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**Federal Democratic Republic of Ethiopia
Permanent Mission to the United Nations Office at Geneva and
other International Organisation in Switzerland**

301/2024-A

1 February 2024

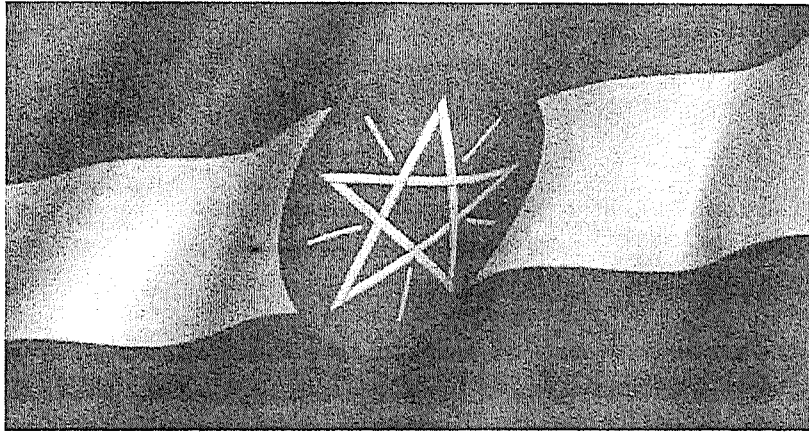
The Permanent Mission of the Federal Democratic Republic of Ethiopia to the United Nations Office at Geneva and Other International Organizations in Switzerland presents its compliments to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights and with reference to the latter's note, dated 8 December 2023, from the Special Rapporteur on extrajudicial, summary or arbitrary execution requesting for inputs regarding protection of dead persons and their human remains, including victims of potentially unlawful killings, has the honour to attach herewith the response from the Ministry of Justice of the Federal Democratic Republic of Ethiopia.

The Permanent Mission of the Federal Democratic Republic of Ethiopia to the United Nations office at Geneva and Other International Organizations in Switzerland avails itself of this opportunity to renew to the Special Procedure Branch of the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.



Enclosure: 7 pages

The Special Procedures Branch
Office of the United Nations High Commissioner for Human Rights
Geneva



The Government of the Federal Democratic Republic of Ethiopia

Reply to the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on the request for input regarding protection of dead persons and their human remains, including victims of potentially unlawful killings



January 26, 2024

Introduction

1. The Government of the Federal Democratic Republic of Ethiopia (alternatively Government of Ethiopia, GoE, Ethiopia) hereby submits its reply to the Special Rapporteur on Extrajudicial, Summary or arbitrary execution on the request for collection of information on policies and legal, administrative, institutional and/or other provisions on dead persons and their human remains, including victims of potentially unlawful killings.
2. Dignified treatment of the dead has been the subject of moral and legal codes since ancient times in the history of Ethiopia. The GoE, hence, has got strong commitment on the notion that the bodies of the dead and their human remains deserve respect and dignified treatment. When people die, their bodies must be handled with respect and should be managed properly. Although specific rules vary across cultures in different ethnic groups, almost all cultures do respect the dignity of the dead bodies. Burying the dead body is one of the ways of ensuring the dignity and respect of the dead and respect of the family who are in agony and distress as a result of the death.
3. Protection of Dead person and their human remains include search and collection; respectful treatment of dead bodies; return of dead bodies and their effects to next of kin; respectful disposal of the dead, grave yards maintenance and accounting for the dead including detailed identification and grave registration.

1. Institutional practices and procedures, and guidelines

4. The Government of Ethiopia has institutional practices and procedures in place to ensure the respectful treatment and protection of dead persons and their human remains, including victims of potentially unlawfully killed individuals. These practices and procedures are guided by both national and international protocols and guidelines. Some of the key measures include:

Forensic Procedures

5. The police are responsible for making findings regarding the cause of death. Death certificates can be obtained from the *Kebele* (lower level of local government administrations) where the death occurred. The *Kebele* needs medical death certificate



from hospital or health institutions. The government has established forensic protocols for the proper handling, examination, and identification of human remains, particularly in cases of potentially unlawful deaths. This includes the involvement of trained forensic experts and the use of appropriate techniques to ensure the accurate documentation and preservation of evidence.

2. International Standards

6. the Geneva Conventions (GC) of 1949 and their additional protocols of 1977 that the Government of Ethiopia ratified and domesticated indicate the international legal obligations towards the dead and their graves and family, inter alia, searching and collecting the dead bodies; respecting the bodies of the dead; returning the personnel possession of the dead to the family; determining the cause of death; issuing a death certificate; make every effort to locate and notify the relatives of the dead; facilitating the return of the remains of the dead to their relatives otherwise should be disposed of in a dignified and respectful manner. The other obligations GC I under Arts.15(1); GC II Art.18(1); GC IV Art.16(2) include recording the location of the burial, respecting and maintaining gravesites; treating citizens and non-citizens equally in all these actions; and providing special protection for children
7. The Government of Ethiopia ratified a number of core international human rights laws that ensure human dignity. The dignified treatment of dead body and human remains emanates from the fact that human beings deserve dignity by the mere fact of being human and that ensured by international Bill of Rights such as the Universal Declaration of Human Rights (UDHR) of 1948, International Conventions on Civil and Political Rights (CCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the regional human rights instruments such as the African Charter on Human and Peoples' Rights (ACHPR) can be inferred relevant rights vis-à-vis the treatment of the dead body.
8. Some of the pertinent rights stipulated in the aforementioned human rights instruments are the right to life, the protection of human dignity, the right to private and family life, the right to equality, the right to an effective remedy, and the prohibition against cruel, inhuman or degrading treatment or punishment.



3. Victim Support

9. In cases where individuals have been unlawfully killed, Ethiopia has measures in place to provide support to the families and loved ones of the deceased, including access to legal assistance, counseling, and other forms of support.

4. The national legal frameworks and practices on the protection of dead persons and human remains

10. The obligation towards the protection of the dead persons and their human remains including of victims of potentially unlawful killings includes the obligation to search for and collect the body of the dead, respectful treatment of the dead bodies, return of the dead bodies, and their possessions to their family, identification (accounting) and respectful disposal of the dead.

(a) The Constitution of the Federal Democratic Republic of Ethiopia (FDRE)

11. Rights enshrined in the Constitution are fundamental rights of people equally applicable in all situations irrespective of armed conflicts or not. The main principle as regards the dead is dignity, which is considered an inherent and inalienable human right. It is basic to the living human that continues to apply posthumously. Otherwise, it may amount to mutilation of dead bodies to be despoiled and this in turn easily violates the dignity of the dead. Humiliation, degrading treatment, or other violations of the dignity of persons, including dead persons, can result in the war crime of outrages. This principle of dignity is behind many of the obligations discussed above.
12. Based on Section three of the Constitution, particularly from Arts.18,27, 34(2) and 40, it is possible to infer that prohibition against inhuman treatment, freedom of religion, belief, and opinion, right of family, and property right also extends to the dead and their family. The obligation to search for and collect the dead under the international humanitarian law (IHL) is expected to be accomplished based on the obligation of respect for every dead. It specifically prohibits despoiling or mutilating the dead bodies in armed conflicts.
13. Hence, this is directly related to the prohibition against inhuman treatment stipulated under Article 18 of the FDRE Constitution. It may also refer to article 28 of the FDRE

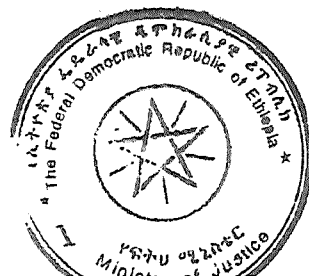


Constitution. Freedom of religion, belief, and opinion stated under article 27 of the Constitution also extend to as IHL stipulates that the dead should be disposed of in a dignified and respectful manner as well as their grave yards must also be respected and properly maintained. The dead should be buried in accordance with rites set by the dead body's custom, religion, and beliefs. The practice of returning the dead and their possessions indicates respect for family life. Family can ensure this by burying the dead bodies near to them.

14. A similar notion is also indicated in the rules of international customary humanitarian law which asserts family life deserves protection. Within this rule, returning the personal effects or possession of the dead to the family also indicates the protection of the right to property proclaimed under article 40 of the Constitution.
15. As a whole, it can be said that the FDRE Constitution of 1995, save the general clause, has not clearly incorporated obligations of dead body management in particular however, one can infer few rights of the dead and their families from the limited provision of the Constitution.

(b) The Criminal Code of 2004

16. The Criminal Code of the Federal Democratic Republic of Ethiopia is the major area of Ethiopian legislation that has been legislated in conformity with the FDRE Constitution. The Code (Proclamation No.414/2004) has carried criminal provisions in respect of the dead body including dereliction of duty towards enemy including mutilation and robbing of the personal effect of the deceased, abandonment of wounded or killed member, outrage on the repose and dignity of the dead including degrading funeral services, abstraction to the detriment of a deceased person, aggravated theft, regulation of burials and cremations and concealment of a corpse.
17. The Code prohibits mutilation under article 275. Violation of this crime entails rigorous imprisonment or in cases of exceptional gravity either life imprisonment or death penalty. This crime, as discussed above, is against the human dignity of the dead. Above all, any contrary practice against this provision amounts to a violation of the obligation to respect and protect the rights of family members, next-of-kin, and loved ones of the dead, who are in agony and distress due to the death. It is wreaking moral pain and mental suffering



on the relatives. So, prohibiting and punishing those who violate at least help to redress the moral pain and mental suffering of the family or beloved ones.

18. The Code also covers few violations of obligations towards the dead under IHL. Concerning the military crimes, the Code under “Crimes against Safety, Morale or Power of Defence Forces” section IV list offenses committed by the members of the Armed Forces of Ethiopia. Article 316 prohibits the abandonment of killed members. It specifically forbids abandonment of the wounded or dead on a battlefield and in the event and these results capture by the enemy, is punishable with rigorous imprisonment not exceeding ten years.
19. Article 316 is one of the legal measures in the Code that prohibits specific forms of IHL violations but focuses on the defense members. Respect for the dead requires the decent burial of their bodies without distinction. IHL expressly requires States to facilitate the return of the remains of the deceased and personal effects to the home country. In situations where the personal possessions of the dead have been collected by the authorities, those items should be returned to the next of kin once there is no legitimate reason to retain them. The retention of such property by the authorities, absence of a legitimate aim, may constitute a violation of the right to property pursuant to article 40 of the FDRE Constitution. This obligation is also found in the human rights protection given to the right to property, set out under article 17 of the UDHR.
20. As human rights apply both at peace and conflict times, it extends to the dead body. Article 317 of the Code in this regard asserts as follows: Any member of the Defence Forces who, with the intent to gain unlawful enrichment, takes public or any other property from a member wounded or killed on the battlefield, is punishable with rigorous imprisonment not exceeding ten years. It is one of the legal measures in the Criminal Code that criminalizes specific forms of violations. This provision is similar to the serious violations of international humanitarian law under customary humanitarian law.
21. The Code also incorporates the obligations, their violations, and corresponding punishments. It includes all serious violations of IHL to provide an effective criminal regime with appropriate sanctions for violation of prohibited obligations as regards the dead persons.



(c) Defense Forces Proclamation No. 1100/2019

- 22. According to article 9(3) of the proclamation every member of the defense forces is obligated to adhere to international humanitarian law. This proclamation emphasizes that members of the military must also comply with all national laws, military laws, rules, directives, and standing orders.
- 23. This indicates that all military personnel have a responsibility to be knowledgeable about and strictly adhere to the international rules governing military conduct, including the treatment of the wounded, sick, shipwrecked, and deceased.

5. Informal Institutions (e.g. Iddir)

- 24. *Iddir* is one of the informal or local informal institutions in Ethiopia established voluntarily by the community and involved in self-help and other social activities. It is established primarily to provide mutual aid in burial matters – the provision of mutual support in time of death. Among the functions of iddir dignified burial of the dead comes first and foremost. Financial, material and emotional support during the bereavement period is also included. Some think that the spread of iddirs has to do with the Ethiopian culture that gives high value to death. It is an association with long history, most widespread, commonly known in rural and urban settings of Ethiopia.

6. Respect for Religious and Cultural Sensibilities

- 25. Ethiopia recognizes the diverse religious and cultural traditions of its population and looks for to ensure that the treatment of dead persons and their remains aligns with these traditions. This includes respecting specific burial rites, funeral customs, and other practices that are important to different religious and cultural communities.
- 26. Family involvement and consent is needed in decisions regarding the final disposition of human remains. This may include obtaining consent from family members before carrying out any actions related to the handling or burial of the deceased. The burial site is usually near a church compound, or in a local cemetery or in a place that is meaningful to the family such as near to their ancestors. Muslim communities follow a common Islamic burial ritual involving bathing and shrouding the body, followed by a funeral prayer.

