

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls**

Ref.: AL ETH 4/2023  
(Please use this reference in your reply)

28 July 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on violence against women and girls, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 44/5, 50/7 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged killing of three field humanitarian staff members of Médecins Sans Frontières (MSF) , on 24 June 2021 in the Tigray region and the lack of prompt, thorough, effective, impartial, independent and transparent investigations into these deaths.**

Allegations related to violations of international human rights law and international humanitarian law committed in the context of the conflict in the Tigray region of Ethiopia, including deliberate attacks against civilians and summary executions, have already been raised by United Nations Special Procedure mechanisms in the communication [AL ETH 1/2021](#) sent on 19 April 2021. We thank your Excellency's Government for your [reply](#) received on 18 June 2021 and welcome the indicated commitment to uphold obligations enshrined in international humanitarian law and international human rights law. In light of your Excellency's Government's reply, we wish to highlight that the right to life constitutes a jus cogens and international customary law norm, from which no derogation can be made under any circumstances, including in the context of armed conflict.

According to the information received:

*Alleged killing of Ms. Hernández Matas and her two colleagues<sup>1</sup>*

Ms. Hernández Matas was a 35-year-old Spanish national and emergency coordinator of the Abi Adi project of the non-governmental organisation Médecins Sans Frontières (MSF), based in Abi Adi, a town in the Central zone of the Tigray region, Ethiopia.

On 24 June 2021, Ms. Hernández Matas and her colleagues went to the south-east of Abi Adi town in the Central zone of Tigray region, Ethiopia, to assess the medical needs of the local population. They reportedly drove down the main road between Abi Adi, where the MSF project base was located, and Yachilla to pick up injured persons from the village of Shoate Egum, where heavy military fighting had taken place between the Ethiopian National Defence Forces (ENDF) and the Tigray Forces (TF) in the days leading up to

---

<sup>1</sup> To reduce the risk of possible reprisals against their families, the identity of the other victims have been withheld.

the incident. At 4 p.m. the same day, the MSF team lost contact with Ms. Hernández Matas and her colleagues, and received no further information about their whereabouts, even after intensified research with other humanitarian organisations operating in the area.

On 25 June 2021, at approximately 1 p.m., the vehicle of Ms. Hernández Matas and her colleagues were found empty at latitude 13.43625 and longitude 39.003717 by an MSF search team. The bodies of Ms. Hernández Matas and persons associated with her were found between 100 and 400 metres away from their car. According to reports, Ms. Hernández Matas had multiple gunshot wounds, including to her head, chest and abdomen. The vehicle had also sustained several gunshot impacts to the rear and was burnt, with an MSF flag still visible.

The MSF search team found the bodies of nine individuals not far from where Ms. Hernández Matas was believed to have been attacked. [REDACTED]

At the time of their deaths, Ms. Hernández Matas and her colleagues were reportedly wearing clothing that identified them as humanitarian workers, namely white MSF waistcoats with a visible MSF logo in red, and they were travelling in a recognizably marked MSF vehicle. They carried out exclusively medical and humanitarian activities in dialogue and with the acceptance of all parties to the conflict.

On 29 June 2021, the body of Ms. Hernández Matas was transferred to Spain, where an autopsy was performed while the National Court opened investigations into her death.

#### *Context of the alleged killing of Ms. Hernández Matas*

In the days leading up to the death of the MSF staff, clashes between the ENDF and their allies and the TF had occurred repeatedly in various areas in and around Abi Adi.

On 21 and 22 June 2021, after they lost control of the town, ENDF forces withdrew from Abi Adi as part of a phased withdrawal from the province.

On 22 June 2021, the TF reportedly took control of Abi Adi.

On 28 June 2021, ENDF troops left the Tigray region, following which strict control measures were imposed on the regional borders, severely affecting medical and humanitarian assistance to the local population of Tigray.

The killing of Ms. Hernández Matas and colleagues took place on the very route used by ENDF troops to withdraw from Abi Adi.

*Investigations to date into the death of Ms. Hernández Matas*

In June 2021, the Public Prosecutor's Office of the Spanish Supreme Court (Audiencia Nacional) opened an investigation (diligencias de investigación) with file (Expediente) no. 38/2021.

In December 2021, the court initiated judicial proceedings (diligencias previas, procedimiento abreviado) with file number 72/2021 at the request of the prosecution.

The proceedings were discontinued in May 2022 and resumed in June 2022 following a change of the prosecutor.

Between 21 August 2021 and July 2022, persons associated with Ms. Hernández Matas were informed on several occasions of an ongoing investigation that would be conducted by the Federal Democratic Republic of Ethiopia (FDRE) with the participation of several ministries and government agencies.



The TPLF would have indicated that they were willing to support an independent investigation by third parties. They refused to conduct the investigation themselves, allegedly to avoid accusations of bias and partiality.

To date, the Ethiopian authorities have failed to identify and punish the potential perpetrators or obtain an admission of responsibility from any of the parties to the conflict. The families of those allegedly killed on 24 June 2021 have not been informed or contacted by the Ethiopian authorities.

Without prejudging the accuracy of the information received, we wish to express our grave concern about the alleged killing of Ms. María Hernández Matas and colleagues on 24 June 2021 in the Tigray region and the reported lack of prompt, thorough, effective, impartial, independent and transparent investigations by the Ethiopian authorities into these killings.

Should the facts alleged above be confirmed, they would amount to a violation of multiple provisions of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), ratified by Ethiopia on 11 June 1993. If proved to be accurate, they would also contravene pertinent provisions of international humanitarian law, including of Common article 3(1) of the Geneva Conventions and of the Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, ratified by Ethiopia on 8 April 1994, which includes (but is not limited to) the prohibition of violence against the well-being of people who are not participating directly in the conflict, as well as relevant rules of the International Committee on the Red Cross' study on customary international humanitarian law.

Considering that Ms. Hernández Matas and her colleagues were reportedly visibly marked as MSF humanitarian staff and wearing of their respective uniforms, as well as the fact that the vehicle they were using displayed an MSF flag at the time of the attacks against them, they should have identified as protected persons for all parties to the conflict. Their actions were exclusively dedicated to medical and humanitarian assistance. In this context, we recall that international humanitarian law, applicable alongside international human rights law in non-international armed conflicts, strictly prohibits attacks against medical and humanitarian personnel. Personnel engaging in medical tasks must always be respected and protected, unless they commit, - outside of their humanitarian function, - acts that are harmful to the enemy party. Intentional killing of such personnel is considered a war crime.

Regarding the targeting of the MSF vehicle, attacks on civilian objects constitute a violation of international humanitarian law. Medical facilities and transport must be respected and protected at all times and cannot be attacked. Parties involved in the conflict must always clearly distinguish between civilian objects and military objectives and must not deliberately attack a civilian object.

**Against this background, we urge your Excellency's Government to take the necessary and appropriate steps to clarify the circumstances of these killings, including the alleged killing of Ms. Hernández Matas, to identify and punish the perpetrators, and to provide information and communicate the findings of any investigation that may have been conducted into the reported deaths to the families of the individuals killed.**

States have an obligation to investigate all allegations of willful killings of civilians committed by their armed forces or committed on their territory. In this regard, we highlight the need for an impartial investigation into all suspected unlawful killings, through which information is constantly shared with the family members in line with international standards, particularly the *Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*, adopted by Economic and Social Council resolution 1989/65, and the Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the *Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016)*).<sup>2</sup> A failure to conduct a proper investigation, including identifying and sanctioning potential perpetrators, is regarded, in itself, as a violation of the right to life.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

---

<sup>2</sup> <https://www.ohchr.org/sites/default/files/Documents/Publications/MinnesotaProtocol.pdf>.

2. Please provide detailed information on how events the killing of these persons as reported,, if confirmed, is consistent with the obligations of your Excellency's Government under the provisions referred to in the annex and how it intends to remedy any instances of non-compliance with international human rights law and international humanitarian law.
3. Please provide detailed information on the steps taken to carry out an investigation were carried out into these killings and whether the families of the victims were informed in a timely manner of the initiation, progress and outcome of such investigations.
4. Please provide information on whether these investigations were conducted in accordance with international human rights law, including the above-mentioned Minnesota Protocol, and provide further information on the identification and punishment of the possible perpetrators.
5. Please provide details on the safeguards that have been or are planned to be implemented to protect MSF teams and other humanitarian workers working in the Tigray region of Ethiopia from acts of intimidation, threats, attacks and detention. Please also indicate whether any capacity building is being carried out among members of the armed forces to ensure an adequate and comprehensive understanding of the protection framework afforded by international humanitarian law to medical and humanitarian personnel, how conflict situations should be assessed in relation to these standards, to mitigate possible violations, to take appropriate precautions in the event of attacks, to verify whether targets are military objectives, and to ensure that an appropriate assessment of the principles of proportionality and distinction between civilian objects and military objectives, and between civilians and members of the armed forces, is carried out before any action is taken.
6. Please indicate what effective legislative, administrative, judicial or other measures have been taken by your Excellency's Government to ensure that attacks against medical and humanitarian personnel operating in the described context in Tigray, Ethiopia, are prevented and brought to an end.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please note that a copy of this communication is being transmitted to the Government of Spain.

Please accept, Excellency, the assurances of our highest consideration.

Morris Tidball-Binz  
Special Rapporteur on extrajudicial, summary or arbitrary executions

Reem Alsalem  
Special Rapporteur on violence against women and girls, its causes and consequences

Dorothy Estrada-Tanck  
Chair-Rapporteur of the Working Group on discrimination against women and girls

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to article 3 of the Universal Declaration of Human Rights and articles 2(3) and 6(1) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Ethiopia on 11 June 1993, which provides that every individual has the right to an effective remedy, the right to life, and that no person shall be arbitrarily deprived of his or her life.

At the outset, we would like to reiterate that international human rights law continues to apply in times of armed conflict, alongside international humanitarian law, and that both bodies of law are intended to be complementary, rather than mutually exclusive. This has been acknowledged, *inter alia*, by the International Court of Justice (Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996, paras. 24-25) and the Human Rights Committee (general comment 29, States of Emergency, para. 3). In its general comments 31 (CCPR/C/21/Rev.1/Add.13, para. 11) the Human Rights Committee has affirmed the applicability of the ICCPR and international human rights law more generally to situations of armed conflict.

Bearing in mind this framework, we would like to refer to Human Rights Committee **general comment no. 36**, which states that the right to life is "the supreme right from which no derogation is permitted even in situations of armed conflict and other public emergencies which threatens the life of the nation." It is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right whose effective protection is the prerequisite for the enjoyment of all other human rights and whose content can be informed by other human rights (CCPR/C/GC/36, para. 2)." The General Comment also indicates that an important element of the protection afforded to the right to life by the Covenant is the obligation on the States parties, where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents.

Paragraph 1 of article 6 of the ICCPR provides that no one shall be arbitrarily deprived of life and that this right shall be protected by law. Accordingly, States parties must also exercise due diligence to protect the lives of individuals against deprivations caused by persons or entities whose conduct is not attributable to the State. Additionally, in its **general comment no. 31**, the Human Rights Committee recalls the responsibility of State parties to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by non-state actors (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18). Along these lines, we reiterate that the obligation to protect the right to life requires States to take special measures to protect persons in vulnerable situations whose lives are particularly endangered by specific threats, including xxx (CCPR, general comment no. 36, para. 23). In this regard, the Special Rapporteur on extrajudicial, summary or arbitrary executions indicated that "the State may be held responsible for the conduct of non-State actors when it can be shown that it has failed to exercise due diligence to prevent, investigate and respond to such conduct" (A/HRC/38/44) para. 22). In addition to this, the report provides in its recommendations that States should "fully implement their obligation

to protect against killings by armed non-State actors and evaluate current due diligence mechanisms in light of these actors' activities and strengthen their implementation, in full respect of international human rights law", as well as the duty to "hold individual members of armed non-State actors to account under international human rights law and international criminal law, when applicable" (para. 97).

A failure to conduct a proper investigation into unlawful killings, including identifying and sanctioning potential perpetrators, is regarded, in itself, as a violation of the right to life (CCPR /C/21/Rev.1/Add.13, paras. 15). This investigation must be (i) prompt; (ii) effective and thorough; (iii) independent and impartial; and (iv) transparent. We refer to the *Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions* (Prevention and Investigation Principles), in particular principle 9, that there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. The Principles recall that exceptional circumstances including a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of extra-legal, arbitrary and summary executions, and that it is States' duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions, and bring to justice all persons identified by the investigation as having participated in those executions. The families and dependents of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time.

Furthermore, according to paragraph 27 and 28 of general comment 36, investigations and prosecutions of potentially unlawful deprivations of life should be undertaken in accordance with relevant international standards, including the *Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016))*, and must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity, at avoiding denial of justice and at drawing necessary lessons for revising practices and policies with a view to avoiding repeated violations. Investigations must always be independent, impartial, prompt, thorough, effective, credible and transparent. According to the Minnesota Protocol, "investigators and investigative mechanisms must be, and must be seen to be, independent of undue influence" at all stages and must be "independent of any suspected perpetrators and the units, institutions or agencies to which they belong" (para. 28). In addition to an autopsy, an effective and thorough investigation would require the collection of "all testimonial, documentary and physical evidence" (para. 24). Moreover, investigations must "seek to identify not only direct perpetrators but also all others who were responsible for the death, including, for example, officials in the chain of command who were complicit in the death. The investigation should seek to identify any failure to take reasonable measures which could have had a real prospect of preventing the death. It should also seek to identify policies and systemic failures that may have contributed to a death, and identify patterns where they exist" (para. 26).

We also refer to the report on Medico-legal Death Investigations (MLDIs) (A/HRC/50/34) by the Special Rapporteur on extrajudicial, summary or arbitrary executions, indicating that the bereaved families and next of kin should be informed in a timely and appropriate manner about the investigation into the death of their loved one, its progress and its findings and that should be protected from any threat

resulting from their participation in the investigation (paras. 92 and 94). In the event that a violation is found, full reparation must be provided, including, in view of the particular circumstances of the case, adequate measures of compensation, rehabilitation and satisfaction.

In the context of the extent of impunity for crimes that violated the right to life, highlighted by the lack of identification of perpetrators, we recall that the failure to initiate investigations and bring the perpetrators of such violations to justice may lead to impunity that may encourage repetition of the crimes by others in subsequent incidents (para. 15, general comment no. 31). We note that the “consequences of non-investigation are extremely serious, including the violation of the right to life; the continuation of policies and practices which may impact on the right to life; and the perpetuation of a range of violations and bad practices because of the veil of ignorance or secrecy surrounding them” (A/HRC/41/CRP.1, para. 261).

Considering that the circumstances in the Tigray region at the time of the alleged killing of Ms. Hernández Matas may have amounted to a non-international armed conflict as provided under **article 1** of the *Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, 8 June 1977, we would like to refer your Excellency’s Government to applicable provisions under **international humanitarian law**.

We would like to refer to your Excellency’s Government’s obligation under the *Geneva Conventions 1949*, ratified by Ethiopia on 2 October 1969. State parties under **Common article 3(1)** of the *Geneva Conventions*, are bound to treat those who are not participating actively in the conflict humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. **Common article 3(1)(a)** of the *Geneva Conventions*, prohibits murder or any kind of violence to the life, cruel treatment or torture against individuals not participating actively in the hostilities.

Moreover, we would like to recall your Excellency’s Government’s obligation under **articles 4(2)(a)** and **75(2)(a)(i)** of the *Additional Protocol II* which prohibits the parties of the conflict from committing murder or any kind of violence to the life, health and physical or mental well-being of people who are not participating directly or ceased to participate in the conflict. We also refer to **articles 15** (Protection of civilian medical and religious personnel), **and 21** (Medical vehicles). In relation to the attack against the MSF vehicle reportedly not used for any hostile acts, we recall that parties to the conflict must always clearly distinguish between civilian objects and military objectives and must not deliberately attack a civilian object (Geneva Convention IV arts. 18, 21-22).

It will be considered a violation of international humanitarian law if a party to an armed conflict directs an attack against protected persons; or willfully kills or murders such protected persons. It constitutes a grave breach of the Geneva Conventions (Geneva Convention IV art. 147) and a **war crime** to intentionally direct attacks against personnel who use the distinctive emblem of the Geneva Conventions (medical and religious personnel), protected humanitarian workers or protected peacekeeping personnel in the context of non-international armed conflict (articles 8(2)(a)(i) and 8(2)(e)(ii) and (iii) of the Rome Statute).

We further refer to customary law norms. In this regard, we would like to refer to relevant rules of the International Committee on the Red Cross' study on customary international humanitarian law (IHL) including:

- Rule 25. Medical personnel exclusively assigned to medical duties must be respected and protected in all circumstances;
- Rule 29. Medical transports assigned exclusively to medical transportation must be respected and protected in all circumstances;
- Rule 89. Murder is prohibited.

Ultimately, we recall that attacks against protected persons must be investigated, and where there is sufficient evidence, persons responsible for the commission of the offence or ordering of the offence must be prosecuted. A State responsible for such violations must make full reparation for the loss suffered. In this context, we refer to principles 3(b), 4 and 5 of the *UN Basic Principles and Guidelines on the Right to a Remedy and Reparations for victims of gross violations of international human rights law and serious violations of international humanitarian law*, as well as to principle 19 of the *Updated Set of Principles for the protection and promotion of human rights through action to combat impunity*.