

The U.N.'s Death Squad Watchdog

With few resources but the force of his title — U.N. special rapporteur on extrajudicial executions — Philip Alston holds governments accountable for the politically motivated killings they commit, or ignore.

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(Bob Sacha)*

In a troubled African nation one morning not long ago, [Philip Alston](#) was driven in a convoy of three white SUVs, with armed escorts front and rear, to a town south of the capital. Alston, the United Nations [special rapporteur](#) on extrajudicial, summary or arbitrary executions, was going to meet with eyewitnesses to, and victims of, a violent crackdown by local police on political opponents of the government.

An Australian native who now lives in New York, Alston has spent more than three decades working in human rights and international law. He was in the country (which Alston asked not be named to protect people at odds with the government) on an official mission, one of a few he makes each year to investigate and compile reports to the [U.N. Human Rights Council](#) on the most egregious human rights violations around the world.

As the vehicles neared the town, Alston's telephone rang. The call was from a small U.N. force that had arrived in advance to ensure security. Local police had informed the security team that they would prevent Alston from meeting any witnesses. Their orders, according to Alston and two others who were present, were understood to have come from the mayor of the town, as directed by the state governor. This was, as a U.N. press statement issued later in the week put it, "a blatant violation of the freedom of movement and communication owed by the host Government to a U.N. Special Rapporteur."

Alston's convoy, which also carried local U.N. staff, advisers Alston had brought with him from the U.S., additional U.N. security personnel and federal police, headed directly to the mayor's office. A lengthy negotiation ensued, during which Alston was surrounded by members of the police force whose malfeasance he was there to investigate.

Alston asked to be put in touch with the governor who had given the orders. Officials told him they couldn't make phone contact. Discouraged, but not wishing to provoke, and determined to rectify matters at a later time, Alston directed the convoy back to the capital.

On his way out of town, Alston telephoned a local lawyer whom he had planned to meet and who had been instrumental in gathering people the special rapporteur could interview. "He didn't answer the phone three or four times, and we thought the worst," Alston recalls. "But then he did answer, and he said, 'I'm in trouble. Come get me.'" The man had been detained by police.

Alston was incensed. He directed the convoy to turn back. Once in town again, he located the police chief, he says, and told him, "I need to meet with the person you just arrested." He said, "What person?" I said, "I think you know that." Alston began walking toward the jail, asking to see the lawyer. Alston says the chief, following beside him, "then went berserk."

The chief screamed abusive threats at Alston, who is 59, with gray hair. He said the lawyer was not at the jail, but he would not tell Alston where he was being held. He told Alston to leave. Alston refused. His security detail, facing police armed with machine guns, grew anxious.

"I then went into a low-key mode," Alston says, "and said [to the chief], 'I'm sorry, but we'll be staying here all day and maybe tomorrow, too, because we're not leaving until we get access to that person.'"

After a tense 15 minutes, the chief relented, instructing his men to bring the prisoner to him. They did, and after the lawyer assured Alston, in private, that he had not been mistreated, the chief released him to the custody of Alston, who escorted him away.

Alston's senior adviser, [Sarah Knuckey](#), was present that day. "Through a mixture of good nature, humor and firmness," she recalls, "Philip was able to defuse a very difficult situation. He was extremely firm in his resolve that we would not leave until the lawyer was freed, but he was also personable and respectful of the local officials in a way that de-escalated the situation."

Alston was not able to interview those whom the lawyer had assembled, either that day or subsequently, and so describes the day's events as a "failure."

And that's the telling anecdote.

The special rapporteur on extrajudicial executions is an independent expert appointed by the U.N.'s Human Rights Council to respond to incidents of homicide in contravention of humanitarian law. In theory, the special rapporteur holds governments

accountable when a government or its agents are responsible for — or the government has taken insufficient action to prevent or investigate — politically motivated killings. In reality, the special rapporteur gathers information, in person and through others, and then submits official reports to the Human Rights Council. Sometimes these reports move governments to, for example, stop supporting death squads, but because the U.N. has a limited ability to influence recalcitrant officials, the reports are often ignored.

The position has existed since 1982, and Alston is the fourth expert “of high moral character and recognized competence in the field of human rights” (as required by the [International Covenant on Civil and Political Rights](#)) to hold it. Alston was not an obvious choice for the job. Human rights are generally divided into two fields: political rights — what most people typically think of as human rights, e.g. the right to a trial, and to be free from cruel and unusual punishment such as extrajudicial executions — and economic-social-cultural rights. Alston made his name, in the 1970s and 1980s, advocating for the latter — rights that include things like the right to safe and healthy working conditions, consensual marriage, and adequate food and shelter.

The area of human rights arose largely in the context of the [Cold War](#), and during that time, countries failing to live up to the U.N. Covenant on Civil and Political Rights, including the USSR and those in its sphere of influence, liked to trumpet their upholding of economic and social rights. This enabled authoritarian rulers like Cuba’s [Fidel Castro](#) to compare themselves favorably, in the eyes of many, to the U.S. and Western Europe — where blights associated with capitalism, such as homelessness and unequal access to health care, were perhaps more prevalent than in the communist bloc.

Alston saw economic and social rights as intertwined with civil and political rights, in that a person who is hungry is unable to join a protest march, and emphasized the role of states in ensuring that their citizens could fully express these rights. Alston criticized groups such as [Amnesty International](#) for minimizing concern for economic and social rights in favor of pressuring authoritarian countries on issues of political rights.

Many in nonaligned countries like [Egypt](#) and [Malaysia](#) saw Alston as a hero for pointing out the flaws inherent in the systems of both East and West. This emphasis didn’t put Alston in league with dictators, but, says [Peter Rosenblum](#), professor of human rights at Columbia Law School, “because he was so powerful an advocate for economic and social rights, he had wider support among countries that were otherwise skeptical of the whole human rights project.”



Philip Alston on a fact-finding mission in Kisantu, the Democratic Republic of the Congo. (Courtesy of Philip Alston)

So when Alston was appointed to the first of two three-year terms as special rapporteur in 2004 (his mandate expires in July), he had allies in countries where extrajudicial executions are most common; these connections made it more difficult for leaders of those countries to disregard his criticisms of their regimes. Partly as a function of this, those in the field say Alston has been able to significantly re-invent the position — both with respect to his specific mandate and to special rapporteurs generally. He’s built on this ability with his innovation, persistence, fierce independence and skill at exploiting the news media.

“Whether it’s a case of bucking the system or just doing things people haven’t done before,” says [James Ross](#), legal and policy director at Human Rights Watch, “he’s been very effective.”

Even the executive director of U.N. Watch, whose job it is to find fault with the organization anywhere he can, admires Alston. “He’s one of the few who will take on the worst abusers,” [Hillel Neuer](#) e-mailed me in January. “He’s one of the decent U.N. experts.”

Alston was born in Melbourne, Australia, the youngest of the three sons of a shoe salesman and his wife, who worked in the home. Following completion of his basic legal training at the [University of Melbourne](#), he served as chief of staff to the Australian Minister for the Capital Territory until 1975, when the opposition made it impossible for the government to function and the prime minister, in the only such instance in the country’s history, was dismissed under questionable circumstances. Alston refers to it as a “constitutional coup d’état,” and left the country “in disgust,” he says. He landed in Berkeley, Calif., with the intention of studying environmental law at the University of California’s [Boalt Hall](#).

Alston quickly soured on environmental law, he says, finding that the field had become “a rather technocratic translation of all the early ideals,” such as those elucidated in seminal works of the movement like [Rachel Carson](#)’s *Silent Spring*. A research project at Boalt on international regulation of toxic chemicals became a paper published in [Ecology Law Quarterly](#). The experience kindled an interest in international law. (He is now the John Norton Pomeroy Professor of Law at New York University Law School.) Alston points to a widely admired professor at Boalt, [Frank Newman](#), as inspiring him to pursue human rights. Alston went to Geneva on an internship with the U.N., and on the basis of his work was later offered a job.

As a human rights officer, Alston helped draft the Convention Against Torture in the early 1980s. The director of the Division for Human Rights at the time, [Theo van Boven](#), soon took Alston under his wing and brought Alston with him on visits to many of the U.N. agencies about which he had been writing, including [The World Bank](#), the [International Monetary Fund](#), [UNICEF](#) and others. He continued working at the U.N. until 1984, when [Harvard Law School](#) hired him as a visiting lecturer. The following year, the respected [Fletcher School of Law and Diplomacy](#) at Tufts University made Alston an associate professor; it was during this period that Alston co-wrote (with [Ryan Goodman](#) and [Henry J. Steiner](#)) what many believe to be the definitive textbook on human rights, *International Human Rights in Context*.

Alston married in 1978, and the couple adopted twin girls from Peru. Deciding it was important to give their girls a feeling of belonging, Alston applied for, and in 1989 was offered, the founding directorship at the [Centre for International and Public Law](#) at Australian National University in Canberra. Though they stayed in Australia only five years, the plan worked; Alston says the girls “have grown up as fully fledged Australians.” One manages a restaurant, and the other graduated last fall from law school — although rather reluctantly, Alston tells me with a smile. Her heart is in painting.

Alston’s position is unpaid, which means that any work he undertakes as special rapporteur removes him from his considerable duties as a teaching professor at a high-pressure law school. The U.N. provides him with one full-time and one part-time staffer, which Alston soon found to be nowhere near sufficient to respond comprehensively to the myriad reports of extrajudicial executions that reach him from the far corners of the globe at all hours of the day and night. One of the things that separates Alston from his predecessor and peer special rapporteurs is his decision, early on, to improve upon this arrangement. Alston secured some funding of his own from a private foundation that wishes to remain anonymous. These funds pay some of the travel expenses for fact-finding missions to a wide range of countries and enable Alston to hire the two or so full-time staff members who work for him as special rapporteur.

A mission begins not with an atrocity per se, but with the absence of a government doing anything about repeated atrocities. When Alston receives a report of a killing in a country with such a history, he will draw up a letter to the government. “We receive, from many

different individuals or organizations, allegations of killings,” says foundation-funded aide Sarah Knuckey, who began working for Alston while studying for a doctorate in London in 2007. The response will read, more or less (as Knuckey describes it), “I’ve received allegations of killings that took place. I don’t prejudge whether this happened or not, but if it were true, it would violate A, B and C petitions and treaties.”

These letters, which are delivered to the U.N. ambassador of the country in question, go on to ask, essentially, “Is this true, and if so, what are you going to do about it?” If the response to the letters doesn’t satisfy Alston, he will request an invitation to visit the country and look into the allegations himself. The U.N. disallows him from visiting any country that has not formally invited him, and as a result, he has been unable to go to many of the countries where the most egregious allegations originate, including Russia, Iran, Pakistan, India, Saudi Arabia and China. “It’s a very long list,” Alston says with obvious regret.

“I am therefore reduced to looking at countries, which for one reason or another may be minded to invite me,” he continues. In Brazil, for instance, which has a highly decentralized governmental structure, the federal government is displeased with the police in many states, which often run amok, killing random people in the *favelas*, or shanty towns, because they think it looks like crime fighting. Concerned that one of these massacres might occur while Brazil hosts the [World Cup in 2014](#) or the [Olympics in 2016](#), the federal government in Brasilia is more than happy to have Alston investigate extrajudicial killing in Rio de Janeiro.

“He’s done a very good job of picking the countries to investigate,” says Ross of Human Rights Watch. Special rapporteurs have limited time, he says, “and he’s chosen key places. And he really pushes governments hard.”

Often, the scene upon Alston’s arrival is more Marx Brothers than [Kafka](#). “In virtually every one of the major countries I’ve visited,” he says, “the question has rather amusingly arisen: ‘Who invited this guy? Did you invite him? Did you?’ And they look around, and the minister who actually signed off on it looks very sheepish and says, ‘I had no idea this was going to happen; I didn’t know it was such a big deal.’”

After that, Alston’s work is usually not so funny. Alston’s missions mostly involve speaking with victims and relatives of victims of government violence, or, as he puts it, “the premeditated, usually very brutal and often sadistic killings of large numbers of people.” The interviews with witnesses are set far in advance, as part of a monthslong process of research and logistics that Knuckey calls “frenetic,” usually involving considerable groundwork in the host country by nongovernmental organizations, activists and in terms of logistics, local U.N. staff. Many of the witnesses look to Alston as some kind of savior who will, if not bring their brother or son or father back to life, find his killer and bring that person to justice. These people Alston must perpetually disappoint. “I have to explain fairly carefully,” he says, “that I have no power to take up their cases individually, that my role is trying to shine a light on systemic problems.”

Once he has spoken to witnesses at length, it's time to confront the people in charge. Alston might then find himself in a room with a man who he has reason to believe has personally ordered the murder of innocent civilians. There is no professional training for such a meeting, being as it is rather different than facing such a person in court. The person to be accused by Alston has not yet been legally charged; he is not under oath; and Alston must confront him not in a courtroom but on his own turf, surrounded by staff and, sometimes, people bearing firearms.

“It's something that you have to learn on the job, in a sense,” Alston says, looking into the distance and taking deep breaths and long pauses between sentences, as if he's never contemplated it before. “There's no equivalent of it. You're dealing with government ministers; some of them are deeply suspicious — hostile. The question is, how do you bring them around?” The head of state of nearly every country he's been to also meets with Alston; the U.S. is on the very short list of those that have refused. “Dealing with presidents,” he says, “the question is: How do you get them to take you seriously, to take some steps after you've gone?”

In [Kenya](#) last winter, Alston's team spent a week traveling the country, speaking with witnesses of police violence. Some witnesses and other people who were helping Alston — even Alston himself — came under surveillance by undercover agents of the same police force. Surveillance grew into threats, harassment and, in some cases, arrest. Soon it was clear that witnesses could themselves become victims. Following these interviews — “a week of stress from people who were potentially going to be murdered,” as Knuckey puts it — Alston returned to Nairobi to meet the would-be perpetrators' boss, Mohammed Hussein Ali, the national commissioner of police and one of the most powerful and long-serving men in the government.

Alston says the commissioner and his staff were “very well-briefed” on Alston's activities since landing in Kenya and speculates that some of their information may have come from electronic surveillance.

Following formalities and some lighter questions, Alston confronted Ali about the organized murder of citizens by men under his command:

“I said, ‘How many extrajudicial executions have there been in the last couple of years?’

“And his answer was, ‘Not one.’

“And I said, ‘That's impressive; I'm not sure the Los Angeles Police Department would be able to say that.’

“‘Nope, not a one.’”

“Well, what do you do then? There's cases I could go into, but then you just get denials...”

It was here, perhaps, that what Knuckey describes as Alston’s “honesty, plain-spokenness and directness, and Australian-type brashness” came into play. Alston says he “ended up in a very confrontational mode, borne of my conviction that [the commissioner] was utterly uncooperative and that there was no point in continuing any sort of reasonable dialogue.”

The meeting was the only official interview, Knuckey says, when she saw Alston “almost lose it. He was just so angry about what they’d been doing to people we’d been working with.” Gaining the assistance of people whose lives came under threat as a result of that assistance, Knuckey says, was “a pretty emotional experience. I think that’s probably why [Alston] said after [the meeting with the commissioner], ‘I wish I hadn’t been so emotional.’ Although, objectively he still seemed very calm.”

In his report, issued in February of last year, Alston called for Ali’s removal. “There is abundant evidence,” Alston wrote to the U.N. Human Rights Council, “linking him to a central role in devising and overseeing the policy of extrajudicially executing large numbers of ‘suspected criminals.’ He flatly refuses to acknowledge that any unlawful killings are taking place, derides detailed and compelling reports to the contrary, blocks investigations, and prevents all transparency.”

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He’s been very strong about actually setting out specific recommendations in terms of what the government should do,” Ross says. “His reports have been extremely well written, and not written like U.N. reports. He uses strong language; he doesn’t hold back and he really writes things to be strong advocacy documents.”

Ross’ comments point to another way in which Alston has excelled as special rapporteur: He has to a large degree redefined what it is that an SR can and should do. “It’s a pleasure seeing a really smart, sophisticated figure intervene in an area that had become somewhat staid,” Columbia Law professor Rosenblum says. “What is the purpose of this mandate in this world where the original context [of the Cold War] in which it came about no longer exists? Philip is someone whose approach to human rights was very different. He brought a kind of energy and perspective the position wouldn’t otherwise have gotten.”

Indeed, Alston may well be the rare diplomat who seems to care little for protocol. “He is extremely outspoken,” says [Manfred Nowak](#), professor of human rights at the [Ludwig Boltzmann Institute for Human Rights](#) in Vienna and the U.N.’s Special Rapporteur on torture.

Rosenblum points out that the U.N. human rights apparatus has been “filled with horrendous amounts of deadwood for a long time.” Within that apparatus, though, there have always been people who’ve worked within the system and given hope that the Human Rights Council (and its predecessor, the Human Rights Commission) could be effective, despite having many of the world’s worst human rights offenders as members,

with countries like [Libya](#) occasionally assuming the rotating presidency and turning the organization into a toothless watchdog. Rosenblum says that Alston's former boss, Theo van Boven, was the original such figure, and that Alston effectively carries that torch today.

In a recent example of how the HRC sometimes savages its own credibility, the council's group of African nations considered calling for Alston's dismissal following his Kenya report. To Nowak, this was a mark of honor for Alston. Just as, in his earlier career, he had no qualms about angering establishment groups like Amnesty International, today Alston "always manages to get the [U.N.] human rights community against him, and that's what you have to do as special rapporteur," Nowak says. "Otherwise, you're doing the wrong job. I really admire him."

Apart from Australian brashness, securing outside funding that opens up new opportunities for thoroughness is perhaps the most consequential way Alston has advanced the rapporteur's job. With only the meager support the U.N. provides to special rapporteurs, Knuckey says, "you're going over basically blind." Knuckey has been on six missions with Alston, and, she says, "each mission, the way we prepare gets more in-depth and more expensive."

Alston has further expanded the role of special rapporteur by writing reports on issues that extend to more than one country. He has so far released analytical studies on the circumstances under which police can use lethal force; the persecution of witches; the illegality of the mandatory death penalty for certain crimes; how witness protection programs should be implemented; and more. Some of these studies, like the report on witches, have been quite novel. Some have coalesced previously disparate information; all have provided fodder for rights groups to work with and draw upon, coming as they do from one of the world's foremost scholars of international law and human rights. "I think they've made a contribution that will endure," Alston says.

Meanwhile, he's acted quickly to thrust his title and expertise into inflammatory debates, as when a video of an apparent [summary execution](#) of Tamil rebels by government soldiers in the last days of the Sri Lankan Civil War surfaced in January. Alston assembled a team of forensic scientists to analyze the video; contradicting the Sri Lankan government's contentions, Alston's independent experts vouched for the video's authenticity. ("We reject [Alston's] allegations," Sri Lanka's foreign minister told Reuters.)

Alston has also proven skillful at exploiting the news media. Maximizing coverage is one of the most important things a special rapporteur can do; lacking as he does any actual force of law, publicity affecting a country's reputation becomes the diplomat-expert's biggest stick. Local media will usually cover a special rapporteur's arrival in country and the release of the final report. Because there is a significant lag — several months — between the visit and the ensuing report, attention on the issue the rapporteur was investigating must be refocused. So Alston thought to issue a press release outlining his preliminary findings upon his departure from any given country, holding a press

conference at the airport. As the country's media assembles two or three weeks following his arrival, the issue is still fresh in the public's mind; with Alston about to board an aircraft, there's little at that point the host government can do to foil his purpose.

It's not as if governments haven't tried. In Kenya, Alston learned that someone who'd helped him had to escape the military through a back window of his home and go into hiding. Alston was tailed by undercover agents — identified by locals he was working with — who staked out his hotel to see who he was meeting with. (Upon learning this, Alston immediately went down to the street, confronted the agents and photographed them and their license plates as they sped off.) Alston complained to the official who oversees policing, seeking “a clear indication that [police] would not victimize people we'd spoken with,” he says, but the official “did not give me that — he actually gave me a letter that was even more intimidating, saying that people who they thought were breaking the law would be dealt with severely.”

Another Kenyan who'd been in contact with Alston — a member of a national commission on human rights convened by the Kenyan parliament — has also been forced into exile. (He was so frightened of Kenyan police learning his location, an intermediary said, that he would not speak to me, even anonymously.) Two other activists who'd helped Alston, Oscar Kamau Kingara and John Paul Olu of the legal aid organization the Oscar Foundation, were, in the weeks following Alston's visit, murdered in broad daylight, just a mile from Nairobi's central police station — by all indications, Alston says, by the same death squads about which he had confronted the commissioner of police.

“It was terrible,” Alston recalls. “It was shocking that these two guys in particular were gunned down in such a blatant fashion, [but] it was not surprising.”

Alston put out a statement calling for an independent international investigation, which went unheeded. He urged the U.N. to implement a system by which witnesses to special rapporteur missions could be protected; nothing was done. (It wasn't the only time Alston has run afoul of the U.N.: Its envoy to Afghanistan at that time was, according to an inside source, “extremely unhappy” with Alston's criticism of allied forces there, and he essentially accused the U.N. peacekeeping mission to the Democratic Republic of the Congo of not doing enough to avoid being seen as complicit in war crimes.) The Kenyan police announced they had tried but failed to find those responsible — though the department did manage to issue ad hominem attacks on the victims.

Alston “has been very consistent in terms of follow-up,” says Hassan Omar Hassan, vice chairperson of the [Kenyan National Commission on Human Rights](#). I reached Hassan on his mobile phone as he was leaving the hospital one evening, fighting off a fever. “He has spoken very boldly, and we felt his consistency and keenness with regard to Kenya, which was really something — to give heart and credence to the job of human rights defenders here. He's put Kenya firmly on the international human rights agenda.”

The dividends of Alston's efforts in regard to the worst abusers and the most powerful states — efforts that have often culminated with a call for strong and drastic action to end official murder — are tangible.

At a press conference concluding his mission to the Philippines, Alston called on the president to release the findings of a national commission that had earlier investigated allegations of illegal killings of Communist rebels by the military. Despite a headline the day before saying the government had no intention of ever releasing the findings, Alston's pressure was sufficient to get President [Gloria Macapagal-Arroyo](#) to change tack. The report was made public the next day. The U.S. Senate later voted to withhold military aid to the country, citing Alston's revelations.

In 2008, Alston criticized NATO for taking insufficient measures to prevent civilian deaths in Afghanistan. Soon after, Afghan president Hamid Karzai began speaking out more forcefully on the issue, and five months later — though it had initially dismissed Alston's report as "inaccurate" and "disappointing" — NATO announced new orders to minimize collateral damage. (In interviews for this article, Alston "wouldn't presume" to take credit for the change in policy.)

And six months after Alston called for the [dismissal](#) of Kenyan police commissioner Ali, President [Mwai Kibaki](#) replaced him. Ali was handed the reins to the post office, a position from which he's likely to face significant obstacles in coordinating the operation of any death squads. "I don't think it was the only reason [Ali was replaced]," Hassan told me, "but I do believe [Alston's] investigation provided the momentum necessary for the removal of the commissioner."

But it's Alston's relationship to the Kenyan attorney general that is most poignant, and perhaps best demonstrates Alston's resolve.

When president [Daniel arap Moi](#) named [Amos Wako](#) to the AG's post in 1991, it was seen as a clear bid by Moi to improve his standing on the world stage: Wako was one of the most respected human rights figures on the continent, having headed both the [African Bar Association](#) and the Inter-African Union of Lawyers, and he would go on to be short-listed for the role of chief prosecutor in the Balkans war crimes trials and to serve as the U.N. secretary-general's envoy to [East Timor](#). When Alston undertook his mission in Kenya last year, however, Alston found Wako "not just complicit in, but absolutely indispensable to" impunity for those who had engaged in extrajudicial executions. "In order to restore the integrity of the office," Alston wrote, "the current Attorney General should resign or be required to leave office."

Amos Wako was the first U.N. special rapporteur on extrajudicial executions, serving from 1982 to 1989. In October, the State Department [banned](#) Wako from traveling to the U.S. In January, the ban was [extended to Ali](#).