



Ethiopian Human Rights Commission Input for the Special Rapporteur on Torture

Identifying, Documenting, Investigating and Prosecuting Crimes of Sexual Torture Committed during War and Armed conflicts, and Rehabilitation for Victims and Survivors: the case of Ethiopia

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I. Background

1. The armed conflict which erupted in Tigray region in November 2020 and later expanded to neighbouring Afar and Amhara regions, has claimed thousands of lives, displaced and left millions in need of humanitarian assistance. On 3 November 2021, the Ethiopian Human Rights Commission (EHRC) and the United Nations Office of the High Commissioner for Human Rights (OHCHR) published a joint report on the violations and abuses of international human rights law (IHRL), violations of international humanitarian law (IHL), and international refugee law committed in Tigray from the beginning of the conflict until the declaration of unilateral ceasefire by the Federal Government on 28 June 2021.¹ The report found that all parties to the conflict, including the Ethiopian National Defence Forces (ENDF), the Eritrean Defence Forces (EDF), the Tigrayan Special Forces (TSF) and allied militia and groups, as well as the Amhara Special Forces (ASF) and allied militia and groups had committed serious violations and abuses, some of which may amount to war crimes and crimes against humanity.
2. The EHRC further carried out investigations into allegations of serious human rights and humanitarian law violations committed in Afar and Amhara regions, as well as parts of the Tigray region, from July 2021 onwards, publishing a report on 11 March 2022.² The report determined that the TSF and allied militia and groups, the Oromo Liberation Army (aka Shene), the ENDF, ASF and Afar Special Forces and their allied militia and groups, also had committed gross violations of IHRL and serious violations of IHL, some of which may amount to war crimes and crimes against humanity. The findings in these reports revealed that the civilian population, particularly persons in vulnerable situations and protected persons, including children, woman, older persons, persons with disabilities, internally displaced persons, and refugees, were disproportionately affected.
3. In addition to gross IHRL violations and abuses and serious violations of IHL committed in the context of the violent conflict in Northern Ethiopia, civilians in other parts of the country have also been subjected to violence, including killings, displacement, and destruction of property. Violence and gross human rights violations and abuses continue to be perpetrated by State and non-State actors including in Oromia, Gambella, Benishangul-Gumuz, Southern Ethiopia, Central Ethiopia, South-West Peoples, Sidama, Somali, and Harari regions, as well as Addis Ababa city and surrounding areas.
4. On 2 November 2022, the Tigray People's Liberation Front (TPLF) and the Federal Government of Ethiopia signed the Agreement for Lasting Peace through a Permanent

¹ For the full Joint Investigation Report, see, EHRC at <https://ehrc.org/download/ehrc-ohchr-joint-investigation-report-on-tigray-conflict/>, published on 3 November 2021.

² For the full Afar and Amhara Investigation Report, see EHRC at <https://ehrc.org/afar-and-amhara-regions-report-on-violations-of-human-rights-and-international-humanitarian-law-in-afar-and-amhara-regions-of-ethiopia-published/>.

Cessation of Hostilities (the Peace Agreement) ending the two-year long conflict in Tigray region.

II. Conflict related Sexual and Gender- based Violence in the Tigray Region

5. Some of the main findings on sexual and gender-based violence (SGBV) by the EHRC/OHCHR Joint Investigation Report include the following:
 - a) Various acts of SGBV including physical violence and assault; attempted rape; rape including gang rape, oral and anal rape; insertion of foreign objects into the vagina; intentional transmission of HIV; verbal abuse including ethnic slurs; abduction; and other violations were committed by parties to the conflict.
 - b) Some of the reported accounts of rape were characterised by appalling levels of brutality and acts of rape were frequently intended to degrade and dehumanise an entire ethnic group.
 - c) Women, girls, men, and boys were victims of SGBV including gang rape, with women and girls exposed to unwanted pregnancy, and some infected with sexually transmitted diseases, including HIV.
 - d) Rape of men and boys were rarely reported, although they were also exposed to SGBV during times of conflict.
 - e) Some of the acts of sexual violence committed by the EDF were marked with extreme brutality. The ENDF, EDF, and TSF committed SGBV including gang rapes, and in many cases rape and other forms of sexual violence were used to degrade and dehumanize the victims.
 - f) Women and girls whose male family members were Tigrayan combatants were targeted by the ENDF, and wives of ENDF soldiers were similarly targeted by Tigrayan forces for SGBV.
 - g) Women and girls were also exposed to SGBV when fleeing the conflict, and in some instances when fetching water from the river due to disruption of running water. Women and girls were abducted, detained, and raped.
 - h) Rape of women with disabilities was also documented. The Joint Report also obtained reports which implicate the ASF in acts of sexual violence.

III. Conflict related Sexual and Gender-based violence in the Amhara and Afar Regions

6. Some of the main findings on SGBV identified in EHRC's Investigation Report on Afar and Amhara includes the following:
 - a) Tigray Forces committed widespread cruel and systematic SGBV intended to demoralize, dehumanize, and punish communities, often indiscriminately and sometimes in a targeted/ calculated manner.

- b) The attacks were often perpetrated in a premeditated and cruel manner including through gang rape, rape in front of family members of victims/survivors, and insertion of foreign objects into vagina.
- c) Often, these acts were committed with the knowledge of military commanders and officials of the Tigrayan Forces who, despite pleas from communities under their control, failed to take the necessary and reasonable measures to stop violations and hold perpetrators to account.

IV. Obstacles in Identifying Conflict related SGBV in Tigray, Amhara and Afar Regions

- 7. Medical records were often impossible to obtain due to lack of timely and specialized medical-care available for victims, and available documentation heavily relied in any event on first-hand accounts from victims themselves. Other barriers surrounding the reporting of these forms of violence included victim's trauma and lack of adequate psychosocial support as well as victims' fear of stigma and family pressure. General challenges to EHRC's investigation work included insecurity and accessibility to different locations, operational and administrative difficulties, as well as some cases of harassment and intimidation of investigators in an environment replete with propaganda, and a hostile political setting.
- 8. During the Amhara and Afar Regions Investigation, the EHRC also found that victims' fear of stigmatization and discrimination within their communities was one of the obstacles to document cases of SGBV.
- 9. EHRC's human rights monitoring report on Tigray Region, published in February 2024 also reaffirmed that stigma and discrimination against survivors of SGBV was prevalent within communities particularly in internally displaced persons (IDPs) sites. IDPs reported incidents where husbands divorced their wives after learning that they had been sexually assaulted during the conflict. Furthermore, in rural areas, survivors faced stigma and discrimination from their communities, often blamed for their attack. This has resulted in a situation where survivors refrain from reporting their attack and seeking medical treatment.

V. Investigation and Prosecution of Conflict Related SGBV Cases

Criminal proceedings in the Ethiopian National Defence Forces Military Tribunal

- 10. EHRC urged the Government of Ethiopia to ensure prompt, independent, and impartial investigation into all allegations of SGBV; guarantee that all cases of SGBV are effectively investigated and prosecuted and take broadly publicized steps to ensure violations of rights will not be tolerated.
- 11. The State informed the Joint Investigation that 14 ENDF soldiers had been tried and convicted of rape by military courts.³ The soldiers were sentenced to prison terms of 7

³ Joint Investigation Report, para 370.

years and above, which would bar them from re-joining the ENDF upon completion of their terms.⁴

12. On September 19, 2022, the Government-established Inter-Ministerial Taskforce on Accountability and Redress, Investigation and Prosecutions Committee published a Phase I Investigation Report which presented preliminary issues related to war crimes, crimes against humanity and other violations of IHRL, IHL and domestic criminal law committed by the parties to the conflict in Northern Ethiopia.
13. The Report states that the military justice organs of the National Defence Forces conducted multiple investigations in response to allegations of crimes committed during the Tigray Region conflict. The investigation established the commission of 60 incidents of crimes – largely involving extrajudicial killings and sexual violence. The criminal prosecution of the cases has been initiated and submitted to the military court.
14. The Report stated that as of August 2022, the military court rendered 25 convictions involving rigorous imprisonment of up to 25 years, including one life sentence and 2 acquittals for 16 rape cases, nine (9) extrajudicial killings; seven (7) bodily injuries, and one (1) assault case with a total of 33 cases were pending.
15. The Report indicated that the Inter-Ministerial Taskforce established by the Government and operating under the Ministry of Justice would investigate all other incidents apart from the above-mentioned pending cases.

Investigation and Prosecution of SGBV by the Investigations and Prosecutions Committee of the Inter-Ministerial Taskforce

16. Following the release of the Joint Investigation Report, the Government of Ethiopia, with some reservations, admitted the commission of serious violations and abuses by its forces and other actors, and pledged to undertake a comprehensive and impartial investigation into all alleged incidents and committed to roll-out a comprehensive approach to ensure accountability and redress.
17. To such end, the Government adopted a strategic approach and action plan document for implementation the recommendations of the Joint Investigation Report and other EHRC reports on Afar and Amhara Regions.
18. The strategy document established a high-level Inter-Ministerial Taskforce (IMTF) for the design, coordination, and implementation oversight of measures anticipated under the strategy and action plan. The IMTF comprised four committees, namely the Investigation and Prosecution Committee (IPC) chaired by the Ministry of Justice, the Refugees and IDP Affairs Committee chaired by the Ministry of Peace, Sex/Gender Based Violations Committee chaired by the Ministry of Women and Social Affairs, and the Resource Mobilisation Committee chaired by the Ministry of Finance. The committees which comprise specialised government agencies were responsible for executing specific deliverables.

⁴ As above.

19. According to the IMTF report⁵, the IMTF's IPC was principally tasked to facilitate criminal accountability for all violations committed by parties to the conflict in Northern Ethiopia by undertaking a large-scale investigation of the cases, and to facilitate reparations to victims and their families. The report stated that the investigation was limited to the Amhara and Afar regions and took place between 15 September 2021 and 31 March 2022.
20. The IPC concluded that the documented evidence presented strong reason to believe that a series of sexual assaults, including rapes and gang rapes, were committed by TPLF forces during designated episodes. These attacks targeted civilians, including women, girls, boys, and men, in various locations of the Amhara and Afar regions. The IPC determined these incidents amounted to serious violations and abuses of international human rights law, international humanitarian law, and national laws.
21. The Report further stated that, since the evidence demonstrates that they were intentionally directed against civilians who had not taken any part in the hostilities and conflict, there are reasonable grounds to believe that war crimes were committed. Additionally, the acts were wilful and had caused great suffering and serious injury to the body and health of the victims.
22. Moreover, the IMTF Report added that there were strong indications that the sexual violence against civilians was committed as part of widespread and systematic attacks against the civilian population with knowledge, and hence the incidents of violations documented by the IPC constitute crimes against humanity.
23. The Report stated that the next step for the IPC was to initiate criminal proceedings by analysing all evidence of the crimes, framing issues, drawing charges, and presenting the same to the appropriate jurisdiction in accordance with domestic procedures and laws. The Report recommended that the IPC should complete investigations on the new cases in Amhara and Afar Regions that were not covered.

VI. Accountability and Reparations Through Transitional Justice

24. A key recommendation of the Joint Investigation was for the Ethiopian Government to “ensure that the country embarks on a human rights complaint, holistic, and victim centered transitional justice mechanism for crimes committed during the Tigray conflict including accountability for past crimes” and to “facilitate a victim-centered reparations scheme that includes restitution, rehabilitation, satisfaction- including the right to the truth, and of guarantees non-repetition; and adopt a comprehensive policy and measure on the right to

⁵ The Federal democratic republic of Ethiopia Inter-Ministerial Taskforce on Accountability and Redress investigation and Prosecutions Committee criminal Investigation report (Phase 1)- Preliminary on allegations of War crimes, Crimes against Humanity and Other violations of International Human rights law, International Humanitarian Law and Domestic Criminal Law committed by the Parties to the Conflict in Northern Ethiopia. September 19, 2022.

reparation for victims of series human rights and humanitarian law violations.” These recommendations aimed to ignite efforts to build a more peaceful path, with transitional justice being an overarching concept that can ensure accountability, guide effective remedies for victims, document the truth, prevent recurrence of violations, and promote reconciliation.

25. In response to the Joint Investigation’s recommendation on transitional justice, the Ministry of Justice of Ethiopia conducted an internal diagnostic study in 2022, highlighting previous attempts related to TJ in Ethiopia and drawing relevant lessons to craft a comprehensive, holistic, context-specific, victim centered and human rights complaint TJ policy framework.
26. The Peace Agreement signed between the Federal Government and the TPLF also requires “the Government of Ethiopia to implement a comprehensive national transitional justice policy aimed at accountability, ascertaining the truth, redress for victims, reconciliation, and healing, consistent with the [Ethiopian] Constitution and the African Union Transitional Justice Policy Framework.” One of the objectives of the Peace Agreement is to provide a framework to ensure accountability for matters arising out of the conflict.
27. A Transitional Justice Working Group of Experts (the Working Group) was set up in November 2022 under the auspices of the Ministry of Justice to advise and lead the transitional justice policy development process. Building on the diagnostic study, the Working Group developed “a green paper” comprising “Policy Options for Transitional Justice in Ethiopia” which was made in public in January 2023. The document, which was drafted to solicit public feedback and inputs from relevant stakeholders including organizations working on women’s rights, outlines different policy options on a wide range of transitional justice mechanisms.
28. On March 6,2023, the Ethiopian Government launched nationwide public consultations on the transitional justice policy options in Ethiopia, which marked an important step in the implementation of Joint Investigation recommendations and the Peace Agreement in relation to transitional justice. From March to September 2023, the Working Group held at least 67 regional / national consultations with the aim of informing the content of the transitional justice policy. The Working Group’s Report on the Consultations was published in December 2023.
29. According to the IMTF report, at the time “access to Tigray remains elusive; while Wolqayit, Humera and Tsegede districts are controlled by the federal government and Amhara regional forces, the security situation in these areas remains uncondusive for any serious investigation”. Hence, geographically, the deployment of investigation team was only possible in the Amhara and Afar regions which generally took place between 15 September 2021 and 31 March 2022 - including time that lapsed in preparation and early preservation of evidence.
30. From July 2022 to March 2023, EHRC and OHCHR conducted 15 community consultations on transitional justice in Afar, Amhara, Harari, Oromia, Somali, and Tigray

regions, and in Dire Dawa city administration.⁶ A total of 805 participants; 319 women and 486 men who constitute victims and families of victims, internally displaced persons, persons with disabilities, traditional and religious leaders, and grass root civil society organizations working on human rights and peacebuilding took part in the consultations. A separate national consultation was also conducted with religious leaders.

31. The consultations documented the views and aspirations of some Ethiopians on transitional justice, to reflect their voices in decision-making processes including in the ongoing development of a national policy, while raising awareness about transitional justice concepts and processes at local levels. The consultations also aimed at contributing to the promotion of a genuine, participatory, inclusive, gender-sensitive and victim-centred transitional justice process, in line with international human rights standards.
32. EHRC and OHCHR published a comprehensive 90 pages report on the findings of consultations revealing a consensus on the necessity to implement all components of TJ, encompassing equally criminal accountability, truth seeking, reparations and guarantees of non-recurrence⁷. The importance of holding perpetrators accountable, particularly for gross international human rights law, violations and abuses and serious international humanitarian law, violations was consistently highlighted, including by avoiding any grant of amnesty.
33. The importance of independent and credible investigations, prosecution, and adjudication processes to ensure the effective delivery of justice was underscored. However, across all regions, participants expressed suspicion and doubts about the degrees of independence, credibility, and competence of the current criminal justice system (the police, prosecution, and judicial institutions), to lead the accountability processes. Therefore, reforming the current justice sector institutions and establishing new mechanisms, such as an independent investigation commission or a special court, were suggested by most participants.
34. The need to rebuild trust, establish the rule of law, facilitate reconciliation and healing, sincerely disclose the truth, acknowledge victims' suffering, express guilt and remorse, and take responsibility for crimes committed was repeatedly raised. The necessity of legal, institutional and other reforms was underscored to prevent the repetition of violations and abuses.
35. Currently transitional justice has taken centre stage in Ethiopia as a means of addressing past gross human rights violations and abuses and serious violations of international humanitarian law and building sustainable peace. The journey ahead to guarantee accountability, establish truth, provide reparations to victims, and ensure non-recurrence presents challenges and opportunities in a country with a rich history and strong religious beliefs and traditions and a legacy of past serious human rights violations and abuses.

⁶ The European Union supported some of the consultations.

⁷ <https://ehrc.org/download/ehrc-ohchr-joint-investigation-report-on-tigray-conflict/> and <https://ehrc.org/wp-content/uploads/2022/03/English-Executive-Summary-AAIR.pdf>

36. On April 17, 2024 the Ethiopian Government adopted Ethiopia's Transitional Justice Policy.

VII. Rehabilitation for Victims/Survivors of Conflict Related SGBV

37. Following the signing of the Peace Agreement, EHRC and OHCHR carried out a coordinated monitoring of the post-conflict human rights situation in Tigray Region), in line with their respective mandates. The Monitoring Report⁸ which was published in February 2024, revealed the following:

- a) Full access to adequate medical, psychosocial, legal, and rehabilitative services remained out of reach for many of the SGBV victims and survivors. Many of the victims and survivors faced critical shortage of medical, psychological, legal and rehabilitative services.
- b) The regional health system was not equipped to provide adequate care to victims as many health centers were looted and destroyed during the conflict and did not have sufficient basic medical supplies, health care professionals, and other supplies.
- c) Survivors faced stigma from the community, which led many to refrain from reporting violations and from seeking medical care. Stigma and discrimination against survivors of SGBV was prevalent within the community especially in IDP sites. In rural areas of Tigray, survivors face stigma and discrimination from their communities, often blamed for their attack. This has resulted in a situation where survivors refrain from seeking medical treatment.

38. EHRC held consultations based on its monitoring findings which identified the following ongoing issues: difficulty in obtaining emergency aid and support packages, inadequate recovery programs, and lack of accessible support services for SGBV victims/survivors, particularly in remote areas.

39. EHRC reiterated the need for concerted effort to address these challenges and ensure SGBV victims/survivors receive the support they need.

VIII. Conclusion

40. EHRC welcomes the opportunity to collaborate with the Special Rapporteur and other international mechanisms to develop and implement a comprehensive strategy to address conflict related SGBV in Ethiopia. EHRC believes a collaborative effort involving the Government, civil society, and the international community is crucial to prevent and respond to SGBV, and to ensure respect for human dignity and the fundamental rights of survivors/victims.

⁸ <https://ehrc.org/tigray-rehabilitation-and-reconstruction-efforts-must-gain-pace/>