



# General Assembly

Distr.: General  
15 December 2023

Original: English

---

## Human Rights Council

### Fifty-fourth session

11 September–6 October 2023

Agenda item 4

### Human rights situations that require the Council's attention

## Report of the International Commission of Human Rights Experts on Ethiopia<sup>\*</sup>, <sup>\*\*</sup>

### *Summary*

In the present report, submitted pursuant to Human Rights Council resolution 51/27, the International Commission of Human Rights Experts on Ethiopia provides an overview of the human rights situation in Ethiopia. It identifies grave and systematic violations of international law and crimes committed in Tigray, as well as in Amhara, Afar and Oromia. Violations include mass killings, rape, starvation, forced displacement and arbitrary detention. The conflict in Tigray has not ended, with Eritrean troops and Amhara militias engaging in ongoing violations. Past and current violations and abuses in the four regions mentioned above demand further investigation. The Government of Ethiopia has failed to effectively investigate violations and abuses and has initiated a flawed transitional justice consultation process. Ethiopia has sought to evade international scrutiny through the creation of domestic mechanisms ostensibly to fight impunity. The Commission recommends a range of measures to end current violations and abuses and promote serious transitional justice.

---

<sup>\*</sup> The present report was submitted after the deadline so as to include the most recent information.

<sup>\*\*</sup> The annex to the present document is circulated as received, in the language of submission only.



## **I. Introduction**

1. The year following the Commission's first report in September 2022 began with some signs of hope for the human rights situation in Ethiopia, which then deteriorated rapidly. The signing of the Agreement for Lasting Peace through a Permanent Cessation of Hostilities by the Government of Ethiopia and the Tigray People's Liberation Front in Pretoria on 2 November 2022 brought about a notable decrease in the large-scale violence in Tigray. However, the Federal Government of Ethiopia has since failed to fulfil its commitments on human rights, transitional justice and territorial integrity under the cessation of hostilities agreement. The conflict in Tigray, where there is still no comprehensive peace, continues to produce misery. It is equally alarming that hostilities have now reached a near-national scale, with serious violations on the rise, particularly in the Amhara region, and continuing in Oromia and elsewhere. The risk to the State, regional stability and the enjoyment of human rights in East Africa cannot be overstated.

2. The violations and abuses of human rights in Tigray are grave and ongoing. Since the signing of the cessation of hostilities agreement, the Commission's investigations have documented the continued presence in Tigray of the Eritrean Defence Forces, responsible for continuing atrocities, at times committed not far from the Ethiopian National Defence Forces. Past and current attacks on civilians in Tigray by the Eritrean Defence Forces – in particular sexual and gender-based violence – have been abetted or tolerated by the Federal Government of Ethiopia, which has failed in its legal duty to protect its population from violations by a foreign army, or by Amhara militia present in western and southern Tigray. In and beyond Tigray, the Commission recorded scores of brutal incidents of rape, other forms of sexual violence and displacement. Across the country in 2023, it has recorded arbitrary detention on a large scale (especially, but not only, of persons of Amhara ethnicity); the ongoing, widespread use of hate speech and incitement to ethnic and gender discrimination; and the continued devolution of civil authority through militarized "command posts", including under state of emergency legislation.

3. These systematic and ongoing violations and abuses are entrenching alienation and estrangement amongst disaffected communities in Tigray, Amhara, Oromia and elsewhere. The vast majority of Ethiopians who were asked by the Commission about accountability and healing expressed their complete lack of trust in the ability of State institutions to carry out a credible process of transitional justice. The Commission's own assessment of the actions of the Government of Ethiopia to date bears out this mistrust. The Government's consultation process falls well short of African Union and international standards. Rather than reflecting victims' voices, it is hostage to an arbitrary deadline for completion. Impunity, rather than accountability, is the norm regarding past violations. Support for survivors of sexual and gender-based violence is non-existent in many areas. Instead of engaging with the Commission on transitional justice, the Government has publicly claimed that it is moving forward on the issue but has done little of substance. As a result of all these factors, there is a risk of future atrocity crimes being committed.

## **II. Mandate and membership**

4. In its resolution S-33/1 of 17 December 2021, the Human Rights Council established the International Commission of Human Rights Experts on Ethiopia for a period of one year, with a mandate to conduct a thorough and impartial investigation into allegations of violations and abuses of international human rights law and violations of international humanitarian law and international refugee law in Ethiopia committed since 3 November 2020 by all parties to the conflict. Its mandate includes collecting and preserving evidence, in support of accountability efforts, and integrating a gender perspective and survivor-centred approach throughout its work. The Commission must also provide guidance on transitional justice, including accountability, reconciliation and healing. At the Council's fifty-first session, the Commission's mandate was renewed for a further period of one year, covered in the present report.<sup>1</sup> The Commission comprises three human rights experts appointed by the

---

<sup>1</sup> Human Rights Council resolution 51/27.

President of the Council: Mohamed Chande Othman (Chair, United Republic of Tanzania), Steven Ratner (United States of America) and Radhika Coomaraswamy (Sri Lanka).<sup>2</sup>

### III. Methodology and standard of proof

5. The methodology employed by the Commission was based on the best practices of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and fact-finding and investigation bodies mandated by the Council.<sup>3</sup> The Commission adopted an inclusive, age- and gender-balanced approach to its investigations. It developed a strategy designed to collect, preserve and analyse evidence while also building the foundation for longer-term collection and verification efforts. The Commission adopted internationally accepted procedures and technologies for the conduct of remote investigations by investigation bodies denied physical access.

6. Consistent with other investigative mandates established by the Council, the Commission employed a “reasonable grounds to believe” standard of proof. This standard is met when factual information has been collected that would satisfy an objective and ordinarily prudent observer that the incident has occurred as described with a reasonable degree of certainty.

7. The investigative component of the present report was prepared primarily on the basis of 545 first-hand interviews conducted either remotely or in person in countries neighbouring Ethiopia.<sup>4</sup> This includes 360 interviews carried out during the reporting period with 152 women, 3 girls, 199 men and 4 boys, and 185 interviews conducted during the Commission’s first mandate period with 102 women, 2 girls and 81 men. Interviewees identified as being of Afar, Agew, Amhara, Irob, Kunama, Oromo, Qemant, Somali, Tigrayan and mixed ethnicity. The Commission also interviewed Eritrean refugees who identified as being of Biher-Tigrinya and Bilen ethnicity. Interviewees identified as being of the Orthodox, Catholic, Protestant and Muslim faiths or as not holding religious beliefs. They also included persons who identify as LGBTQIA+.

8. In addition to first-hand statements, the Commission collected, consolidated, preserved and analysed over 570 supplementary documents and other evidence, including satellite imagery, particularly from the United Nations Satellite Centre, photographs, videos, public statements by officials and copies of medical records.

9. The Commission faced challenges that prevented it from thoroughly fulfilling its mandate. Owing to logistical and administrative circumstances beyond its control, a significant proportion of its staff did not begin work until March 2023. This made it difficult for the Commission to carry out investigations in some regions to the same extent it had in others. The problem was compounded by telecommunications blackouts and disruptions and by protection concerns. In the present report, the Commission highlights some of the most serious violations but does not capture them all.

### IV. Engagement with Member States

10. The Commission regrets the lack of cooperation from the Government of Ethiopia, despite the appeals made by the Council and in the Commission’s own communications. The Commission repeatedly asked the Government of Ethiopia for meetings, information and access to the country to implement its investigative mandate.<sup>5</sup> The Commission also sought to engage with the Government on its advisory mandate, providing a guidance note on the

<sup>2</sup> Former members include Chairs Fatou Bensouda (the Gambia) and Kaari Betty Murungi (Kenya).

<sup>3</sup> See

[https://www.ohchr.org/sites/default/files/Documents/Publications/CoI\\_Guidance\\_and\\_Practice.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/CoI_Guidance_and_Practice.pdf).

<sup>4</sup> In 2023, the Commission carried out missions in Nairobi (29 January–3 February and 7–14 May) and Kampala (4–5 July).

<sup>5</sup> Notes verbales of 30 January 2023, 2 March 2023, 9 May 2023 and 23 June 2023.

ongoing transitional justice consultation and requesting further cooperation.<sup>6</sup> The Government neither responded to nor acknowledged these requests.

11. The Commission also wrote to the Government of Eritrea about its presence and involvement in alleged violations in Ethiopia.<sup>7</sup> It received no response.

12. The Commission engaged with Ethiopians living in neighbouring countries and is grateful to the Governments of Kenya and Uganda for their cooperation in this regard. It regrets that the Governments of Djibouti and the Sudan did not respond to repeated requests for access to Ethiopian refugees residing in their territories.

13. The Commission engaged with the Ethiopian Human Rights Commission and the OHCHR Regional Office for East Africa on information-sharing. It initially requested access to information collected by the joint investigation team of OHCHR and the Ethiopian Human Rights Commission in May 2022. However, the requested information was not provided until August 2023, after the investigation phase of the Commission's mandate had ended.

## V. Context

14. In its previous report, the Commission noted the complex background to violent and multiple conflicts in Ethiopia.<sup>8</sup> Political polarization concerning federalism and centralization and new and long-standing ethnic grievances have continued to destabilize Ethiopia. After six months of fighting between November 2020 and June 2021, and a further year of bombardment and blockade, hundreds of thousands more civilians were displaced and endangered by renewed fighting in Tigray from 24 August to 2 November 2022. Talks between the Federal Government of Ethiopia and the Tigray People's Liberation Front in October 2022 failed as the Ethiopian National Defence Forces and allied forces pressed into new areas. However, on 2 November 2022, the two sides signed the cessation of hostilities agreement. Although the handover of heavy weaponry and the disarmament of some Tigrayan forces have since been confirmed, both Eritrean and Amhara forces remain present in parts of Tigray, and the agreement has not yet paved the way for a sustainable settlement.

15. After the signing of the cessation of hostilities agreement, there was a re-escalation in hostilities between the Oromo Liberation Army and Ethiopian National Defence Forces, which had been ongoing since early 2019. Violence has also increased in the four Wollega zones, Guji, Borana and in parts of West Shewa. Initial negotiations between the Federal Government of Ethiopia and the Oromo Liberation Army collapsed in April 2023, and the Government relaunched counter-insurgency operations in May 2023.

16. In April 2023, the security situation in Amhara began to deteriorate, following the assassination of the ruling party's regional head. Amid wider and long-standing Amhara grievances against the Federal Government, key Amhara politicians disapproved of the negotiations on the cessation of hostilities agreement and strongly opposed a withdrawal of Amhara forces from western Tigray. By July 2023, local Amhara Fano militia groups began to coalesce, boosted by members of the Amhara Special Forces, which the Government of Ethiopia had attempted to demobilize. Following a campaign to assassinate senior regional security officials, Fano and allied militants were able to enter and control several towns. As in Tigray and Oromia, these Amhara groups also seem to enjoy considerable local support.

17. After earlier moving against the Tigray People's Liberation Front in Tigray, and the Oromo Liberation Army and other opposition groups in Oromia, the Government has now moved against political opponents in Amhara. In early August 2023, it declared a national state of emergency, placing Amhara under the control of a national command post. Fighting has continued in most areas of the region, with large-scale arrests in others.

<sup>6</sup> Notes verbales of 9 May 2023, 23 June 2023, 15 June 2023 and 31 May 2023.

<sup>7</sup> Note verbale of 29 July 2023.

<sup>8</sup> [A/HRC/51/46](#), paras. 21–24.

## VI. Military and armed actors

18. The conflicts since November 2020, both before and after the signing of the cessation of hostilities agreement, have involved multiple armed actors and hundreds of thousands of combatants. They include the Ethiopian National Defence Forces and the Eritrean Defence Forces, under the official chain of command of each State. They also include special forces – nominally under the responsibility of each Ethiopian regional state government – and a range of local and ethnic militias, some of significant scale. Many have shown a fluid tendency to align and realign with or against one another. Individuals and groups have often shifted allegiance and moved along a spectrum from formal military forces to localized, temporary or ad hoc militia, with several militia groups consolidating over the Commission's mandate. Tigrayan forces were made up of Tigrayan veterans and (former) members of the Ethiopian National Defence Forces, the Tigray Special Forces, the Tigray regional police, Tigray militia and new recruits. At times they allied with others, particularly Agew and Oromo groups.

19. Besides the multiple armed actors, the Government of Ethiopia, at the federal and regional levels, has regularly deployed a joint civilian-military “command post” system to implement the states of emergency declared since November 2020. This system is used to centralize control of all military, law enforcement and civil powers into one integrated security effort headed by the Prime Minister and exercised through the high command of the Ethiopian National Defence Forces. Subordinate command posts also continue to be established locally to combine civilian and military control at lower levels.

## VII. Investigative findings

20. The Commission's first report addressed only a small number of illustrative incidents and identified several areas meriting further investigation. Since its mandate was renewed, the Commission has investigated alleged violations perpetrated in Tigray, Amhara, Afar and Oromia, as well as violations against Tigrayans in other parts of Ethiopia. In the present section, the Commission focuses on incidents that occurred during the period from November 2020 to the signing of the cessation of hostilities agreement in November 2022. The Commission also investigated violations, abuses and concerns that have persisted since the signing of the cessation of hostilities agreement (see sect. VIII below). More detailed findings and conclusions are provided in the Commission's conference room paper.<sup>9</sup>

### A. Tigray

#### Mass killing of civilians

21. The Commission investigated several incidents of mass killings perpetrated by the Ethiopian National Defence Forces and the Eritrean Defence Forces, jointly or with the acquiescence of the other, which occurred in close proximity in time and place. Four emblematic examples include mass killings by the Ethiopian National Defence Forces and Eritrean Defence Forces in Zela Ambesa (13 November 2020) and in Adwa (20 November 2020), by the Ethiopian National Defence Forces in Bora (8 January 2021) and by the Eritrean Defence Forces in Maryam Dengelat (30 November 2020). The Commission documented another mass killing by Eritrean Defence Forces soldiers in Mariam Shewito (25 October 2022), just days before the cessation of hostilities agreement was signed.

22. In addition to these incidents of mass killings, the Commission verified 49 separate incidents of large-scale killings carried out by members of the Ethiopian National Defence Forces and/or Eritrean Defence Forces in north-western, central, eastern, north-eastern, south-eastern and southern Tigray beginning in November 2020. All reflected a manifest pattern, distinctly characterized by undertones of androicide and overwhelmingly targeted at

<sup>9</sup> See the conference room paper of the Commission on its comprehensive investigative findings and legal determinations, available on the web page of OHCHR (<https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/chreetiopia/a-hrc-54-crp-3.pdf>).

fighting-age civilian males of Tigrayan ethnicity. Credible information indicates dozens of other similar incidents of large-scale killings that require further investigation.

23. Killings in Tigray region were carried out in the context of a siege, during which the Ethiopian National Defence Forces and Eritrean Defence Forces deliberately interrupted food and medical supplies and cut off essential services, including banking, telecommunications, electricity and trade. From November 2020 to June 2022, the Eritrean Defence Forces, Ethiopian National Defence Forces, Amhara Special Forces and Fano militia engaged in looting, pillaging and the destruction of civilian property on a massive scale, while the Government of Ethiopia interrupted essential services, including telecommunications, banking and electricity, and restricted humanitarian access. From late June 2021, the Federal Government of Ethiopia cut off the region completely, and services did not resume until after the cessation of hostilities agreement was signed; at the time of writing (September 2023), they have still not been fully restored.

24. The attacks on communities and their social fabric through the killing of men and boys and sexual violence against women and children were combined with the destruction of homes, crops, livestock and the regional health system. Access to medical assistance for survivors was curtailed by the siege, leaving them without the most basic medical care or any form of psychological support. The Commission previously found that the denial and obstruction of humanitarian access to Tigray by the Federal Government and allied regional state governments within Ethiopia was a violation of the prohibition of the use of starvation of the civilian population as a method of warfare. The Commission further verified hundreds of incidents of rape and other forms of sexual violence and civilian deaths directly attributable to the manufactured humanitarian crisis in the period up to the signing of the cessation of hostilities agreement.

#### **Rape and other forms of sexual violence**

25. Across all zones and phases of the conflict in the Tigray region, the Commission documented patterns of widespread and systematic rape and other forms of sexual violence perpetrated against women and children. Such acts were carried out primarily by members of the Eritrean Defence Forces and by or, often jointly with, members of the Ethiopian National Defence Forces, Amhara Special Forces, Afar Special Forces and Fano. Multiple-perpetrator rapes often involved members of different armed groups, which suggests collaboration between members of various armed forces and factions.

26. Tigrayan women, predominantly of reproductive age, were often targets of sexual violence during home invasions, during looting of shelter sites, in detention settings, in situations of enslavement, at or near barracks or while searching for food, water or safety. Survivors ranged in age from as young as 9 years to 60 years and included pregnant women. Most women were subjected to unprotected multiple-perpetrator rape or individual-perpetrator vaginal, anal and/or oral rape, often in front of children in their care or family members. At least one victim was raped on top of her dead family members immediately after they had been killed by the Ethiopian National Defence Forces.

27. Several of these acts were characterized by the deliberate infliction of burns and the insertion into the genitals of foreign objects, including daggers, stones, plastic, nail clippers and, in one case, a plastic bag containing an ethnically derogatory note. Many of the objects could only be removed later through medical intervention. In similarly harrowing cases, other survivors were urinated on or forced to drink urine. Rapes were often accompanied by dehumanizing and ethnicized language.

#### **Arbitrary arrest, detention and custodial deaths**

28. When the conflict broke out in Tigray in November 2020, government forces immediately began ethnically profiling and arbitrarily arresting and detaining Tigrayans, in particular Tigrayan members of the Ethiopian National Defence Forces, police force and civil service – but also academics and business people – who were consistently referred to pejoratively as *junta*. After Tigrayan forces captured Mekele and other territory in Tigray and began to advance towards Addis Ababa, a second wave of mass arrests and detention of Tigrayans began in Addis Ababa in July 2021.

29. The Government declared a nationwide state of emergency on 2 November 2021, after which Tigrayans in Addis Ababa continued to be profiled, arrested and detained until mid-2022. Some were transferred between detention facilities or makeshift internment camps both within and outside Addis Ababa, including in Awash Sabat and Awash Arba, in Afar region. The Commission identified up to 20 official and unofficial detention locations used by government forces to detain Tigrayan civilians during this period. On 21 November 2021, Ethiopian National Defence Forces soldiers executed 83 Tigrayan men and women soldiers of the Ethiopian National Defence Forces who were detained in Mirab Abaya and Arba Minch in the Southern Nations, Nationalities and Peoples' region.

30. In western Tigray, thousands of Tigrayan women, men and children were also rounded up by Amhara Special Forces and Fano – at times accompanied by members of the Ethiopian National Defence Forces and Eritrean Defence Forces – and taken to detention camps, particularly between July and November 2021. Detainees were killed, tortured, raped and, in some instances, forcibly disappeared. The overwhelming majority were subjected to inhumane conditions and treatment in detention; most were not provided with sufficient access to food, water, sanitation or medical treatment. Some Tigrayans were detained for brief periods and then forcibly expelled from western Tigray, while others were held for over a year before being forcibly expelled. It appears that women who were married, pregnant or had children, as well as children and people over the age of 65 years, were released in November 2021 and forcibly expelled from western Tigray. Men perceived to be of fighting age and women without children or who were not pregnant were kept in custody. The Commission documented expulsions of Tigrayans from western Tigray even after the cessation of hostilities agreement had been signed.

31. The Commission documented similar patterns of detention in Afar region; for example, Tigrayan women, men and children living in Ab'ala town, bordering Tigray, were rounded up by Afar Special Forces in December 2021 and taken to detention camps in Semera, where they were held for up to nine months. Once again, detainees were kept in appalling conditions, and the Commission documented rape and other forms of sexual violence against women and girls.

#### **Incitement to discrimination, hostility and violence**

32. Violations against Tigrayan civilians were frequently accompanied by insulting or derogatory language, often through the pejorative use of terms including *junta*, *woyane* and *agame* during attacks. At times, perpetrators indicated a clear intention to target the group on the basis of ethnicity. This pattern included describing Tigrayans as “cancer” and indicating a desire to kill men and children and to “destroy” women’s reproductive capacities.

33. Violations also occurred in a wider context of narratives against the Tigray People’s Liberation Front propagated by government officials; over time such narratives expanded to include the broader Tigrayan population. The Prime Minister of Ethiopia, for instance, insinuated, on 30 June 2021, that all Tigrayans were supporting “the enemy” and that *junta* were a “cancer” and “invasive weeds” that needed to be removed;<sup>10</sup> and, in November 2021, he called the Tigray People’s Liberation Front a “terrorist” group “who have tentacles embedded within civilian populations”.<sup>11</sup> Other federal officials and politicians also used derogatory language to describe the Tigray People’s Liberation Front and called for its erasure and elimination. Such narratives were prevalent on social media.

## **B. Amhara and Afar**

34. By July 2021, Tigrayan forces and allied militia members began committing serious violations and abuses during offensives in the regions of Amhara and Afar. At times, local villagers and residents took up arms to fight against Tigray-aligned forces, although Tigray-aligned fighters also killed unarmed civilians, particularly men, not taking direct part in hostilities.

<sup>10</sup> See <https://twitter.com/PMEthiopia/status/1465737984129605640>.

<sup>11</sup> Ibid.

## Amhara

35. While in control of towns and villages in Amhara, Tigray-aligned fighters also conducted regular house searches looking for “militia” members and weapons, during which they beat, harassed and detained civilians. One survivor, a woman from Wag Hamra, Amhara, told the Commission:

Three [Tigrayan fighters] broke the door and entered my house. They said they had been informed that it was a militia house and that there were weapons; they searched but didn’t find any, so they detained me. That night, two of them came to my room. They beat and kicked me ... then they both raped me.

36. The presence of Tigray-aligned fighters in Amhara between July and December 2021 was also accompanied by violence and brutality, including rapes of girls as young as 11 years and of women, in some cases in front of their children. The Commission documented widespread rape, multiple-perpetrator rape and other forms of sexual violence against ethnic Amhara and Agew women and girls in at least 11 towns and villages in Wag Hamra, North and South Wollo and North Shewa. Certain incidents were characterized by pejorative and derogatory comments, with survivors often called “Amhara donkeys” or accused of being “Abiy’s puppets”. In some instances, Tigray-aligned fighters told the victims they were specifically targeting Amhara women and girls in revenge for the rape of Tigrayan women.

37. The Commission further reinforced its previous findings that Tigray-aligned fighters killed numerous civilians in the town of Kobo, in North Wollo, and Chenna village, in North Gondar in September 2021,<sup>12</sup> and documented killings of Amhara civilians, including in Shewa Robi and Yelen. The targeting of men in Kobo and Chenna continued to have a significant impact on women, many of whom struggled to care for their children and extended families in the absence of male breadwinners.

38. Tigrayan forces and their allies also engaged in widespread looting of public and private property in Chenna, Dessie, Hayk, Kobo, Lalibela, Sekota, Shewa Robit and Yelen. This included schools, medical facilities, police stations and other civilian buildings. A man from Kasagita in Afar region told the Commission:

It’s something very difficult to explain. I lost many people who were dear to me ... my house was destroyed and looted. [Now] I have nothing and receive no humanitarian assistance ... I’m living in misery.

## Afar

39. Witnesses in Afar provided consistent accounts of the intense fighting between Tigray-aligned fighters and the Ethiopian National Defence Forces and its allies during Tigrayan attacks on towns and villages, including Berhale, Ab’ala, Kasagita, Erbeti and Konnaba, particularly from November 2021 to March 2022. They reported widespread pillaging of civilian homes and foodstuffs. Tigray-aligned fighters also killed civilians and perpetrated acts of rape and other forms of sexual violence against women and girls. Wives of local militia fighters, or women perceived to be related to militia, were especially targeted. This had a significant impact on children and relatives, many of whom witnessed the assaults. As in Amhara, interviewees described how they were struggling to care for their children and extended families due to the killing of men. Civilian casualties also often resulted from incidents of shelling that forced people to flee their homes. Although active fighting in Afar region has ceased, the Commission documented how explosive remnants of war pose a serious and ongoing threat to civilians, particularly children. At least 185 people, mostly children, have been killed as a result of explosive remnants of war in Afar since November 2020.

40. Witnesses in Afar further described the large-scale looting of livestock, including camels and oxen. This has had a devastating and long-term impact on communities, who rely on livestock for both food and income. As elsewhere in Ethiopia, humanitarian needs in Afar

<sup>12</sup> A/HRC/51/46, paras. 35–44.



remain significant, particularly as a result of the pause in food aid distribution, high rates of malnutrition and the multi-regional invasion of desert locusts.

### C. Oromia

41. The Commission investigated several emblematic incidents of extrajudicial killings, including the detention and killing of leaders of the Karrayyu community at the hands of government security forces in Fentale district, East Shewa, on 1 December 2021. Security forces detained 39 men, including the senior leadership of the Karrayyu community, who were participating in a *Waaq Kadhaa* prayer ceremony, and summarily executed 14 men and held 23 others in a military detention camp for over one month. In another incident, a 17-year-old boy was publicly executed by government security forces in Dembi Dollo, Kellem Wollega, on 11 May 2021. He had been accused of being a member of a local armed group. Despite widespread outrage in both cases, as far as the Commission is aware, no one has been held accountable. Oromos living in Kellem Wollega and West Wollega also described killings, with total impunity, of family members who had, in many cases, been accused of belonging to armed groups. A man detained by security forces in West Wollega told the Commission:

They tied my hands behind my back. They stepped on my head with their shoes. Then I was beaten with electric wire on the soles of my feet ... They kept telling me that I had a link with the OLA [Oromo Liberation Army] ... I do not know any OLA [members].

42. The Commission further uncovered a pattern of arrest and detention of Oromo civilians, in particular men, accused of having links with the Oromo Liberation Army. Detentions documented between November 2020 and February 2023 were perpetrated primarily by the federal or regional police, Oromia Special Forces and at times the Ethiopian National Defence Forces and were accompanied by torture and ill-treatment. Violations are ongoing. Family members of suspected Oromo Liberation Army fighters were also targeted for arrest and detention; that included women who experienced sexual violence. Arrests, detentions and killings often took place against a backdrop of curfews and restrictions on movement, contributing to an overarching climate of fear. Large areas of Oromia appear to have been administered throughout the Commission's mandate by militarized command posts, regardless of whether state of emergency legislation was in force.

43. The Commission also continued to investigate the civilian impact of a series of Ethiopian Air Force drone strikes carried out in Oromia region in October and November 2022, when fighting between the Oromo Liberation Army and Ethiopian National Defence Forces had re-escalated, particularly in western Oromia. Access to western Oromia remains extremely restricted, imposing constraints on access to information. The Commission was able to verify three separate incidents during which civilians were killed or injured and recommends further investigations.

## VIII. Ongoing violations and concerns: key themes

### A. Continued presence of Eritrean forces

44. The presence of Eritrean forces in Ethiopia since the onset of fighting in early November 2020 has significantly exacerbated the conflict in Tigray and the scale and intensity of violations. After months of denials, the first official confirmation of the involvement of Eritrean troops emerged from Ethiopia in March 2021 and from Eritrea in April 2021.

45. Multiple witnesses confirmed that troops of the Ethiopian National Defence Forces and Eritrean Defence Forces had conducted joint operations on the ground, often arriving simultaneously in towns and villages. Credible information also indicated that certain air attacks in Tigray were launched from Eritrean territory.

46. Multiple victims and witnesses identified Eritrean forces as having committed some of the most serious violations in Tigray. These include large-scale killings, particularly of civilian Tigrayan men perceived to be of fighting age; rape and other forms of sexual violence; arbitrary detention; attacks against refugee camps and refoulement of Eritrean refugees in Ethiopia; indiscriminate shelling of civilian areas; destruction and looting; and arbitrarily blocking humanitarian access. The President of Eritrea, Isaias Afwerki, has continued to deny allegations of violations by Eritrean Defence Forces troops, describing them as “lies”, “fabrication” and “fantasy”.<sup>13</sup> The cessation of hostilities agreement required the disarmament of Tigrayan forces alongside the full withdrawal of foreign forces from Ethiopian territory and of forces other than the Ethiopian National Defence Forces from Tigray. Not only do Eritrean forces remain present on Ethiopian territory, but their presence frustrated the activities of the African Union Monitoring, Verification and Compliance Mission and the Office for the Coordination of Humanitarian Affairs in May 2023.

47. Since the cessation of hostilities agreement was signed, the Commission has documented Eritrean forces’ continued presence and involvement in violations in Tigray. It is particularly concerned about the ongoing presence of Eritrean forces in areas of Ethiopia populated by minority Irob and Kunama communities close to the international border; the Commission continues to receive credible reports of violations against civilians in these areas. The violations by the Eritrean Defence Forces, whether acting in coordination with Ethiopian National Defence Forces or on their own, highlight a flagrant failure of Ethiopia to protect its own civilian population from violations by other actors, as required under international human rights law. The ongoing violations by Eritrean forces merit further investigation.

## **B. Starvation and food insecurity**

48. The Commission welcomes the explicit commitments made by signatories to the cessation of hostilities agreement to allow for unhindered humanitarian access to all in need; to use humanitarian aid exclusively for humanitarian purposes; and to ensure that humanitarian aid is used solely for such purposes.<sup>14</sup> Such commitments are particularly important given the previously documented use by the Federal Government of Ethiopia and allied regional state governments of starvation as a method of warfare in Tigray region. More broadly, the State of Ethiopia has a core legal obligation to take the necessary action to mitigate and alleviate hunger for all its population. One man who had been displaced in Tigray told the Commission:

Some brothers and sisters died by bullets, but we can die by starvation.

49. After discovering that aid was being diverted, the United States Agency for International Development and the World Food Programme (WFP) announced, on 3 May 2023, that they had suspended in-kind food assistance to the Tigray region. In June 2023, the suspension was extended to the whole country after indications of a widespread, coordinated campaign of aid diversion. According to the head of the Tigray office of the Ethiopian Disaster Risk Management Commission, some 1,400 hunger-related deaths were recorded in Tigray between April and August 2023 alone.

50. Since the suspension of food aid was announced in May 2023, multiple interviewees in Tigray described facing a “desperate situation” caused by the lack of aid. One interviewee displaced in Maychew district noted how assistance in the form of wheat, lentils and cooking oil had dwindled completely by June 2023. Others explained the impact of losing weekly grain and corn provisions, having to borrow money to obtain basic staples to feed their families or relying on bits of leftover meals from their neighbours for basic sustenance. This situation is challenging for displaced civilians who are unable to return home due to the presence of armed actors, including those civilians forcibly displaced from western Tigray

<sup>13</sup> See <https://apnews.com/article/politics-kenya-government-ethiopia-isaias-afwerki-eritrea-ab9b7755875fe21b797f5f50fec58a3b>.

<sup>14</sup> Cessation of hostilities agreement, arts. 2 (g) and (h) and 5, para. 4.

by Amhara forces. In August 2023, WFP announced that it would slowly resume food aid to Ethiopia through small-scale distribution.

51. The Commission is deeply concerned that, at the time of writing, more than 20 million Ethiopians urgently require humanitarian food assistance, with many, including those in the drought-affected areas of Afar and Oromia, suffering from famine-like conditions.<sup>15</sup> Over 253,300 people in southern Tigray also depend on 33,000 hectares of crops that are at risk of locust infestation. Meanwhile, malnutrition rates across Ethiopia remain exceedingly high, with nearly 39 per cent of Ethiopian children currently experiencing stunted growth.<sup>16</sup> Access to adequate health care also remains precarious in Tigray, with, for example, residents in Egela district, including pregnant women, forced to walk nearly 40 km to reach the nearest health facility. The Commission notes that the perpetration and impact of starvation is gendered and further found a nexus between crimes of starvation and sexual violence.

### C. Sexual and gender-based violence

52. The Commission found ongoing patterns of rape and other forms of sexual violence, predominantly multiple-perpetrator rape and situations of sexualized enslavement targeting women and girls. The Commission documented rape and other forms of sexual violence by members of both the Eritrean Defence Forces and Amhara forces since the cessation of hostilities agreement was signed, and received additional credible information indicating that more than 100 girls were raped or otherwise subjected to brutal forms of sexual violence in Tigray during the same period, in particular in areas where soldiers of the Eritrean Defence Forces are present. Based on the consistent patterns documented by the Commission over the course of its mandate, there are reasonable grounds to believe that members of the Eritrean Defence Forces bear responsibility for continuing crimes of rape and other forms of sexual violence against women and girls in Tigray.

53. The Commission has consolidated the number of survivors of sexual violence who sought care in seven one-stop centres in Tigray between November 2020 and July 2023, as estimated by health-care providers. That figure alone exceeds 10,000 survivors, primarily women and girls. By comparison, the Commission is aware of only 13 concluded and 16 pending Ethiopian military court cases addressing sexual violence committed during the conflict.<sup>17</sup> Such cases cannot be said to render meaningful justice for survivors, particularly considering the past and current impunity for such acts in Ethiopia. One survivor of sexual violence told the Commission:

Survivors lost faith in justice; they asked me if the world had forgotten about them, and if their family would ever accept them after what happened to them.

54. Social discrimination associated with sexual violence and the lack of access to education – coupled with telecommunications and Internet shutdowns and inaccessible health systems in Tigray, Amhara, Afar and Oromia – have contributed to the untreated, long-term physical and mental health consequences affecting sexual violence survivors and to significantly delayed reporting and underreporting.

55. Multiple interviewees from Afar, Amhara and Tigray described how the often-severe sexual abuse of mothers, grandmothers, sisters and daughters in front of or with the knowledge of their family, including children, caused long-term physical and mental health consequences far beyond the survivor. Survivors, civil society activists and religious leaders in these regions also described other impacts for women, including social stigmatization, isolation and the threat of divorce.

56. The realities of a dismantled health system in Tigray and sparsely available health systems in Afar, Amhara and Oromia raise serious concerns about undiagnosed and untreated long-term physical consequences of rape and other forms of sexual violence and related sexual and reproductive health issues. These include HIV, sexually transmitted infections,

<sup>15</sup> See <https://news.un.org/en/story/2023/06/1137512>.

<sup>16</sup> See <https://www.unicef.org/ethiopia/every-child-nutrition>.

<sup>17</sup> [S/2023/413](#), para. 80.

reproductive harm and unwanted pregnancies, which, when discovered, have led to a prevalence of unsafe abortions.

57. Meanwhile, structural drivers of rape and other forms of sexual violence in Ethiopia, including systemic gender inequity in all areas of life, the absence of protective State structures or law enforcement, continued economic and sociopolitical instability and the normalization of violence against women and girls have been exacerbated by armed conflict and violence. While manifestations of patriarchal domination in Ethiopia vary by region, ethnicity and religion, the destabilizing effect of sexual violence continues to significantly weaken the country's social fabric.

#### **D. Incitement to discrimination, hostility or violence**

58. During its investigation, the Commission has been struck by the prevalence of exclusionary and hateful discourse in Ethiopia, particularly online. The Commission found multiple instances of derogatory language, sexualized verbal abuse and incitement against political and ethnic groups since November 2020. For example, the Commission observed an increase in ethnicized language objectifying Oromos, Tigrayans and Amharas in the context of the deteriorating security situation in Amhara from April 2023. In recent weeks, senior government advisers coined a new term, *jawisa*, for Fano fighters.<sup>18</sup>

59. From July 2023, the Commission also documented a disturbing increase in hate speech against persons who identify as LGBTQIA+, including calls to kill, whip and beat them; it noted instances of alleged attacks and statements made by members of parliament, senior members of the Government, academics, opposition politicians, media platforms and diaspora groups. Such rhetoric is even more disturbing as it comes in a context where LGBTQIA+ persons face discrimination, marginalization and criminalization in law, policy and practice.

#### **E. Securitization of the State**

60. Many of the violations perpetrated by the Ethiopian National Defence Forces, Eritrean Defence Forces, Amhara Security Forces and Fano in Tigray during the first phase of the conflict were committed while the region was under the control of a command post, established under the state of emergency announced on 4 November 2020. In response to the increased violence in Oromia and Amhara, command posts were established in western and southern Oromia in early 2019, comprising local militia, Oromia Special Forces, Ethiopian National Defence Forces, federal police and Oromia regional police. The Commission found that although the command posts have been officially lifted, they continue to operate in some areas of Oromia. Witnesses from western Oromia described ongoing arbitrary restrictions on freedom of movement, including curfews; denial of access to health care; shootings of unarmed residents; and arbitrary arrest and detention. Other violations committed under the authority of the command posts include extrajudicial killings, rape and the destruction of civilian property. One Oromo man told the Commission:

A command post means the rule of gun. There is no law, the local administration is frozen, and the army rules the area ... what the command post does, it does with complete impunity.

61. Most recently, on 4 August 2023, the Council of Ministers of Ethiopia announced a six-month state of emergency that also established a command post system across Amhara, where six cities are now under a state of emergency and curfew, including regional capital Bahir Dar, Gondar and Lalibela. Telecommunication interruptions made accessing information challenging; however, the Commission received multiple credible reports of violations, including mass arbitrary detention of Amhara civilians and at least one drone strike.

<sup>18</sup> *Jawisa* means bandit, hunter or scavenger.

## IX. Legal findings

62. The Commission's legal findings are based on its investigative findings. Detailed findings, including under international refugee law, are provided in the Commission's conference room paper.<sup>19</sup> A summary of the applicable law is also provided in the annex to the present report. Based on its investigative findings and continuous credible reports of serious violations of international law, further investigation is warranted into ongoing violations and other risks of future atrocity crimes. This includes further investigation of the situation in Amhara, Oromia and western Tigray and of reported violations by the Eritrean Defence Forces in other areas of Tigray. Additional investigations into command and superior structures in the conflict since 3 November 2020 are also required, including regarding intent.

63. These legal findings should be read in the context of State responsibility, which should be addressed alongside individual criminal responsibility, as part of accountability and transitional justice processes. The Governments of Ethiopia and Eritrea carry State responsibility for violations of international law committed by their organs of State, and persons and groups acting under their instruction, direction or control. The Government of Ethiopia is also responsible under international human rights law for its failure to protect its citizens and others on its territory from violations committed there by the Eritrean Defence Forces and non-State actors.

### International human rights law

64. The Commission finds reasonable grounds to believe that the Ethiopian National Defence Forces, Eritrean Defence Forces and allied regional special forces, including the Amhara Special Forces and Afar Special Forces and militias, particularly Fano, have committed serious human rights violations and abuses since 3 November 2020 in Tigray and against Tigrayans elsewhere. This includes the right to life; right to non-discrimination; prohibition of torture and ill-treatment, including rape and other forms of sexual violence; prohibition of slavery; right to physical and mental health, including sexual and reproductive health; prohibition of arbitrary arrest and detention; prohibition of enforced disappearance; right to freedom of movement; and the right to an adequate standard of living, particularly the right to food and drinking water. The Ethiopian authorities further violated the prohibition of incitement to discrimination, hostility or violence, by engaging in and failing to prevent prohibited speech offline and online.

65. During the period that Tigrayan and allied fighters had de facto control over towns and areas in Amhara, between July and December 2021, and in Afar, between November 2021 and March 2022, the Commission finds reasonable grounds to believe that they failed to respect the fundamental rights of persons under their control. This includes the right to life; right to non-discrimination; prohibition of torture and ill-treatment, including rape and other forms of sexual violence; prohibition of the slave trade and slavery; right to physical and mental health; prohibition of arbitrary arrest and detention; right to freedom of movement; and the right to an adequate standard of living, particularly the right to food.

66. In relation to the incidents investigated by the Commission in Oromia, there are reasonable grounds to believe that the Ethiopian National Defence Forces and Oromia regional authorities committed serious violations of human rights, in particular the right to life; prohibition of torture and ill-treatment, including rape and other forms of sexual violence; and arbitrary arrest and detention.

### International humanitarian law

67. The Commission finds reasonable grounds to believe that the Ethiopian National Defence Forces, Eritrean Defence Forces and allied regional special forces, including the Amhara Special Forces and Afar Special Forces and militias, particularly Fano, have committed violations of international humanitarian law since 3 November 2020 in Tigray

<sup>19</sup> See the conference room paper of the Commission on its comprehensive investigative findings and legal determinations.

and against Tigrayans elsewhere. Violations pertain to the principles of distinction and precaution in attack; prohibitions of violence to life and person and outrages upon personal dignity, including murder of all kinds, mutilation, cruel treatment and torture, and humiliating and degrading treatment; making the civilian population the object of attack; spreading terror among the civilian population; and starvation of the civilian population as a method of warfare, including by pillaging and destroying, removing or rendering useless objects indispensable to their survival. They also committed grave violations against children, including killing and maiming, rape and other forms of sexual violence and denial of humanitarian access.

68. In addition, in western Tigray, Amhara Special Forces and Amhara regional police, with the involvement of Fano, violated international humanitarian law by forcibly displacing the civilian population absent military necessity or security reasons.

69. There are also reasonable grounds to believe that Tigrayan and allied fighters violated international humanitarian law in Amhara between July and December 2021 and in Afar between November 2021 and March 2022. Violations pertained to the principles of distinction and precaution in attack; prohibitions of violence to life and person and outrages upon personal dignity, including murder of all kinds, mutilation, cruel treatment and torture, and humiliating and degrading treatment; making the civilian population the object of attack; pillaging; and reprisals. They also committed grave violations against children, including killing and maiming and rape and other forms of sexual violence.

#### **International criminal law**

70. Given the nexus of investigated incidents and patterns to the non-international armed conflict, the Commission finds reasonable grounds to believe that many of the violations committed by the Ethiopian National Defence Forces, Eritrean Defence Forces and allied regional special forces, including the Amhara Special Forces and Afar Special Forces and militias, particularly Fano, in Tigray and against Tigrayans elsewhere since 3 November 2020 amount to war crimes – including violence to life and person; outrages upon personal dignity; intentionally directing attacks against the civilian population; pillage; rape; sexual slavery; sexual violence; and the intentional use of starvation of civilians as a method of warfare. Members of the Eritrean Defence Forces further committed the war crime of directing attacks against personnel involved in humanitarian assistance.

71. In this context, the Commission finds that members of the Amhara Special Forces and Amhara regional police, with the involvement of Fano, additionally committed the war crime of ordering the displacement of the civilian population from western Tigray for reasons related to the conflict and absent military necessity or security reasons.

72. There are also reasonable grounds to believe that Tigrayan and allied fighters committed war crimes in Amhara between July and December 2021 and in Afar between November 2021 and March 2022. The Commission finds these to be the war crimes of violence to life and person; outrages upon personal dignity; intentionally directing attacks against the civilian population; pillage; rape; sexual slavery; and sexual violence.

73. The Commission further finds that there are reasonable grounds to believe that the acts committed by the Ethiopian National Defence Forces, Eritrean Defence Forces and allied regional special forces, including the Amhara Special Forces and Afar Special Forces and militias, particularly Fano, constitute a widespread and systematic attack directed against the civilian population. Accordingly, it finds that members of those forces committed the crimes against humanity of murder; torture; rape; acts of a sexual nature of comparable gravity; sexual slavery; enslavement; imprisonment or other severe deprivation of liberty; enforced disappearance; deportation or forcible transfer of population; persecution on intersecting ethnic and gender grounds; and other inhumane acts.

74. The Commission maintains a confidential list with the names, affiliation and rank and/or position of alleged perpetrators of violations and abuses. Given the duration and scale of the conflict in Tigray, Amhara and Afar, it emphasizes the need for further investigations, including into the roles, actions and knowledge of individuals implicated in international crimes, including through command and superior responsibility.

## X. Transitional justice and accountability

75. Transitional justice has four pillars, derived from States' obligations under international human rights law and standards: victims' right to truth; victims' right to justice; victims' right to reparation; and guarantees of non-repetition of abuses. The Commission welcomes the explicit commitment to transitional justice made in the cessation of hostilities agreement. The Commission also notes the difficulty of implementing a successful programme of transitional justice where there is a high risk of further atrocities. The Commission repeatedly sought to engage with the Government of Ethiopia regarding transitional justice and provided a detailed advisory note on the ongoing consultations. The Government did not respond to or acknowledge the Commission's communications.

### Centrality of victims' voices

76. International law dictates that the domestic and international legitimacy of any process of transitional justice depends on how victims perceive it. Throughout its mandate, the Commission has heard from victims, their families, affected communities and other interlocutors to better understand their needs and aspirations. It gleaned their views in multiple open and non-coercive settings: interviews, meetings and a three-day workshop held in Nairobi in July 2023. Victims gave the Commission the messages described below.

77. First, they believe Ethiopian victims' voices, experiences and preferences must drive transitional justice in Ethiopia. Regardless of community or political affiliation, victims desire credible, transparent, inclusive and accessible processes that give them agency, respect their needs, uphold their rights and dignity and address the harms they endured during the multiple crises, past and present, in Ethiopia. In practice, transitional justice processes must be locally accessible, use multiple languages, suit the needs of women, children, older persons, persons with disabilities, displaced persons and refugees and respect religious and cultural differences. In the words of one workshop participant:

We have to hear everyone's story. It has to be, "I'm willing to tell you my pain and I'm willing to hear yours". We have to include everyone.

78. Second, victims overwhelmingly prioritize effective criminal accountability mechanisms, which they see as essential to achieving genuine transition or sustainable peace. Some government and non-government actors suggested that the pursuit of justice and accountability for crimes committed could somehow undermine stability – implementation of the cessation of hostilities agreement, for instance – and that victims should choose between justice and peace. This attitude does not align with international standards, nor does it respect the wishes of victims.

79. Third, victims want to tell their stories, but they also want them to be heard, documented and acknowledged – both officially and by other communities. They also want to be better informed. In a context where experiences have differed and society is polarized, the Commission observed significant differences in communities' understanding and interpretation of events, both before and after November 2020. At the same time, victims across communities share a desire to uncover the facts, identify perpetrators and their motives and learn the fate and whereabouts of missing family members.

80. Fourth, victims identified reparation as a crucial component of redress for serious violations. They insist that the Government should consult victims across all regions and communities, including hard-to-reach minorities, to ensure that their needs shape reconstruction and restitution policy. Communities in Tigray, Amhara and Afar suffered extensive looting and destruction of property and want compensation for material and non-material damage to help to rebuild their lives. For displaced communities, especially those in Tigray, a key element of restitution is their ability to return to their usual place of residence.

81. Lastly, victims share a striking lack of confidence in domestic institutions' ability to deliver transitional justice. Many explained that ongoing conflicts and violations were the result of entrenched impunity for past atrocities. Interlocutors identified a wide range of government institutions that require reform, including the adoption of a stronger gender lens. A lack of trust in the Ethiopian Human Rights Commission was also expressed. Victims

emphasized that Ethiopians from diverse ethnic, religious and marginalized communities across the country must be given the agency to influence and shape reforms.

### **Evaluation of the current processes related to transitional justice in Ethiopia**

82. Several times in its history, Ethiopia has sought to undertake what is now conceptualized as transitional justice. In the 1990s, it prosecuted more than 5,000 officials of the previous regime for serious crimes and established a series of memorial museums. Since 2018, in Somali region, a locally valued truth and justice commission has been established with strong engagement from civil society and local stakeholders. In none of these processes have investigations or truth-telling involved senior members of incumbent administrations. Ethiopia has a strong tradition of dealing with crimes and their perpetrators only after they have lost power or been politically discredited. Justice has been consistently circumscribed by the politics of the day, and victims believe that this has not changed – hence their serious mistrust. One workshop participant said:

We don't really have hope that this thing [the current transitional justice process] will be successful.

83. The current Government's draft paper entitled "Ethiopia policy options for transitional justice" was prepared and released in January 2023. It outlines a range of options for a future transitional justice process, including truth commissions, criminal accountability, reparations for victims and institutional reform, and was presented as a "first step to a locally owned transitional justice initiative".<sup>20</sup> The paper was followed by a series of consultations held across the country, starting in Addis Ababa on 6 March 2023.

84. The Commission's June 2023 advisory note on the consultative process outlined key principles and international and regional standards for a human rights-based approach and described the shortcomings of the current consultations.<sup>21</sup> Despite a series of meetings in urban areas, the Government has not yet addressed gaps in the process and has failed to engage victims in many areas. Ethiopian refugees in the region have not been consulted. The process has been rushed to meet an arbitrary deadline set by the Government, and that deadline has apparently not been modified despite the six-month state of emergency declared in August 2023.

85. The Government's paper does not adequately reflect international or regional standards. Accountability options are described as if choices are fully discretionary at the domestic level. However, international law is clear that under no circumstances can amnesties, pardons and statutes of limitations be imposed for crimes under international law. The possibility of trials outside of Ethiopia is not discussed, and the country's domestic and international legal obligations are not set out to enable Ethiopian stakeholders to understand them. The authorities failed to apply a victim-centred approach either by holding preliminary consultations on the paper or by involving victims' representatives in the drafting process. Moreover, the authorities have not provided an easily comprehensible discussion framework that would help victims and other stakeholders to consider their choices in an informed manner.

86. The Commission observed systemic weaknesses and a lack of efficacy on the part of key Ethiopian institutions tasked with driving the domestic transitional justice process. It also notes a tendency to conflate distinctive and urgent needs in this area with the wider objectives of long-term institutional and legal reform of the justice sector. Little has been heard during the current reporting period from the Interministerial Task Force established by the Federal Government in November 2021 to lead redress and accountability measures in relation to the conflict in the north of Ethiopia. The Task Force seems to have been repurposed to serve wider processes of justice sector reform. The Commission is concerned at the lack of public and parliamentary reporting from the four Task Force subcommittees on investigations and prosecutions, internally displaced persons and refugees, sexual and gender-based violence and resource mobilization. It has also observed weaknesses in other institutions critical to the

<sup>20</sup> See <https://www.ohchr.org/en/statements-and-speeches/2023/01/policy-options-transitional-justice-ethiopia>.

<sup>21</sup> See <https://www.ohchr.org/en/hr-bodies/hrc/ichre-ethiopia/index>.



success of the transitional justice process, including the National Dialogue Commission, which, in August 2023, was urged by the Deputy Speaker of the national House of the Federation to commence a programme of work that had been scheduled to begin in May 2023.

87. Moreover, the legal framework of Ethiopia currently does not criminalize customary international law offences reflected in the Rome Statute of the International Criminal Court. As a result, the country is unable to prosecute the full range of international crimes domestically. Legal reforms must be conducted to address these weaknesses and ensure investigation and prosecution of the full range of international crimes.

88. Lastly, there are no realistic pathways to ensure accountability for crimes committed by Eritrean soldiers in Ethiopia, including ensuring that those with command or superior responsibility are brought to justice. In theory, the Criminal Code of Ethiopia provides a legal basis for the prosecution of foreigners suspected of having committed any crime on its territory. Ethiopian officials told the Commission in July 2022 that Eritrean forces could be brought to justice through normal criminal law enforcement cooperation channels, such as extradition. During the Commission's second mandate period, no steps in that direction have been taken by the Governments of Ethiopia or Eritrea.

### **Wider problems within the justice sector**

89. Significant legal and institutional reforms are needed for Ethiopia to deliver judicial accountability for serious violations of international standards. The independence of the judiciary is guaranteed by the Federal Constitution, but constitutional interpretation favours political decision makers over regional and federal courts. The courts are widely believed to lack independence and to be subject to regular political interference.

90. The Commission notes that some recent reforms may embed or entrench structural flaws and the potential for institutional bias or overcentralization. Recent legislation handed military courts exclusive jurisdiction over all crimes, including international crimes, that involve a member of the defence forces, police or militia on active duty. Recourse to military courts as a means to avoid accountability and transparency is contrary to international standards.

91. In 2021, legislation placed the Office of the Attorney General – and therefore the power to initiate and discontinue investigations and appoint, administer and dismiss public prosecutors – under the Ministry of Justice, undermining prosecutorial independence and impartiality. Prosecutors could face increased pressure from political actors in their choices of investigations, prosecutions and trials. There is a risk of further centralization of power in the Ministry of Justice, based on the proposals in the draft justice sector reform policy document (September 2023) seen by the Commission.

### **A model of “quasi-compliance”**

92. The Government has been keen to highlight its cooperation with the Ethiopian Human Rights Commission and the OHCHR Regional Office for East Africa as an example of its commitment to human rights. The Government often cites the report of the joint investigation team as an example of its cooperation with human rights bodies. However, the report addressed only a limited number of incidents in Tigray up to 28 June 2021. The joint investigation team noted that it faced significant challenges in carrying out its work, including harassment and intimidation of staff, restrictions imposed by the Government on communication equipment and difficulties obtaining security clearances for travel.<sup>22</sup> The report has also been widely criticized by Tigrayan and Irob victims' groups.

93. The Government has failed to cooperate with regional bodies undertaking investigation and monitoring of the situation in northern Ethiopia. For example, the African Union Monitoring, Verification and Compliance Mission has been unable to access some parts of Tigray. Meanwhile, the Commission of Inquiry of the African Commission on Human and Peoples' Rights, established to investigate serious violations and abuses in

<sup>22</sup> See <https://www.ohchr.org/sites/default/files/2021-11/OHCHR-EHRC-Tigray-Report.pdf>.

Tigray, was quietly terminated in May 2023. The Commission of Inquiry, the establishment of which was strongly opposed by Ethiopia, concluded without issuing any public report on its findings. The Government of Ethiopia has continued to restrict access to independent journalists and human rights monitors in conflict-affected areas, while human rights defenders report ongoing arrest, threats and intimidation.

94. In assessing transitional justice initiatives in Ethiopia, the Commission is struck by evidence of “quasi-compliance”.<sup>23</sup> The Government of Ethiopia has deliberately attempted to evade international scrutiny through the creation of domestic mechanisms ostensibly to fight impunity, which have served in practice primarily to alleviate international pressure and preclude the prospect of stronger international engagement or investigation. Under these circumstances, and given the ongoing commission of serious violations in the country, the Commission concludes that the current prospects for the success of transitional justice in Ethiopia are bleak.

## **XI. Risk of future atrocity crimes**

95. In its first report to the Council, the Commission expressed deep concern about the presence of many of the indicators and triggers contained in the Framework of Analysis for Atrocity Crimes, including polarization and hatred along ethnic lines. The Commission also warned of the imminent threat of further and more pronounced atrocity crimes.

96. During the reporting period, the Commission continued to monitor the presence of indicators of and triggers for atrocity crimes. It remains deeply concerned that many of the risk factors remain present in Ethiopia, even after the cessation of hostilities agreement was signed.

97. The Commission cannot overstate the gravity of violations and crimes perpetrated in Ethiopia since 3 November 2020 by all parties to the conflict, and in particular the Ethiopian National Defence Forces, Eritrean Defence Forces and allied forces. The continuing presence of Eritrean and Amhara forces in Tigray, and the continued accounts of rape and other forms of sexual violence against women and girls, are deeply disturbing. The persistence of this situation more than 10 months after the cessation of hostilities agreement was signed not only confirms an ongoing pattern of serious violations and abuses, but strongly indicates a policy of impunity and tolerance of serious violations and abuses on the part of the State of Ethiopia. Meanwhile, impunity for past atrocities by Ethiopian and Eritrean forces remains firmly entrenched.

98. Instability, tension and the potential for repetition of patterned violations and crimes, including arbitrary arrests, rape and extrajudicial executions, characterize the ongoing reliance on command posts and states of emergency. This is highlighted by the state of emergency that was declared in August 2023. Alarming reports of violations committed against Amhara civilians are emerging in spite of government-imposed interruptions to the Internet and telecommunications.

99. The situation is compounded by the weakness of State structures that should offer protection. This includes a lack of effective protection under national law and of independence of national institutions, in particular the judiciary and law enforcement authorities. Widespread mistrust of State institutions and domestic accountability mechanisms, already the product of long-standing impunity, has been exacerbated by the Government’s politicization of the transitional justice process. In this context, the absence of effective external oversight and monitoring mechanisms and the threats, intimidation and harassment against human rights defenders, journalists and others are deeply troubling.

<sup>23</sup> Kate Cronin-Furman, *Hypocrisy and Human Rights: Resisting Accountability for Mass Atrocities* (Cornell University Press, 2022).

## **XII. Recommendations**

100. The Federal Government of Ethiopia should:

(a) Immediately cease all violations and abuses of international human rights law and all violations of international humanitarian law and ensure that all regional state governments and militias cease such violations;

(b) Fulfil its obligations under the cessation of hostilities agreement, particularly regarding accountability, the protection of civilians, humanitarian assistance, internally displaced persons, sexual and gender-based violence and transitional justice;

(c) Take all measures to ensure that Eritrean Defence Forces on the territory of Ethiopia cease all violations;

(d) Cease and prevent the diversion and misuse of humanitarian assistance throughout the country;

(e) Ensure the timely provision of medical services, including psychosocial support, to survivors, paying particular attention to survivors of sexual and gender-based violence;

(f) Take measures consistent with international human rights law to prevent the dissemination of hate speech by governmental and non-governmental actors;

(g) Investigate and prosecute members of its forces alleged to have committed violations and abuses of international human rights law and violations of international humanitarian law;

(h) Remedy the current consultations over transitional justice to restore victims' trust in the process and ensure that consultations are thorough, inclusive and non-coercive;

(i) Ensure that any future transitional justice policy meets international and regional standards regarding the criminal accountability of perpetrators, reparations, truth and acknowledgement of past wrongs and institutionalization of measures to prevent recurrence of violations, progress on which would be demonstrated through these minimum benchmarks:

(i) Public orders to State security forces to cease actions violating international law and removal of personnel implicated in violations;

(ii) Establishment of an accountability mechanism for serious violations by government forces, with independent investigative and prosecutorial authority, followed by prosecutions before independent courts meeting standards of due process and transparency;

(iii) Cooperation with the International Commission of Human Rights Experts on Ethiopia and other international and regional human rights mechanisms, including granting them unconditional access to all areas of Ethiopia;

(iv) Adjustment of the timelines for consultations on a future transitional justice policy to ensure genuine engagement with all communities on a complete range of options;

(v) Enactment of a comprehensive reparations plan, paying particular attention to victims of sexual and gender-based violence;

(vi) Acknowledgement of and apology for violations committed by government and government-aligned forces throughout the country;

(j) Immediately begin an inclusive process of national dialogue to establish institutional, governmental and constitutional structures for domestic peace and the enjoyment of human rights.

101. The Government of Eritrea should immediately cease all violations and abuses of international human rights law and all violations of international humanitarian law in Ethiopia and investigate and bring to justice members of its forces who have committed serious violations there.

102. All parties to the conflict should immediately cease violations and abuses of international human rights law and violations of international humanitarian law, take all measures to protect the civilian population and cease activities that may trigger atrocity crimes, including hate speech.

103. Addressing members of the international community, the Commission recommends that:

(a) The United Nations High Commissioner for Human Rights provide for comprehensive, independent, timely and gender-sensitive monitoring of the situation in Ethiopia, including regular public reporting;

(b) The African Union and States supporting the cessation of hostilities agreement use their best efforts to ensure that the parties fulfil their obligations, particularly regarding accountability, protection of civilians, humanitarian assistance, internally displaced persons and transitional justice;

(c) In the light of the failure of Ethiopia to credibly investigate violations and abuses of international human rights law and violations of international humanitarian law, the Human Rights Council provide for continued investigations into past and ongoing violations;

(d) States and other entities providing technical assistance to Ethiopia on transitional justice ensure that such assistance advances the benchmarks described in paragraph 100 (i) above;

(e) The Secretary-General take measures to screen all military and police personnel offered by Ethiopia or Eritrea for United Nations peacekeeping missions to ensure that no one credibly alleged to have committed serious violations and abuses of international human rights law and serious violations of international humanitarian law serves on a United Nations mission;

(f) If Ethiopia or Eritrea are unable or unwilling to bring to justice those credibly accused of international crimes, the African Union create a regional accountability mechanism, building on best African practices and African and international standards; and in the absence of such a mechanism, States consider other national and international mechanisms for bringing such persons to justice.

## Annex

### Applicable law

1. The Commission applied international human rights law, international humanitarian law, and international refugee law, as well as international criminal law, regional instruments, and Ethiopian domestic law, as applicable.
2. Ethiopia and Eritrea are parties to most international human rights treaties, including the two Covenants, as well as regional instruments including the African Charter on Human and Peoples' Rights and its Maputo Protocol on the rights of women.<sup>1</sup>
3. International human rights law applies at all times and extends to all persons within the State's territory or under its jurisdiction, including to forces acting outside its territory. Ethiopia and Eritrea have a duty to respect, protect, and fulfil human rights. Measures taken during states of emergency must meet the requirements of Article 4 ICCPR, including as regards non-derogability of fundamental rights, the principles of legality, necessity, and proportionality, and of notification. Non-State actors must, at a minimum, respect fundamental human rights in areas where they exercise government-like functions or *de facto* control.<sup>2</sup> Business enterprises must also respect human rights and address adverse impacts of their operations.
4. Measures taken during States of Emergency, regardless of the existence of an armed conflict, must meet the requirements of Article 4 ICCPR, including as regards non-derogability of fundamental rights, the principles of legality, necessity, and proportionality, and of notification. The Commission notes that the Ethiopian authorities issued three States of Emergency within the period covered by its mandate, for which the necessary notifications were not provided.
5. Ethiopia and Eritrea are also parties to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. Ethiopia is also a party to the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.<sup>3</sup> Under this body of law, they must abide by the principle of *non-refoulement* and not expel or return refugees to any territory where their lives or freedoms would be threatened. The African Charter in addition explicitly prohibits mass expulsion aimed at national, racial, ethnic or religious groups.
6. The four Geneva Conventions of 1949 and three Additional Protocols form the main body of international humanitarian law. Ethiopia and Eritrea are parties to the Geneva Conventions, while Ethiopia is also a party to the Additional Protocols. Many of its rules also constitute norms of customary law. International humanitarian law applies to situations of armed conflict and distinguishes between international and non-international armed conflict (NIAC). The latter includes situations where a State opposes one or more non-State armed groups. The involvement of a foreign State on the side of the State involved in a NIAC does not alter its qualification.
7. Based on intensity and organization thresholds, the Commission considers the conflict in Tigray since 3 November 2020 as a NIAC, to which Common Article 3 of the Geneva Conventions and Additional Protocol II apply. Taking into account the fluctuating nature of the hostilities, the Commission, based on a full appraisal of the facts, assesses that its application has not yet come to an end.

<sup>1</sup> A/HRC/54/CRP.2, Legal framework.

<sup>2</sup> See Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, 31 March 2011, para. 188.

<sup>3</sup> A/HRC/54/CRP.2, Legal framework.

8. Ethiopia is a party to the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. Ethiopia and Eritrea are not parties to the Rome Statute of the International Criminal Court. The Court has also not obtained jurisdiction through a declaration or referral. However, the Rome Statute definitions of international crimes generally reflect customary international law and are binding on all individuals. Individual criminal responsibility does not preclude State responsibility or vice versa.

---