Resource Center, 19 Sept. 2017, [www.ijrcenter.org/un-special-procedures/special-rapporteur-on-extrajudicial-summary-or-arbitrary-executions/](http://www.ijrcenter.org/un-special-procedures/special-rapporteur-on-extrajudicial-summary-or-arbitrary-executions/).
- general assembly, un. “Report on Extrajudicial Executions.” Report , <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf>.
- “Extrajudicial Killing.” Wikipedia, Wikimedia Foundation, 23 Jan. 2018, [en.wikipedia.org/wiki/Extrajudicial\\_killing](https://en.wikipedia.org/wiki/Extrajudicial_killing).
- “Extrajudicial Punishment .” Wikipedia, [en.wikipedia.org/wiki/Extrajudicial\\_punishment](https://en.wikipedia.org/wiki/Extrajudicial_punishment).
- “Summary Execution .” Wikipedia, [en.wikipedia.org/wiki/Summary\\_execution](https://en.wikipedia.org/wiki/Summary_execution).
- “Extrajudicial Killings and Forced Disappearances.” Wikipedia, [https://en.wikipedia.org/wiki/Extrajudicial\\_killings\\_and\\_forced\\_disappearances\\_in\\_the\\_Philippines](https://en.wikipedia.org/wiki/Extrajudicial_killings_and_forced_disappearances_in_the_Philippines).
- Arbitrary Killings. <http://newsinfo.inquirer.net/tag/extrajudicial-killings>.
- “UN Rights Experts Urge Philippines to End Wave of Extrajudicial Killings amid Major Drug Crackdown.” UN News Center, United Nations, 18 Aug. 2016, [www.un.org/apps/news/story.asp?NewsID=54707#.WjvNOyhH-5Q](http://www.un.org/apps/news/story.asp?NewsID=54707#.WjvNOyhH-5Q).

- Extralegal Executions. <http://www.extrajudicialexecutions.org/>.
- Study Guide.  
<http://www.helimun.com/sites/default/files/GA1%20Question%20of%20Extrajudicial,%20Summary%20or%20Arbitrary%20Executions%20Especially%20in%20Areas%20of%20Conflict.pdf>.
- Perry, Juliet. "Philippines to UN: Reports of Extrajudicial Killings Based on 'Alternative Facts'." CNN, Cable News Network, 9 May 2017, [edition.cnn.com/2017/05/09/asia/philippines-war-on-drugs-alternative-facts/index.html](http://edition.cnn.com/2017/05/09/asia/philippines-war-on-drugs-alternative-facts/index.html).

## MULTIMEDIA RESOURCES

- <https://www.youtube.com/watch?v=8CjmRFGFmys> - Amnesty International on extrajudicial killings based on economic class in the Philippines
- <https://www.youtube.com/watch?v=ceX-Rwo8col> - effect of extralegal executions in the Philippines
- <https://www.youtube.com/watch?v=kt6Ae68ADzA> - arbitrary killings by Israel
- <https://www.youtube.com/watch?v=yLQs5pUCeC4> - UN special rapporteur on extrajudicial killings