

LAUNCH OF CONSULTATION ON REVISION

PART 1: INTRODUCTION

1. The right to life, as protected by Article 6 ICCPR and by all regional human rights instruments, is the supreme right from which no derogation is permitted. It embodies a core substantive right not to be arbitrarily deprived of life, but also imposes a positive obligation on states to protect life and a procedural obligation on states to investigate suspicious deaths.
2. The positive obligation to protect and the procedural obligation to investigate have firm bases in international law. In the UN context, those obligations are set out in two key documents: the United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions ('the UN Principles') and the United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions ('the UN Manual').
3. This document is prepared by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions ('the UNSR') and sets out his proposal to revise the UN Manual. It seeks contributions from any interested organisation or person on the proposed scope and direction of the revision.

PART 2: BACKGROUND TO PROPOSAL

4. The UN Principles and the UN Manual both fall within the mandate of the UNSR.
5. The Principles is a short document elaborating international standards on the investigation of suspicious deaths. The document was initially drafted by the US human rights organisation, the Minnesota Lawyers International Human Rights Committee (subsequently The Minnesota Advocates for Human Rights, and now simply The Advocates for Human Rights). The Principles were adopted by the UN Economic and Social Council ('ECOSOC') by Resolution 1989/65 after an inter-governmental process and endorsed by the UN General Assembly in December 1989 by Resolution 44/162.
6. The UN Manual is a lengthier document which stands alongside the Principles and seeks to provide guidance on how the standards set out in the Principles might be met in practical terms. The guidance is illustrative rather than binding. At the core of the UN Manual is the Minnesota Protocol, which was also drafted in the mid-1980s by the Minnesota Lawyers International Human Rights Committee. The Minnesota Protocol was integrated into the UN Manual and adopted by the erstwhile Crime Prevention and Criminal Justice Branch of the UN Centre for Social Development and Humanitarian Affairs in 1991.
7. The UN Manual was – and remains – a ground-breaking piece of work, with significant impact. Regional and national courts have placed reliance on it in a series of seminal judgments: for example, in the **European Court of Human Rights**, see *Nachova v Bulgaria* (Application No. 43577/98 and 43579/98, judgment of 6 July 2005); in the **Inter American Court on Human Rights**, see *Gonzalez v Mexico* (judgment of 16 November 2009); in the **African Commission on Human and Peoples' Rights**, see *Zimbabwe Human Rights NGO Forum v Zimbabwe* 245/02, and in the **Supreme Court of India**, see *People's Union for Civil*

Liberties v State of Maharashtra & Others (Judgment of 23 September 2014).

8. Further, international organisations and NGOs have also relied on the UN Manual extensively in their documentation and day-to-day work. An informal survey conducted by the UNSR between October and December 2014 and involving a range of NGOs and international organisations engaged in investigating suspicious killings showed clear support for the UN Manual.
9. Notwithstanding the continuing support for, and reliance on, the UN Manual, it is clear that the document requires improvement, updating and supplementation. In a series of resolutions between 1998 and 2005,¹ the UN Commission on Human Rights (the predecessor of the Human Rights Council) called on the Office of the UN High Commissioner for Human Rights and the Crime Prevention and Criminal Justice Division of the UN Office on Drugs and Crime to consider a revision of the UN Manual, and called on the Secretary-General to provide funds to do so. Despite four resolutions to this effect, no work was undertaken to update the UN Manual.
10. A recent survey by the UNSR of NGOs and international organisations working with the UN Manual confirmed the need for revision. Many stakeholders expressed a clear view that the UN Manual needed revision to ensure its continuing relevance in the 21st century. As a key UN-mandated text providing guidance on the investigative obligation of the right to life, the UNSR is of the view that there is an urgent need to update the text. The 70 year anniversary of the UN and the resultant window of opportunity for UN reform provide the ideal context in which to do so.

¹ 1998/36, 2000/32, 2003/33, 2005/26.

PART 3: THE REVISION PROCESS

11. Since the UN Manual now falls under the mandate of the UNSR, the Special Rapporteur has now commenced a process substantially to revise and update the UN Manual. This process will seek to:

- a. Update existing sections to reflect technological advancements (in particular, advancements in forensic science, including DNA).
- b. Supplement existing sections which would benefit from greater detail (for example, the management of the crime scene and the treatment of witnesses and their evidence);
- c. Remedy significant omissions in the original document by including new material (for example in relation to the collection and management of documentary, photographic and electronic evidence); and
- d. Ensure that the UN Manual covers the investigation of all suspicious deaths, in particular where the involvement of the state is suspected and a violation of the duty to respect the right to life may have occurred. This includes not only peacetime and situations of internal tensions and disturbances but also situations of armed conflict.

12. The aim of the comprehensive revision is to ensure that the UN Manual remains relevant, user-friendly, and fit for purpose well into the next decade.

The revision team

13. The UNSR is supported in undertaking the revision by a world-class team of experts. Those who have agreed to assist as part of the working groups

drafting the revised document, or on the broader advisory panel include, amongst others:

- a. Six of the original authors of the Minnesota Protocol;
- b. The Chair of the UN Human Rights Committee; the UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment; the UN Special Rapporteur for the Promotion of Truth, Justice, Reparation, and Guarantees of Non-Recurrence; the UN Special Rapporteur on Violence Against Women; and the Chair of the UN Working Group on Enforced or Involuntary Disappearances.
- c. A former UN High Commissioner for Human Rights; and three former UN Special Rapporteurs on extrajudicial, summary or arbitrary executions.
- d. Representatives from the African Union, African Commission on Human and Peoples' Rights, Inter-American Commission on Human Rights, ASEAN Intergovernmental Commission on Human Rights, the International Criminal Court, and the International Commission of Jurists.
- e. Legal, policy and forensics experts from leading organisations across the globe.

14. A full list of contributors can be found at **Annex 4** to this consultation document. The team is impressive and geographically representative.

15. It is proposed to hold two meetings to gather the key drafting groups together to draft the revision. In addition, the team intends to consult widely and to consider representations from a wide range of external stakeholders. The revision process is planned to conclude in May 2016.

PART 4: THE CONSULTATION

16. The UNSR has commenced a consultation process to seek feedback on the principles guiding the revision and the proposed direction of travel for the revised document.
17. The existing text of the UN Manual is at **Annex 1** to this document.
18. A consultation document, informed by the opinions of members of the Working Groups and Advisory Team working on the revision, is attached at **Annex 2** to this document. That consultation document sets out a series of questions on which the UNSR is seeking feedback from interested individuals and organisations.
19. A draft table of contents for the revised Manual, on which the UNSR also seeks feedback, is attached as **Annex 3** to this document.
20. The consultation period is open for five weeks from 11 May 2015 to 15 June 2015. All responses should be sent to the UNSR's research assistant, Petronell Kruger, at krugerpetronell@gmail.com.

Office of the UNSR
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