



“ALL OF US ARE IN CONSTANT HUNGER”

Ethiopia’s Responsibility for Starvation in Tigray

Allard K. Lowenstein International Human Rights Clinic • Yale Law School

June 2023

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COVER IMAGE

Tigrayans stand in line to receive food donated by local residents at a reception center for the internally displaced in Mekele, in the Tigray region of northern Ethiopia, on Sunday, May 9, 2021. *Source: AP Photo/Ben Curtis.*

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A NOTE ON THE CESSATION-OF-HOSTILITIES AGREEMENT

This legal analysis was finalized in early 2023 amid ongoing efforts to implement the cessation-of-hostilities agreement signed by the Ethiopian federal government and the Tigray People's Liberation Front in November 2022. According to the United Nations, civilian access to humanitarian aid in Tigray was, as of February 2023, "continu[ing] to gradually improve," and public services, including telecommunications, electricity, and banking, had partially resumed in Tigray's major towns.¹ But, serious challenges remained. Aid organizations have reported that high levels of humanitarian need and shortages of essential goods, including cash and medical supplies, persist in much of the region.² One Mekelle resident told the *New York Times* in March 2023, "The sound of a bullet has stopped, but the sound of starvation is still here."³

In late April, the United Nations and the United States Agency for International Development (USAID) temporarily suspended all food assistance to Tigray.⁴ USAID Administrator Samantha Power said that the suspension came in response to reports that "food aid, intended for the people of Tigray suffering under famine-like conditions, was being diverted and sold on the local market."⁵

Civilians in Tigray continue to bear the burden of harms that they suffered during the conflict,⁶ including harms caused by the extensive looting, siege tactics, and denial of humanitarian relief that are discussed in this analysis. The ongoing crisis in Tigray makes it imperative for the Ethiopian federal government and Tigray regional authorities to take critical steps, in addition to those outlined in the Recommendations section below, to alleviate the intense suffering in the region.

1 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia–Northern Ethiopia Humanitarian Update Situation Report*, p. 2 (Feb. 23, 2023), <https://reliefweb.int/report/ethiopia/ethiopia-situation-report-20-mar-2023>. Some 4,000 trucks carrying humanitarian cargo and fuel supplies had arrived in Tigray by early February, the United Nations said, and "the price of consumer supplies in Mekelle and other towns [was] stabilizing." *Id.*

2 See, e.g., Fred Harter, "Tigray aid access improves as peace deal makes headway," *The New Humanitarian* (Jan. 31, 2023), <https://www.thenewhumanitarian.org/analysis/2023/01/31/Ethiopia-Eritrea-Tigray-peace-deal>; MSF East Africa (@MSF_EastAfrica), Twitter (Mar. 9, 2023, at 1:01 AM EST), https://twitter.com/MSF_EastAfrica/status/1633709661445660675 (citing "immense" humanitarian needs and "massive shortages of medical supplies," including therapeutic feeding supplies, in Northwestern Tigray).

3 Abdi Latif Dahir & Simon Marks, "Slaughter on Eve of Ethiopian Peace Draws Accusations of War Crimes," *New York Times* (Mar. 1, 2023), <https://www.nytimes.com/2023/03/01/world/africa/eritrea-ethiopia-tigray-war.html> (quoting a telephone interview in which a resident of Mekelle said "that displaced and hungry people come knocking at his door almost every day").

4 "US joins UN in suspending food aid to Ethiopia's Tigray," *Associated Press* (May 4, 2023), <https://apnews.com/article/ethiopia-tigray-food-theft-aid-suspension-ee37678bbd6a9637641c214715a03645> ["Suspending food aid"]. See also "UN agency suspends food aid to Ethiopia's Tigray amid theft," *Associated Press* (May 1, 2023), <https://apnews.com/article/ethiopia-food-theft-wfp-suspension-tigray-e7b21697c272e5b33981cb31e3c700ee>.

5 *Associated Press*, "Suspending food aid," see above note 4. The *Associated Press* reported that "USAID Administrator Samantha Power ... told the Senate Foreign Relations Committee on April 26 that the food theft appeared to involve 'collusion between parties of both sides of the conflict.'" *Id.*

6 See generally International Committee of the Red Cross, *Ethiopia: even during period of peace, lasting humanitarian consequences of the conflict remain* (Mar. 3, 2023), <https://www.icrc.org/en/document/ethiopia-even-during-period-peace-lasting-humanitarian-consequences-conflict-remain>.

The Ethiopian federal government and Tigray regional authorities must remove remaining restraints on humanitarian access, implement credible safeguards to ensure that aid reaches those in need, and guarantee civilian protection. The African Union Monitoring, Verification and Compliance Mission (AU-MVCM)⁷ in Tigray should make regular, public reports on humanitarian access and civilian protection. The Ethiopian federal government should take immediate steps to halt abuses against civilians, including those reported in areas of Tigray where Eritrean or Amhara forces remain present.⁸

Ethiopia and its allies, as well as authorities in Tigray, should grant immediate, unfettered access to Tigray and all other conflict-affected areas of Ethiopia for independent journalists and human rights investigators, including members of the International Commission of Human Rights Experts on Ethiopia, the African Commission's Commission of Inquiry on the Human Rights Situation in the Tigray Region of Ethiopia, and relevant UN special procedures. International documentation, investigation, and reporting efforts are crucial to establishing responsibility for grave international crimes and for documenting the harms that serious violations of international human rights and humanitarian law have caused civilians. Ultimately, these efforts are critical for the pursuit of justice and peace in Ethiopia.

In January 2023, the Ethiopian government released a draft policy paper exploring options for transitional justice in the country.⁹ The government's policy paper does not address accountability for starvation-related violations during the conflict. It also fails to address the responsibility of Eritrean government officials and armed forces for grave abuses, including starvation-related violations, during the war. Without accountability for the international-law violations and gross abuses of human rights committed by warring parties during the conflict in Tigray, including those that deprived millions of people in Tigray of essential items on which they relied to survive, Ethiopia will likely continue to experience recurrent cycles of violence, starvation, and repression.

This legal analysis aims to support calls for: 1) unrestricted access to humanitarian aid for civilians in all parts of Tigray; 2) credible, independent investigations, in line with international standards, of alleged violations of international law; 3) holistic and rights-based prosecutions of individuals responsible for grave international crimes; and 4) the delivery of adequate, effective, and prompt reparations for civilian victims who have endured the most serious harms of war.

7 See generally African Union, *The African Union Launches the African Union Monitoring, Verification and Compliance Mission in Mekelle, Tigray Region, Ethiopia* (Dec. 29, 2022), <https://www.peaceau.org/en/article/the-african-union-launches-the-african-union-monitoring-verification-and-compliance-mission-in-mekelle-tigray-region-ethiopia>.

8 See, e.g., Catherine Byaruhanga, "Ethiopia war in Tigray: Eritrean soldiers accused of rape despite peace deal," *BBC* (Feb. 15, 2023), <https://www.bbc.com/news/world-africa-64635898>; "Looting, forced removals plague Ethiopia's Tigray despite truce – witnesses," *Reuters* (Dec. 2, 2022), <https://www.reuters.com/world/africa/looting-forced-removals-plague-ethiopia-tigray-despite-truce-witnesses-2022-12-02/>; Claire Wilmot, "Ethiopian minorities remain fearful despite peace deal," *The New Humanitarian* (Feb. 16, 2023), <https://www.thenewhumanitarian.org/news-feature/2023/02/16/Ethiopia-Tigray-Amhara-peace-minorities>.

9 Ministry of Justice of Ethiopia, *Ethiopia - Policy Options for Transitional Justice - Draft for Stakeholder Consultations, January 2023* (Jan. 2023), <https://www.justiceinfo.net/wp-content/uploads/Ethiopia-Policy-Options-for-Transitional-Justice-2023.pdf>.

SUMMARY

“This is how we are living: in so much suffering,” said “Kidane” (a pseudonym), a 45-year-old farmer who was forced to flee his home in Kafta Humera district in Western Tigray, Ethiopia, in November 2020.¹⁰

Before the war, I had quite a good life. I owned a water pump, and I was working hard ... on my orange, papaya, and mango fields. But due to attacks by Amhara Fano militia and the Ethiopian army, now I am left with nothing. I cannot even move my body to fetch water to drink.

After Kidane was displaced, Ethiopian soldiers and members of Fano militia beat him “with the iron of a gun,” leaving him with severe back pain and unable to walk without a cane. Kidane now lives with his family in a camp for internally displaced people in Mekelle, the capital city of the Tigray region. “I have six children, and I am the head of the family,” Kidane told a humanitarian relief worker, “but all of us are now in constant hunger and suffering.”

The two-year-long war between forces fighting on behalf of the Tigray People’s Liberation Front (TPLF) and the Ethiopian government and its allies, including Amhara regional authorities and the Eritrean government, has caused the suffering of millions of people in Tigray, Amhara, and Afar Regional States in Ethiopia. Between November 2020 and November 2022, warring parties killed hundreds of thousands of people and displaced millions more; damaged or destroyed thousands of sites important for civilian life, including schools, hospitals, and public infrastructure projects; and harmed the livelihoods, safety, and dignity of millions of people in Tigray, Amhara, and Afar.¹¹ The Ethiopian federal government’s restrictions on telecommunications and journalistic access have made it difficult to assess military or civilian casualties; however, estimates indicate that the war in Tigray was one of the largest and most lethal armed conflicts of the twenty-first century.¹²

Throughout the conflict, as well as in the months since the signing of the cessation-of-hostilities agreement, millions of people in the Tigray region have suffered from starvation.¹³ Although many factors have limited the availability of safe and nutritious food in Tigray, international law violations

¹⁰ Transcribed and translated for the Lowenstein Clinic by a humanitarian relief worker in Mekelle, June 2022.

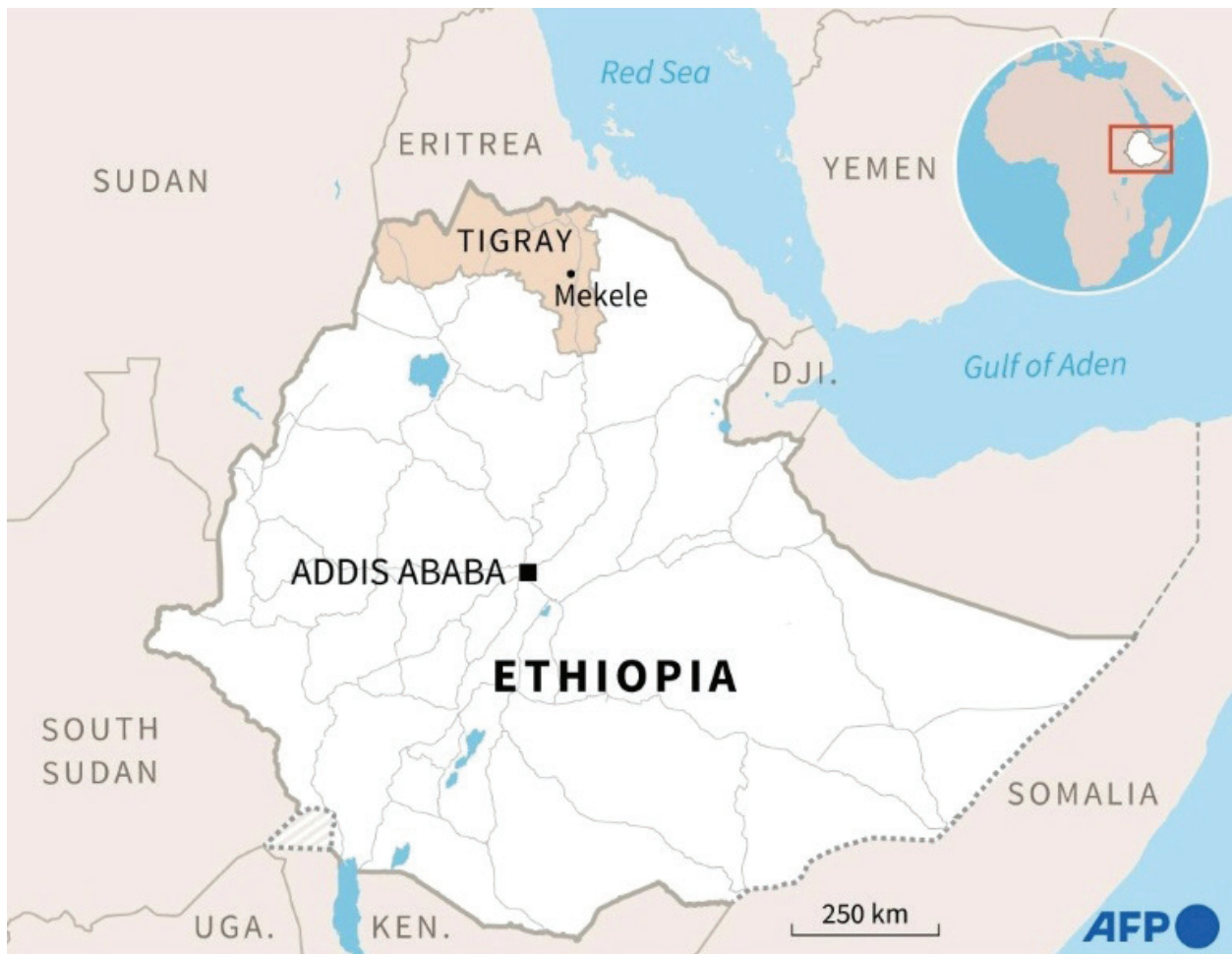
¹¹ See generally David Pilling & Andres Schipani, “War in Tigray may have killed 600,000 people, peace mediator says,” *Financial Times* (Jan. 15, 2023), <https://www.ft.com/content/2f385e95-0899-403a-9e3b-ed8c24adf4e7>. For a more detailed discussion of estimated civilian casualties and other conflict-related harms, see below Overview of the Conflict and Its Effect on Food Security, section 2 [Overview].

¹² See, e.g., Will Brown, Lucy Kassa & Zecharias Zelalem, “How a new ‘Great War of Africa’ is raging under the cover of a media blackout,” *The Telegraph* (Oct. 3, 2022), <https://www.telegraph.co.uk/global-health/terror-and-security/how-tigrays-great-war-africa-raging-cover-media-blackout/>; Bobby Ghosh, “The World’s Deadliest War Isn’t in Ukraine, But in Ethiopia,” *Bloomberg* (Mar. 23, 2022), <https://www.bloomberg.com/opinion/articles/2022-03-22/ethiopia-s-war-toll-grows-as-the-world-looks-away>.

¹³ See below Overview, section 2; see above A Note on the Cessation-of-Hostilities Agreement. For a definition of the term “starvation,” see below Overview, section 3, note 146.

by Ethiopian government forces, Eritrean government forces, Amhara regional forces, and other allied groups have significantly contributed to the starvation of civilians in Tigray.

This report, *“All of Us Are in Constant Hunger”*: Ethiopia’s Responsibility for Starvation in Tigray, prepared by the Allard K. Lowenstein International Human Rights Clinic at Yale Law School (the Clinic), provides an international legal analysis of the responsibility of the Ethiopian government and its allies for conflict-induced hunger and the starvation of civilians in the Tigray region of Ethiopia. It assesses how the Ethiopian government and its allies caused or contributed to food insecurity, starvation, and, possibly, famine in Tigray and analyzes that conduct under relevant international law.



Map of Ethiopia, highlighting Tigray. Source: Aude Genet, Agence France-Press, 2020.

The United Nations has estimated that more than 5.2 million people in Tigray – roughly 90% of the region’s population – need emergency food aid.¹⁴ For more than two years, civilians have struggled

¹⁴ See, e.g., UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Situation Report*, p. 2 (Feb. 2, 2023), <https://reliefweb.int/report/ethiopia/ethiopia-situation-report-2-feb-2023> (citing aid organizations’ caseload of 5.4 million people in Tigray); UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian*

to survive on limited and nutritionally inadequate diets. As of January 2022, at least 2 million civilians in Tigray were severely malnourished and suffering from “an extreme lack of food,” the United Nations reported.¹⁵ In August 2022, the United Nations warned that 89% of Tigray’s total population was “faced with extreme food shortages,” forcing millions of people to resort to “destructive coping strategies,” like begging or selling livestock, that have serious, long-term negative consequences.¹⁶ In addition, 55% of pregnant and lactating women were acutely malnourished, the United Nations said, and three quarters of the region’s parents were missing meals so that their children could eat.¹⁷

The gap between pre-conflict conditions and the present catastrophe in Tigray is vast. Before the war, most households in Tigray were food secure.¹⁸ After two years of fighting, however, almost all of Tigray’s population was facing starvation.

Before the war, most households in Tigray were food secure. After two years of fighting, however, almost all of Tigray’s population was facing starvation.

This analysis focuses on patterns of conduct by Ethiopia and its allies – including looting and attacking Tigray’s food, water, and health-care systems,¹⁹ cutting off and restricting supplies of electricity, cash, and fuel,²⁰ and delaying or denying the delivery of humanitarian relief²¹ – that significantly contributed to hunger in Tigray by systematically depriving civilians of the resources they needed to survive. The enormous scale and extended duration of these acts raises

concerns that, as discussed in detail below, Ethiopia and its allies have used starvation of civilians as a weapon of war.²²

All parties to the armed conflict in Tigray, including the Tigray forces opposing Ethiopia and its allies, have committed many well-documented violations of international law.²³ This report focuses specifi-

Update Situation Report, p. 4 (Jan. 28, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-27-january-2022>.

15 World Food Programme, *Severe hunger tightens grip on northern Ethiopia* (Jan. 28, 2022), <https://www.wfp.org/news/severe-hunger-tightens-grip-northern-ethiopia> [*Severe hunger tightens grip*].

16 World Food Programme, *Tigray Emergency Food Security Assessment: Tigray Crisis Response*, pp. 41-42 (Aug. 2022), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-emergency-food-security-assessment-tigray-crisis-response-august-2022> [*Tigray Emergency Food Security Assessment, August 2022*].

17 World Food Programme, *Tigray Emergency Food Security Assessment, August 2022*, see above note 16, pp. 7, 18.

18 World Food Programme, *Tigray Emergency Food Security Assessment, August 2022*, see above note 16, p. 46. For a more detailed discussion of the pre-conflict prevalence of food insecurity in Tigray, see below sub-section on The Conflict’s Impact on Civilians. For the estimated number of people receiving support from the Productive Safety Net Programme before the war, see below Warring-Party Conduct Causing or Contributing to Starvation in Tigray, section 2(a) [Warring-Party Conduct].

19 See below Warring-Party Conduct, section 1(a-c).

20 See below Warring-Party Conduct, section 2(a-c).

21 See below Warring-Party Conduct, section 3(a-b).

22 For a detailed analysis of the definition of starvation as a method of warfare under international humanitarian law and international criminal law, see below Legal Analysis, sections 1(a-c), 3(a).

23 See below Overview, section 2.

cally on violations by Ethiopia and its allies that contributed to civilian food insecurity and starvation in Tigray. The analysis does not cover warring-party conduct, including by Tigray forces,²⁴ that resulted in food insecurity and hunger among millions of civilians in Amhara and Afar. Work on this report began in 2021 as a response to the extremity of humanitarian need in the Tigray region, where, at that time, the war's effects had deprived millions of civilians of food, water, essential public services, and humanitarian assistance for many months.

The report is based primarily on a review of publicly available information. The Clinic examined hundreds of reports from UN agencies, human rights and humanitarian organizations, journalists, and academics. By systematically reviewing and analyzing publicly available information in light of international legal standards, the Clinic hopes to identify and encourage pathways for

future investigations and, ultimately, to contribute to the pursuit of justice, accountability, and peace. To inform and supplement its study of secondary sources, the Clinic also conducted interviews with human rights experts, humanitarian relief workers, academics, health professionals, and former officials from the federally appointed interim administration of Tigray.

Many publicly available reports indicate that after the war began on November 4, 2020, Ethiopian and allied forces extensively looted and destroyed the agricultural, water, and health systems that sustain civilian life in Tigray.²⁵ Members of the Ethiopian National Defense Forces, Amhara Special Forces, Amhara Fano militia, and the Eritrean Defence Forces looted and destroyed food reserves, crops, agricultural equipment, livestock, seeds, water pumps, jerrycans, irrigation schemes, health facilities, and essential medicines on a massive scale.²⁶ Civilians saw Ethiopian federal and allied forces transport truckloads of looted items across Tigray's northern border into Eritrea and south into Amhara region.²⁷

In Tigray, a rural society in which people depend heavily on agriculture, these acts of looting and destruction decimated the civilian population's means of survival. As early as December 2020, humanitarian needs assessments by the United Nations and the Ethiopian federal government acknowledged

Many publicly available reports indicate that after the war began on November 4, 2020, Ethiopian and allied forces extensively looted and destroyed the agricultural, water, and health systems that sustain civilian life in Tigray.

24 See, e.g., Amnesty International, *Ethiopia: Summary killings, rape and looting by Tigrayan forces in Amhara* (Feb. 16, 2022), <https://www.amnesty.org/en/documents/afr25/5218/2022/en/> [*Summary killings, rape and looting by Tigrayan forces*]; Jason Burke, "Rebel forces accused of killing more than 100 civilians in north Ethiopia," *The Guardian* (Sept. 9, 2021), <https://www.theguardian.com/world/2021/sep/09/rebel-forces-accused-of-killing-civilians-north-ethiopia>; Reuters, "Fighting in Ethiopia's Afar region displaces 300,000, aid blocked to Tigray," *Reuters* (Feb. 8, 2022), <https://www.reuters.com/world/africa/fighting-ethiopia-afar-region-displaces-300000-aid-blocked-tigray-2022-02-08/>.

25 See below Warring-Party Conduct, section 1(a-c).

26 See generally Amnesty International & Human Rights Watch, "*We Will Erase You From This Land*": *Crimes against Humanity and Ethnic Cleansing in Ethiopia's Western Tigray Zone* (2022), https://www.hrw.org/sites/default/files/media_2022/04/ethiopia0422_web_1.pdf ["*We Will Erase You*"]. See also Warring-Party Conduct, section 1(a-c).

27 Amnesty International & Human Rights Watch, "*We Will Erase You*," see above note 26, pp. 104, 107, 111.

For more than two years, the Ethiopian government and its allies compounded these harms by encircling and laying siege to Tigray, which cut the region’s six million inhabitants off from essential public services and from the rest of the world.

that, because of looting, insecurity, and the shut-down of essential services, humanitarian needs among the civilian population of Tigray were dire.²⁸ Over the course of the war, conditions for civilians in Tigray progressively worsened, as insecurity and the looting of seed stores, fertilizer, and livestock resulted in successive harvests that produced only meager yields.

Yet for more than two years, the Ethiopian government and its allies compounded these harms by encircling and laying siege to Tigray, which cut the region’s six million inhabitants off from

essential public services and from the rest of the world. Between November 2020 and June 2021, the Ethiopian government restricted civilian access to cash and fuel, shut down electricity and telecommunications, and restricted the flow of humanitarian aid into Tigray.²⁹ Then, from July 2021 onward, the Ethiopian government tightened its siege, refusing entry of almost all humanitarian aid to Tigray³⁰ and continuing to cut off access to cash, fuel, and electricity.³¹ These tactics pushed millions of people into darkness, desperation, and hunger. One study by the Tigray Region Health Bureau found that thousands of people, especially young children and the elderly, died from malnutrition and related diseases between July and October 2021.³²

On November 2, 2022, after two months of intense fighting that left tens of thousands of combatants dead and half a million civilians displaced,³³ the Ethiopian federal government and the TPLF signed

28 Government of Ethiopia – National Disaster Risk Management Commission, *Joint Rapid Needs Assessment Mission (Alamata, Meholi, Mekelle, and Enderta)*, 20 to 28 December 2020 (Dec. 2020), <https://assessments.hpc.tools/assessment/ethiopia-joint-rapid-needs-assessment-mission-alamata-mehoni-mekelle-and-enderta-20-28> [*Joint Rapid Needs Assessment Mission*].

29 See below *Warring-Party Conduct*, sections 2(a-c), 3(a).

30 Between April and August 2022, as part of a humanitarian truce between the Ethiopian federal government and the Tigray regional authorities, the Ethiopian federal government allowed the movement of a more substantial amount of humanitarian aid into Tigray. UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Situation Report*, p. 2 (Aug. 5, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-situation-report-05-aug-2022> [*Ethiopia – Situation Report, Aug. 5, 2022*]. As of June 2022, the United Nations said that aid had reached an estimated 1.2 million civilians in Tigray – a small fraction of Tigray’s total population. UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 4 (Jun. 16, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-16-june-2022>. At the time, according to the United Nations, “extreme food insecurity [was still] leading some IDPs [internally displaced people] to resort to eating wild plants to survive.” *Id.*, p. 2. Ethiopia’s siege of the Tigray region remained in place throughout the period of the humanitarian truce.

31 See below *Warring-Party Conduct*, sections 2(a-c), 3(a). See also UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Situation Report, Aug. 5, 2022*, see above note 30, p. 2.

32 Cara Anna, “Report: 5,000-plus deaths under Ethiopia’s Tigray blockade,” *Associated Press* (Jan. 27, 2022), <https://apnews.com/article/health-africa-kenya-ethiopia-blockades-96eb0176b1a22c2a48fe3f67965979af> [“Ethiopia’s Tigray blockade”].

33 “News: Over half a million people newly displaced in Tigray, Afar and Amhara since militarized conflict resumed in August: UN,” *Addis Standard* (Oct. 31, 2022), <https://addisstandard.com/news-over-half-a-million-people-newly-displaced-in-tigray-afar-and-amhara-since-militarized-conflict-resumed-in-august-unicef/>.

an agreement concerning the “permanent cessation of hostilities.”³⁴ Although the implementation of the agreement has improved civilians’ access to humanitarian aid and basic services, the population of Tigray, especially in the region’s rural areas, continues to suffer the disastrous effects of the starvation-related violations committed by warring parties during the previous two years, and access to all parts of the region has yet to be fully restored.³⁵

This analysis aims to illustrate the gravity of the violations that Ethiopia and its allied forces committed during the armed conflict and to suggest areas for additional research. The report’s legal conclusions are tentative, based on available factual sources. This analysis underscores the need for further investigation of starvation-related violations and for accountability, justice, and reparations for these violations in the pursuit of a durable peace.

Based on publicly available information, the report finds:

- Overwhelming evidence that Ethiopia, with its allies, violated the human rights to life, food, water, and the highest attainable standard of health.
- Overwhelming evidence that Ethiopia, with its allies, including Eritrea, violated the prohibition against starving civilians as a method of combat and the international-humanitarian-law obligation to allow and facilitate rapid and unimpeded passage of humanitarian relief to civilians in need in Tigray.
- Strong evidence that members of the Ethiopian government and allied forces committed the war crime of starvation. The role played by members of Ethiopian and allied forces in causing starvation in Tigray might, in some cases, amount to crimes against humanity or genocide, although further investigation is required, including to establish whether relevant actors had the requisite intent for either crime.

Further investigations into the rights abuses, law-of-war violations, and possible international crimes committed during the armed conflict in Ethiopia are crucial both to determining the extent to which warring parties – Ethiopia, allied forces, and opposing forces, including Tigray forces – have violated international legal obligations and to achieving justice, reconciliation, and peace.

Credible investigations into warring-party conduct in Ethiopia have entailed considerable challenges. The reports that form the basis for this analysis involved considerable risk-taking by journalists, aid workers, human rights experts, academics, civil society actors, and civilians in Tigray. The Lowenstein Clinic was not able to verify the facts included in these reports, and this analysis does not claim to definitively attribute responsibility for specific civilian harms to particular actors. In addition,

³⁴ Declan Walsh, Abdi Latif Dahir & Lynsey Chutel, “Ethiopia and Tigray Forces Agree to Truce in Calamitous Civil War,” *New York Times* (Nov. 2, 2022), <https://www.nytimes.com/2022/11/02/world/africa/ethiopia-tigray-civil-war.html> [“Ethiopia and Tigray Forces Agree to Truce”]. See also Mogomotsi Magome & Cara Anna, “Ethiopian govt, Tigray agree to end fighting after 2 years,” *Associated Press* (Nov. 2, 2022), <https://apnews.com/article/africa-south-ethiopia-african-union-70fbod185aacb668b2fabb4f6e45b9f>.

³⁵ See above A Note on the Cessation-of-Hostilities Agreement.

many complex and fact-specific determinations, relating, for example, to intent or control of territory at a specific time, are beyond the scope of this analysis.

Ethiopia and Eritrea have a legal obligation to credibly investigate and remedy past violations of international law and abuses of human rights, including unlawful attacks against food, water, and health-care systems and the use of starvation as a weapon of war. The Ethiopian and Eritrean governments should cooperate fully with domestic and international investigations and provide public guarantees that civilians who provide information to such investigations will not face retribution. Regional authorities in Amhara, Afar, and Tigray, as well as non-state armed groups involved in the conflict, should also cooperate with independent investigations and publicly provide similar guarantees against retribution for civilians who choose to participate in such investigations.

Even as peace returns to Tigray, civilians throughout the region will continue to suffer the devastating physical and psychological effects of hunger, malnutrition, and starvation.

Foreign governments and international civil-society actors should exert considerably more pressure on Ethiopia and its allies to immediately cease ongoing violations of international law, ensure credible accountability, and provide adequate, effective, and prompt reparations to civilians harmed as a result of international wrongs by warring parties.

For more than two years, the population of Tigray suffered immensely under siege. “We are hungry,” said “Ngisti,” a 36-year-old farmer who fled her home in Dansha, Western Tigray, in November 2020.³⁶ In May 2022, Ngisti told a humanitarian relief worker: “The little food we have been able to get is not enough to sustain our family, and I often go hungry for days just so my children can eat.” At the time, Ngisti had four young children and a chronically ill husband, “Gebrehiwot.” As Ngisti explained: “I am tired. My husband cannot get the treatment he needs to survive, since there is no medicine, and I am scared he will not live for much longer. My husband cannot eat and ... I do not know what he will die from first, starvation or sickness.” Two weeks after Ngisti’s statement, Gebrehiwot died.

Without accountability for the gross abuses of human rights and egregious violations of international law committed by warring parties during the conflict in Tigray, Ethiopia will likely continue to experience recurrent cycles of violence, starvation, and repression. The consequences will be particularly ruinous for civilians who have endured – as civilians do in war everywhere – the most serious harms.

Even as peace returns to Tigray, civilians throughout the region will continue to suffer the devastating physical and psychological effects of hunger, malnutrition, and starvation. It will take years, if

³⁶ Transcribed and translated for the Lowenstein Clinic by a humanitarian relief worker in Mekelle, May 2022.

not decades, to rebuild the sophisticated agricultural systems that Tigray's farmers have refined over the centuries. Those responsible for international wrongs during the conflict are obligated to repair the egregious, long-lasting harms that the war has inflicted on civilian life in Tigray.

METHODOLOGY

The Allard K. Lowenstein International Human Rights Clinic is a Yale Law School course providing first-hand experience in human rights advocacy under the supervision of international human rights lawyers. The Clinic undertakes research, legal analysis, and reporting, as well as litigation and other advocacy, on behalf of human rights organizations and individual victims of human rights abuses. The Clinic has prepared briefs and other submissions for various bodies of the United Nations, the African Court and Commission on Human and Peoples' Rights, the European Court of Human Rights, the Inter-American Court of Human Rights, the Inter-American Commission on Human Rights, and national courts, including courts within the United States and other countries. The Clinic has a longstanding commitment to protecting against violations of international human rights, including economic, social and cultural rights, and international humanitarian law.

Four Clinic students, with supervision from two faculty members, researched and wrote this legal analysis between August 2021 and March 2023. The analysis applies international human rights law, international humanitarian law, and international criminal law to the conduct of the Ethiopian government and its allies in order to assess whether acts contributing to food insecurity and starvation in Tigray violated these actors' international legal obligations. The analysis has a particular focus on the Ethiopian government's use of siege. Other types of abuse, such as extrajudicial killings and arbitrary detention, are included when relevant to the legal analysis of food insecurity and starvation. Non-human causes that have exacerbated food insecurity, like desert locust swarms, are briefly discussed in the report but do not constitute a significant part of the research or analysis.

This analysis relied primarily on a review of publicly available information. The information that the Lowenstein Clinic examined included hundreds of reports from relevant United Nations agencies, reports from human rights and humanitarian organizations, news articles, and academic studies. Most of these secondary sources were prepared by researchers or analysts who based their reporting on primary sources (for example, interviews with witnesses or data collected in Ethiopia) and conducted their own fact checking. The Clinic was not able to independently verify the facts reported by these sources. The Clinic also reviewed press statements and reports from the Ethiopian government and statements made by other parties to the conflict.

To inform its study of secondary sources, the Clinic also conducted ten key-informant interviews with staff of human rights and humanitarian organizations, academics, former Ethiopian government officials, and medical professionals. Those interviewed did not receive any financial compensation. The Clinic also reviewed internal Ethiopian government documents related to Tigray and written transcripts of testimonials from displaced people in Mekelle. Given significant security concerns, including risks of retaliation by the Ethiopian government and its allies against individuals and organizations, the Clinic agreed not to publish identifying details and to ensure the anonymity of interviewees who provided information on which the analysis relied.

Several factors limited the quantity and quality of the information available to the Clinic. Since the start of the conflict, the Ethiopian government has tightly controlled physical access to Tigray for humanitarian organizations, journalists, and human rights organizations, which, although they have worked to report on the conflict, have faced significant challenges. The Ethiopian government has also blocked and surveilled telecommunications in Tigray since November 2020. It has been extremely difficult, and often impossible, for researchers outside of Tigray to communicate with civilians in the region.

This analysis covers conduct by the Ethiopian government and its allies that caused or contributed to food insecurity and starvation. If the analysis does not discuss a particular violation of international law, it should not be assumed that the violation did not occur. There are many credible reports of severe international law violations during the conflict in Ethiopia, including by Ethiopia and its allies and by armed groups, like the Tigray forces, that are fighting against Ethiopia and its allies in the conflict.³⁷ Many potential violations of international law are beyond the substantive scope of this project, occurred outside the relevant time period, have been examined elsewhere, or, because of access constraints and the telecommunications shutdown, have not been sufficiently documented. As discussed in the recommendations section of this analysis, further investigations into the human rights abuses and violations of the laws of war by all warring parties during the war in Tigray are crucial to achieving justice, reconciliation, and a durable peace.

³⁷ See, e.g., Human Rights Watch, *Ethiopia: Airstrike on Camp for Displaced Likely War Crime* (Mar. 24, 2022), <https://www.hrw.org/news/2022/03/24/ethiopia-airstrike-camp-displaced-likely-war-crime>; Amnesty International, *Ethiopia: Survivors of TPLF attack in Amhara describe gang rape, looting and physical assaults* (Nov. 9, 2021), [https://www.amnesty.org/en/latest/news/2021/11/ethiopia-survivors-of-tplf-attack-in-amhara-describe-gang-rape-looting-and-physical-assaults/\[TPLF attack in Amhara\]](https://www.amnesty.org/en/latest/news/2021/11/ethiopia-survivors-of-tplf-attack-in-amhara-describe-gang-rape-looting-and-physical-assaults/[TPLF%20attack%20in%20Amhara]); Human Rights Watch, *Ethiopia: Eritrean Forces Massacre Tigray Civilians* (Mar. 5, 2021), <https://www.hrw.org/news/2021/03/05/ethiopia-eritrean-forces-massacre-tigray-civilians> [*Eritrean Forces Massacre Tigray Civilians*].

KEY RECOMMENDATIONS

TO ALL PARTIES TO THE CONFLICT:

- Immediately cease all violations of international law.
- Fully implement the cessation-of-hostilities agreement and facilitate immediate, unrestricted, and sustained humanitarian access to all parts of Tigray.
- Allow immediate and unrestricted access for independent journalists and human rights investigators to all parts of Tigray, including by cooperating fully with the International Commission of Human Rights Experts on Ethiopia and the African Commission's Commission of Inquiry on the Human Rights Situation in the Tigray Region of Ethiopia.
- Provide appropriate redress to victims of starvation-related violations of international law, including prompt, adequate, and effective reparations.

TO THE FEDERAL GOVERNMENT OF ETHIOPIA:

- Fully lift the siege and make every effort to restore the provision of basic public services to people throughout Tigray and in affected areas of Amhara and Afar.
- Make regular, public reports about the implementation of the cessation-of-hostilities agreement, including the withdrawal of non-ENDF forces from all parts of Tigray.
- Take all available steps toward remedying the serious, starvation-related violations of international humanitarian and human rights law that, as outlined in this analysis, Ethiopia and its allies have committed in Tigray and other areas of Ethiopia affected by the conflict.

TO THE ERITREAN GOVERNMENT:

- Immediately and unconditionally withdraw Eritrean armed forces from all parts of Ethiopia.
- While Eritrean forces withdraw, do not impede humanitarian aid efforts, human rights investigations, or media access in any areas of Ethiopia where Eritrean forces remain present.
- Take all available steps toward remedying the serious, starvation-related violations of international humanitarian and human rights law that, as outlined in this analysis, Eritrean troops and officials have committed in Tigray and other areas of Ethiopia affected by the conflict.

TO THE TIGRAY REGIONAL GOVERNMENT:

- Facilitate the rapid and unimpeded distribution of humanitarian aid in Tigray and ensure that humanitarian supplies of food, medicine, fuel, and cash in Tigray are used exclusively to meet civilian needs.
- Take all available steps toward remedying serious, starvation-related violations of international humanitarian and human rights law committed by Tigray forces in Tigray, Amhara, Afar, and other areas of Ethiopia affected by the conflict.

TO THE AFRICAN UNION AND ITS MEMBER STATES:

- Support the rapid and complete implementation of the cessation-of-hostilities agreement by all parties to the conflict.
- Publicly urge the Ethiopian government to immediately restore basic services and facilitate the provision of humanitarian relief to civilians throughout Tigray.

TO ETHIOPIA'S INTERNATIONAL PARTNERS:

- Monitor compliance with the cessation-of-hostilities agreement by all parties to the conflict and review funding to and cooperation with the Ethiopian government in light of the speed and completeness of its implementation of the agreement.
- Urge the Ethiopian government and allied forces to adopt and support the implementation of the above recommendations, especially to resume basic services for civilians in all parts of Tigray and to allow full, unfettered access for humanitarian relief and for independent journalists and human rights investigators.

OVERVIEW OF THE CONFLICT AND ITS EFFECT ON FOOD SECURITY

1. PROGRESSION OF THE CONFLICT

On November 4, 2020, the Prime Minister of the Federal Democratic Republic of Ethiopia (Ethiopia), Abiy Ahmed Ali, announced the start of a military operation in Tigray Regional State (Tigray) in northern Ethiopia.³⁸ Prime Minister Abiy described the military action as a “law enforcement” operation to capture the leaders of the Tigray People’s Liberation Front (TPLF),³⁹ who no longer recognized the legitimacy of the federal government.⁴⁰ Prime Minister Abiy said that the “military confrontation” was in response to a TPLF attack on an army base of the Ethiopian National Defense Force (ENDF).⁴¹ Politicians and military leaders in Tigray, on the other hand, have characterized the military operation as a coordinated and pre-planned “invasion” of Tigray by the Ethiopian federal government, the government of Amhara Regional State (Amhara), and the government of Eritrea.⁴²

After Abiy’s announcement, the ENDF, the Eritrean Defence Forces (EDF), Amhara Special Forces,⁴³ and allied Amhara militia (Fano) launched a military offensive against the TPLF and Tigray Special

38 Elias Meseret & Cara Anna, “Ethiopia near civil war as PM sends army into defiant region,” *Associated Press* (Nov. 4, 2020), <https://apnews.com/article/abiy-ahmed-ethiopia-nears-war-7e525d01c44c5eaf4fdd576650eee5dc>; Jason Burke, “Fighting reported in Ethiopia after PM responds to ‘attack’ by regional ruling party,” *The Guardian* (Nov. 4, 2020), <https://www.theguardian.com/world/2020/nov/04/ethiopia-on-brink-as-pm-orders-military-response-to-attack>.

39 “Ethiopia’s PM Abiy promises ‘final’ offensive in Tigray,” *Al Jazeera* (Nov. 17, 2020), <https://www.aljazeera.com/news/2020/11/17/ethiopia-pm-abiy-vows-final-offensive-into-tigray>.

40 Giulia Paravicini, “Ethiopia’s Tigray holds regional election in defiance of federal government,” *Reuters* (Sept. 8, 2020), <https://www.reuters.com/article/us-ethiopia-politics/ethiopia-tigray-holds-regional-election-in-defiance-of-federal-government-idUSKBN25Z35S>.

41 “Tigray crisis: Ethiopia orders military response after army base seized,” *BBC News* (Nov. 4, 2020), <https://www.bbc.com/news/world-africa-54805088>. See also “Inside a military base in Ethiopia’s Tigray: soldiers decry betrayal by former comrades,” *Reuters* (Dec. 17, 2020), <https://www.reuters.com/article/us-ethiopia-conflict-attack/inside-a-military-base-in-ethiopia-tigray-soldiers-decry-betrayal-by-former-comrades-idUSKBN28R1IE>.

42 Giulia Paravicini & Dawit Endeshaw, “Ethiopia sends army into Tigray region, heavy fighting reported,” *Reuters* (Nov. 4, 2020), <https://www.reuters.com/article/us-ethiopia-conflict/ethiopia-sends-army-into-tigray-region-heavy-fighting-reported-idUSKBN27KoZS> [“Ethiopia sends army into Tigray region”]. See also “Tigray crisis: ‘Genocidal war’ waged in Ethiopia region, says ex-leader,” *BBC News* (Jan. 31, 2021), <https://www.bbc.com/news/world-africa-55877939>; Tsadkan Gebretensae, “Pertinent Issues on the War in Tigray,” *The Elephant* (Dec. 26, 2021), <https://www.theelephant.info/op-eds/2021/12/26/pertinent-issues-on-the-war-in-tigray/>.

43 “News Analysis: Amhara region police chief reveals how region’s police force guided federal steel-clad mechanized forces to join ‘war’ in Tigray,” *Addis Standard* (Jan. 4, 2021), <https://addisstandard.com/news-analysis-amhara-region-police-chief-reveals-how-regions-police-force-guided-federal-steel-clad-mechanized-forces-to-join-war-in-tigray/>. For a discussion of the special forces of Ethiopia’s regional states, see European Institute of Peace, *The Special Police in Ethiopia* (Oct. 2021) [Special Police in Ethiopia]; Belay Adugna, “The Fate of Regional Special Forces,” *Addis Insight* (Apr. 22, 2021), <https://addisinsight.net/the-fate-of-regional-special-forces/> [“Regional Special Forces”]. Special forces from other regional states may also have taken part in the initial conduct of hostilities. For example, fighters identified as members of the Afar Special Forces were photographed in Bisober, Southern Tigray, on December 9, 2020. See “Ethiopia’s Afar Region Urges Civilians to Fight Tigray Rebels,” *Voice of America* (Jul. 23, 2021), <https://www.voanews.com/a/ethiopia-tigray-ethiopia-afar-region-urges-civilians-fight-tigray-rebels/6208639.html>; “Ethiopia: Aid agencies say four staff killed in Tigray fighting,” *Al Jazeera* (Dec. 11, 2020), <https://www.aljazeera.com/news/2020/12/11/aid-agencies-say-four-staff-killed-in-ethiopia-fighting>. Afar Special Forces were also seen in Mekelle in November and December 2020. Lowenstein Clinic interview with a former interim administration official, April 2022.

Forces.⁴⁴ Troops from the Federal Republic of Somalia were also reportedly present alongside EDF forces in Tigray for an unconfirmed period of time, taking part in hostilities.⁴⁵ During the early period of the armed conflict, Tigray Special Forces, militia groups, soldiers who defected from the ENDF, and members of Tigray political parties collectively reorganized as the Tigray Defense Forces (TDF).⁴⁶

On November 28, 2020, Prime Minister Abiy announced that military operations in Tigray had been “successfully concluded,” with the federal government “fully in control” of Tigray’s capital city, Mekele, and an interim administration in place to govern the region.⁴⁷ Despite the Prime Minister’s announcement at the end of November 2020, fighting continued in various parts of Tigray. On March 23, 2021, after international condemnation of the continued fighting, Prime Minister Abiy publicly acknowledged, for the first time, that Eritrean troops were present in Ethiopia.⁴⁸ Soon after, Prime Minister Abiy said that Eritrea had agreed to withdraw its troops from Tigray.⁴⁹ The *New York Times* reported in April 2021, however, that humanitarian agencies in Tigray had “seen no evidence” that Eritrean troops had withdrawn.⁵⁰ A year later, Eritrean forces remained in parts of Eastern and Western Tigray⁵¹ and, reportedly, elsewhere in Ethiopia.⁵²

44 “PM Orders Defense Forces To Start Military Offensive Against TPLF,” *Fana Broadcasting Corporate S.C.* (Nov. 4, 2020), <https://www.fanabc.com/english/pm-gives-order-to-defense-forces-to-start-military-offensive-against-tplf/>; Paravicini & Endeshaw, “Ethiopia sends army into Tigray region,” *see above* note 42 (quoting Prime Minister Abiy’s office as stating: “The last red line has been crossed with this morning’s attacks and the federal government is therefore forced into a military confrontation.”).

45 UN Human Rights Council, *Report of the Special Rapporteur on the situation of human rights in Eritrea, Mohamed Abdelsalam Babiker*, UN Doc A/HRC/47/21 (2021), para. 20 [*Report of Special Rapporteur Mohamed Abdelsalam Babiker*]; *see also* Lucy Kassa, “Somali troops committed atrocities in Tigray as new alliance emerged, survivors say,” *The Globe and Mail* (Jan. 20, 2022), <https://www.theglobeandmail.com/world/article-somali-troops-committed-atrocities-in-tigray-as-new-alliance-emerged/>.

46 *See generally* Farouk Chothia, “Ethiopia’s Tigray conflict: How the TPLF has outflanked the army,” *BBC News* (Nov. 18, 2021), <https://www.bbc.com/news/world-africa-59288744> [“Ethiopia’s Tigray conflict”].

47 “Ethiopia PM says Tigray operation over after army seizes Mekele,” *Al Jazeera* (Nov. 28, 2020), <https://www.aljazeera.com/news/2020/11/28/ethiopian-army-takes-full-control-of-tigray-capital-abiy-says>; “Ethiopia’s military has ‘completed’ operations in Tigray, says PM Abiy,” *Financial Times* (Nov. 29, 2020), <https://www.ft.com/content/f71fd04f-cf55-44e1-b20a-3c2830820566>.

48 “Ethiopian PM confirms Eritrean troops entered Tigray during conflict,” *Reuters* (Mar. 23, 2021), <https://www.reuters.com/world/ethiopian-pm-confirms-eritrean-troops-entered-tigray-during-recent-conflict-2021-03-23/>; “Ethiopia PM Ahmed Abiy admits Eritrea forces in Tigray,” *BBC News* (Mar. 23, 2021), <https://www.bbc.com/news/world-africa-56497168>.

49 “Ethiopia PM Abiy says Eritrea to withdraw troops from Tigray,” *Al Jazeera* (Mar. 26, 2021), <https://www.aljazeera.com/news/2021/3/26/ethiopia-says-eritrean-has-agreed-to-withdraw-forces-from-tigray>. *See also* Giulia Paravicini, “U.S., EU warn of influx of Eritrean troops in Ethiopia’s Tigray,” *Reuters* (Aug. 24, 2021), <https://www.reuters.com/world/us-eu-warn-influx-eritrean-troops-ethiopia-tigray-2021-08-24/> (“The Ethiopian government said in April [2021] that Eritrean troops had begun withdrawing.”).

50 Declan Walsh, “Eritrean Troops Continue to Commit Atrocities in Tigray, UN Says,” *New York Times* (Apr. 15, 2021), <https://www.nytimes.com/2021/04/15/world/africa/ethiopia-eritrean-tigray.html>.

51 *See* International Crisis Group, *Building on Ethiopia’s Fragile Truce* (Apr. 15, 2022), <https://www.crisisgroup.org/africa/horn-africa/ethiopia/building-ethiopia-fragile-truce>.

52 Lucy Kassa, “‘Ethnic cleansing’: Ethiopian allies accused of Abala massacre,” *Al Jazeera* (Feb. 25, 2022), <https://www.aljazeera.com/features/2022/2/25/calculated-ethnic-cleansing-ethiopian-allies-accused-of-killin>; “News: Residents in Horo Guduru zone say Eritrean troops are persecuting civilians: Regional Government denies allegations; blames TPLF, ‘Shene,’” *Addis Standard* (Jun. 2, 2021), <https://addisstandard.com/news-residents-in-horo-guduru-zone-say-eritrean-troops-are-persecuting-civilians-regional-government-denies-allegations-blames-tplf-shene/>.

Between November 2020 and June 2021, Tigray was governed by an interim administration established by the Ethiopian federal government. On November 7, 2020, Ethiopia’s House of Federation, the upper house of Ethiopia’s parliament, voted to establish the interim administration, sometimes called the “Transitional Government of Tigray” or the “Tigray Provisional Administration” (referred to in this report as the “federally appointed interim administration” or the “interim administration”).⁵³ The following week, Prime Minister Abiy appointed Mulu Nega, the federal deputy minister for science and higher education, as chief executive of the interim administration.⁵⁴ On May 5, 2021, the Prime Minister’s Office replaced Mulu Nega with Abraham Belay, then president of the Tigray regional branch of the Prosperity Party and a member of Abiy’s Council of Ministers,⁵⁵ as the interim administration’s chief executive.⁵⁶

On June 28, 2021, Tigray forces recaptured much of the Tigray region, including the capital city, Mekele, from the ENDF and its allies,⁵⁷ and the Ethiopian federal government declared a unilateral ceasefire.⁵⁸ Most members of the federally appointed interim administration fled the region.⁵⁹ The following day, the TPLF claimed administrative control of Tigray. On July 4, 2021, the TPLF issued a statement rejecting the government’s unilateral ceasefire declaration and listing seven conditions for a negotiated ceasefire.⁶⁰ Tigray forces then began military offensives in Afar and Amhara Regional States.⁶¹ On August 11, 2021, as Tigray forces pushed south toward Ethiopia’s capital city, Addis

53 “News Alert: House of Federation adopts resolution to establish a transitional government in Tigray,” *Addis Standard* (Nov. 7, 2020), <https://addisstandard.com/news-alert-house-of-federation-adopts-resolution-to-establish-a-transitional-government-in-tigray/>.

54 “Dr. Mulu Nega Appointed Chief Executive Of Tigray Provisional Administration,” *Fana Broadcasting Corporate S.C.* (Nov. 13, 2020), <https://www.fanabc.com/english/dr-mulu-nega-appointed-chief-executive-of-tigray-provisional-administration/>; “Hard Choices Ahead in Addis,” *Africa Confidential* (Nov. 19, 2020), https://www.africa-confidential.com/article/id/13141/Hard_choices_ahead_in_Addis.

55 “Abraham Belay named Head of Tigray region administration,” *Borkena* (May 5, 2021), <https://borkena.com/2021/05/05/abraham-belay-named-head-of-tigray-region-administration/>; see also “News: Despite objections PM Abiy removes one of the remaining two TPLF members from his cabinet,” *Addis Standard* (Jan. 22, 2020), <https://addisstandard.com/news-despite-objections-pm-abiy-removes-one-of-the-remaining-two-tplf-members-from-his-cabinet/>.

56 “Ethiopia replaces head of interim gov’t in war-wracked Tigray,” *Al Jazeera* (May 6, 2021), <https://www.aljazeera.com/news/2021/5/6/ethiopia-replaces-head-of-war-hit-tigray-region>; Dawit Endeshaw & Giulia Paravicini, “Ethiopia arrests former government officials from Tigray, rights body says,” *Reuters* (Mar. 19, 2022), <https://www.reuters.com/world/africa/ethiopia-arrests-former-government-officials-tigray-rights-body-says-2022-03-18/>.

57 Declan Walsh & Simon Marks, “Ethiopian Forces Retreat in Tigray, and Rebels Enter the Capital,” *New York Times* (Jun. 28, 2021), <https://www.nytimes.com/2021/06/28/world/asia/tigray-mekelle-ethiopia-retreat.html>.

58 “Ethiopia declares ceasefire as rebels retake Tigray capital,” *Al Jazeera* (Jun. 28, 2021), <https://www.aljazeera.com/news/2021/6/28/ethiopian-government-agrees-immediate-ceasefire-in-tigray>. See also “News Update: Tigrayan Forces take over capital Mekelle; Fed. Gov accepts interim admin’s call for unilateral ceasefire,” *Addis Standard* (Jun. 28, 2021), <https://addisstandard.com/news-update-tigrayan-forces-take-over-capital-mekelle-fed-gov-accepts-interim-admins-call-for-unilateral-ceasefire/>.

59 Emmanuel Akinwotu, “Interim government of Tigray flees as rebels seize capital,” *The Guardian* (Jun. 28, 2021), <https://www.theguardian.com/world/2021/jun/28/interim-government-of-tigray-flees-as-rebels-advance-on-mekelle>.

60 Getachew Reda (@reda_getachew), Twitter (Jul. 4, 2021, at 5:43 AM EST), https://twitter.com/reda_getachew/status/1411621680280113156. See also “TPLF lays out conditions for truce talks with Ethiopian gov’t,” *Al Jazeera* (Jul. 4, 2021), <https://www.aljazeera.com/news/2021/7/4/tplf-conditions-tigray-ceasefire-talks-ethiopia-government>.

61 Dawit Endeshaw & Maggie Fick, “Ethiopia’s Tigray forces enter neighbouring Afar region, Afar says,” *Reuters* (Jul. 19, 2021), <https://www.reuters.com/world/africa/ethiopias-tigray-forces-enter-neighbouring-afar-region-afar-says-2021-07-19/>; “In Ethiopia’s civil war, Tigrayan forces take the offensive,” *The Economist* (Jul. 31, 2021), <https://www.economist.com/middle-east-and-africa/2021/07/31/in-ethiopias-civil-war-tigrayan-forces-take-the-offensive>.

Ababa, the leader of the Oromo Liberation Army (OLA), Kumsa Diriba, announced that the OLA had formed an alliance with Tigray forces.⁶²

In November 2021, after Tigray forces took control of two major cities in Amhara region, Dessie and Kombolcha,⁶³ and advanced south jointly with OLA forces, Prime Minister Abiy called the armed conflict an “existential war.”⁶⁴ On November 2, Ethiopia’s Council of Ministers approved a nationwide state-of-emergency proclamation, suspending the country’s constitution and granting Prime Minister Abiy significant powers to deploy security forces, arrest and detain civilians, impose curfews, restrict telecommunications, and limit media freedoms.⁶⁵ In late November and early December 2021, a renewed government offensive – with support from additional militia forces and newly acquired combat drones from the United Arab Emirates, Turkey, and Iran⁶⁶ – reversed the Tigray forces’ advance and recaptured key cities, including Dessie and Kombolcha.⁶⁷

On December 20, 2021, Debretsion Gebremichael, chairman of the TPLF and the president of the Tigray regional government, said that, in response to the “unanimous international call” to halt the TDF’s offensive toward Addis Ababa, Tigray forces would “withdraw to the borders of Tigray with immediate effect.”⁶⁸ On December 23, 2021, an Ethiopian federal government spokesperson announced that the ENDF and its allies had been ordered to remain in areas of Amhara and Afar regions where the government had reestablished control, rather than advance into Tigray.⁶⁹ In January 2022, Prime Minister Abiy’s office stated that “the threat is now at a level that can be countered by

62 Cara Anna, “Ethiopia armed group says it has alliance with Tigray forces,” *Associated Press* (Aug. 11, 2021), <https://apnews.com/article/africa-only-on-ap-ethiopia-b280e6622d66b7e7f9b12cd1d0041ae8>.

63 Martin Chulov, “Tigrayan forces’ capture of two towns raises fears for Ethiopian capital,” *The Guardian* (Nov. 1, 2021), <https://www.theguardian.com/world/2021/nov/01/tigrayan-forces-claim-control-of-two-cities-on-road-to-ethiopia-capital>.

64 Cara Anna, “Ethiopia seeks to restrict media reporting on yearlong war,” *Associated Press* (Nov. 26, 2021), <https://apnews.com/article/africa-media-freedom-of-speech-kenya-ethiopia-41d0ead1950a25950e8f31876dd62104> [“Ethiopia seeks to restrict media reporting”].

65 “Update: Details of Ethiopia’s State of Emergency Proclamation,” *Addis Standard* (Nov. 2, 2021), <https://addisstandard.com/update-details-of-ethiopia-state-of-emergency-proclamation/>; Samuel Gebre & Fasika Tadesse, “Ethiopia Declares State of Emergency to Stymie Rebel Advance,” *Bloomberg* (Nov. 2, 2021), <https://www.bloomberg.com/news/articles/2021-11-02/ethiopian-government-declares-nationwide-state-of-emergency>; Declan Walsh & Simon Marks, “Ethiopia Declares State of Emergency as Rebels Advance Toward Capital,” *New York Times* (Nov. 2, 2021), <https://www.nytimes.com/2021/11/02/world/africa/ethiopia-state-of-emergency.html>.

66 Declan Walsh, “Foreign Drones Tip the Balance in Ethiopia’s Civil War,” *New York Times* (Dec. 20, 2021), <https://www.nytimes.com/2021/12/20/world/africa/drones-ethiopia-war-turkey-emirates.html>. See also Stephen Grey, “As government offensive pushes forward, scars of war dot Ethiopia’s Amhara region,” *Reuters* (Dec. 11, 2021), <https://www.reuters.com/world/africa/government-offensive-pushes-forward-scars-war-dot-ethiopia-amhara-region-2021-12-10/>.

67 “Ethiopian forces recapture two key towns from Tigrayan forces,” *Al Jazeera* (Dec. 6, 2021), <https://www.aljazeera.com/news/2021/12/6/ethiopia-recapture-dessie-kombolcha-tigrayan-rebels>.

68 Michael Cohen & Simon Marks, “Tigray Leader Orders Forces to Retreat to Northern Ethiopia,” *Bloomberg* (Dec. 20, 2021), <https://www.bloomberg.com/news/articles/2021-12-20/tigray-leader-orders-forces-to-retreat-to-northern-ethiopia>; “Tigray leader says fighters to leave nearby Ethiopian areas,” *Associated Press* (Dec. 20, 2021), <https://apnews.com/article/africa-kenya-ethiopia-antonio-guterres-93a28cf35e74f9d1612e8d2841628fa4>.

69 “Ethiopia says its army will not advance further into Tigray,” *Associated Press* (Dec. 23, 2021), <https://apnews.com/article/africa-kenya-ethiopia-4790308166bf9e6a1705675fccb53cf6>.

formal law enforcement action.”⁷⁰ On February 15, 2022, Ethiopia’s parliament voted to lift the nationwide state of emergency.⁷¹

On March 24, 2022, the Ethiopian Federal Government Communication Service announced that the Ethiopian government had declared “an indefinite humanitarian truce effective immediately.”⁷² In response, the Tigray regional government said that it would agree to the truce if the people of Tigray received an amount of humanitarian assistance that was “commensurate with needs on the ground, and within a reasonable timeframe.”⁷³ On April 25, 2022, a TPLF spokesperson said that Tigray forces had withdrawn from Afar region.⁷⁴

On August 24, 2022,⁷⁵ Tigray forces and Ethiopian federal and allied forces fought around the towns of Bisober and Kobo near Tigray’s southern border.⁷⁶ The Ethiopian federal government and Tigray regional authorities accused each other of ending the truce.⁷⁷ On September 1, the Tigray Military Command said that Ethiopian and Eritrean forces had begun military offensives towards Abergele, in Central Tigray, and Adiabo, North Western Tigray.⁷⁸ On September 20, a TPLF official said that Eritrea had launched a “full-scale offensive” on “all fronts” along Tigray’s northern border, with support from Ethiopian federal forces, Amhara Special Forces, and Amhara Fano militia.⁷⁹ By October 24,

70 Fasika Tadesse, “Ethiopia Lifts State of Emergency on Diminishing Security Threat,” *Bloomberg* (Jan. 26, 2022), <https://www.bloomberg.com/news/articles/2022-01-26/ethiopia-lifts-state-of-emergency-on-diminishing-security-threat>; “Ethiopia’s cabinet approves lifting of state of emergency,” *Reuters* (Jan. 26, 2022), <https://www.reuters.com/world/africa/ethiopias-cabinet-approves-lifting-state-emergency-2022-01-26/> (“Now we have reached a stage where threats can be neutralised through regular law enforcement mechanisms,” the statement from the prime minister’s office said.”).

71 “Ethiopia parliament votes to lift state of emergency early,” *Al Jazeera* (Feb. 15, 2022), <https://www.aljazeera.com/news/2022/2/15/ethiopia-parliament-votes-to-lift-state-of-emergency>.

72 “Update: Federal government declares humanitarian truce in Tigray effective today; says move paves way for resolution of conflict,” (Mar. 24, 2022), <https://addisstandard.com/update-federal-government-declares-humanitarian-truce-in-tigray-effective-today-says-move-paves-way-for-resolution-of-conflict/>. See also FDRE Government Communication Service (@FdreService), Twitter (Mar. 24, 2022, at 10:29 AM EST), <https://twitter.com/FdreService/status/1507001573586595848>.

73 “News: Tigray state says committed to implement cessation of hostilities ‘immediately,’ asks humanitarian assistance to meet needs on the ground,” *Addis Standard* (Mar. 25, 2022), <https://addisstandard.com/news-tigray-state-says-committed-to-implement-cessation-of-hostilities-immediately-asks-humanitarian-assistance-to-meet-needs-on-the-ground/>; Tigray External Affairs Office (@TigrayEAO), Twitter (Mar. 24, 2022, at 5:35 PM EST), <https://twitter.com/TigrayEAO/status/1507108987107430407>.

74 “Tigray forces leaving Ethiopia’s Afar region, says spokesperson,” *Reuters* (Apr. 25, 2022), <https://www.reuters.com/world/africa/tigray-forces-have-left-ethiopias-afar-region-spokesperson-2022-04-25/>.

75 As discussed in the Methodology section, the scope of this analysis is limited to events occurring between November 2020 and April 2022. This description of significant events from August to December 2022 provides additional context.

76 Rachel Chason, “Fighting erupts near Tigray border, dashing hopes of peace in Ethiopia,” *Washington Post* (Aug. 24, 2022), <https://www.washingtonpost.com/world/2022/08/24/ethiopia-fighting-tplf-war-tigray/>.

77 “News: Fed. Government, Tigrayan forces exchange blame for resumption of military hostilities,” *Addis Standard* (Aug. 24, 2022), <https://addisstandard.com/news-fed-govt-tigrayan-forces-exchange-blame-for-resumption-of-military-hostilities/>.

78 Tigray External Affairs Office (@TigrayEAO), Twitter (Sept. 1, 2022, at 3:41 AM EST), <https://twitter.com/TigrayEAO/status/1565243393684504576>.

79 Getachew K Reda (@reda_getachew), Twitter (Sept. 20, 2022, at 5:28 AM EST), https://twitter.com/reda_getachew/status/1572155625722765313. See also “Tigrayan forces in Ethiopia say Eritrea launches ‘full-scale offensive,’” *Reuters* (Sept. 20, 2022), <https://www.reuters.com/world/africa/tigrayan-forces-ethiopia-say-eritrea-launches-full-scale-offensive-2022-09-20/>. Satellite imagery and, according to journalists, diplomatic accounts have corroborated the presence of significant numbers of Eritrean and Ethiopian troops near Tigray’s borders with Eritrea and Afar Regional State. Catherine Byaruhanga & Natalie Higgins, “Ethiopia’s Tigray war: Satellite images capture troop build-up near

Ethiopian and allied forces had taken control of key cities in North Western,⁸⁰ Central,⁸¹ and Southern Tigray.⁸²

Peace talks between Tigray authorities and the Ethiopian federal government began in Pretoria, South Africa on October 25, 2022.⁸³ On November 2, 2022, the Ethiopian federal government and the TPLF signed an agreement on the “permanent *cessation of hostilities*.”⁸⁴ Senior commanders from Ethiopian and Tigray forces signed a declaration on the modalities for the implementation of the agreement in Nairobi, Kenya on November 12.⁸⁵ At the time of this report’s publication, implementation of the cessation-of-hostilities agreement was ongoing.⁸⁶

Eritrea border,” *BBC News* (Sept. 28, 2022), <https://www.bbc.com/news/world-africa-63061686>; Cara Anna, “Satellite images show Eritrea military buildup near Tigray,” *Associated Press* (Sept. 28, 2022), <https://apnews.com/article/africa-kenya-ethiopia-eritrea-198df2c3323b6d480648f7f042bfb87>; “Is there a path to peace in the Tigray conflict?,” *The New Humanitarian* (Sept. 28, 2022), <https://www.thenewhumanitarian.org/analysis/2022/09/28/Ethiopia-Tigray-Amhara-blockade-AU-Obasanjo>.

80 “Ethiopian army captures city from Tigray forces -sources,” *Reuters* (Oct. 17, 2022), <https://www.reuters.com/world/africa/ethiopia-aims-take-control-airports-north-conflict-rages-2022-10-17/>.

81 Fred Harter, “Ethiopian and Eritrean take Axum and Adwa, as forces advance on Tigray,” *The Africa Report* (Oct. 24, 2022), <https://www.theafricareport.com/252873/ethiopian-and-eritrean-take-axum-and-adwa-as-forces-advance-on-tigray/>. See also Cara Anna, “Witnesses allege Eritrean abuses during Ethiopia peace talks,” *Associated Press* (Oct. 29, 2022), <https://apnews.com/article/africa-only-on-ap-kenya-ethiopia-eritrea-b86f4f1fbc836f132e15e1d65893bod3>.

82 “Ethiopia says army has captured three towns from Tigray forces,” *Reuters* (Oct. 18, 2022), <https://www.reuters.com/article/ethiopia-conflict-idAFKBN2RDoMY>.

83 Mogomotsi Magome, “Ethiopia peace talks have begun on Tigray, South Africa says,” *Associated Press* (Oct. 25, 2022), <https://apnews.com/article/africa-south-cybil-ramaphosa-ethiopia-uhuru-kenyatta-3e87c4865e3a5f0873d01dc5acb6532c>.

84 Walsh, Dahir & Chutel, “Ethiopia and Tigray Forces Agree to Truce,” see above note 34.

85 Ayanat Mersie, “Ethiopia combatants sign deal to start implementing truce,” *Reuters* (Nov. 12, 2022), <https://www.reuters.com/world/africa/ethiopia-truce-implementation-start-immediately-mediator-says-2022-11-12/>. See also Cara Anna, “New round of peace talks between Ethiopia, Tigray envoys,” *Associated Press* (Nov. 7, 2022), <https://apnews.com/article/africa-kenya-ethiopia-e867abb41c5c5eabb16d7decf2a6f8aa>.

86 During the implementation period, which has taken longer than the agreed-upon timeline, journalists have documented Ethiopian and allied forces’ continued abuses against civilians in Tigray. See, e.g., Cara Anna, “Eritrean forces still killing Tigray civilians, report says,” *Associated Press* (Dec. 2, 2022), <https://apnews.com/article/africa-united-nations-kenya-ethiopia-eritrea-6de53375bf76fb0353505c4cc27521a9>; “Looting, forced removals plague Ethiopia’s Tigray despite truce ... witnesses,” *Reuters* (Dec. 2, 2022), <https://www.reuters.com/world/africa/looting-forced-removals-plague-ethiopia-tigray-despite-truce-witnesses-2022-12-02>. On November 25, 2022, the World Food Programme said that deliveries of food, medical, nutrition, and other supplies were “not matching the needs” among civilians in Tigray. World Food Programme, *WFP accelerates humanitarian operations in Northern Ethiopia* (Nov. 25, 2022), <https://www.wfp.org/news/wfp-accelerates-humanitarian-operations-northern-ethiopia>.

2. THE CONFLICT'S IMPACT ON CIVILIANS

Since November 4, 2020, the war between Tigray forces and the Ethiopian government has killed hundreds of thousands of people.⁸⁷ The fighting has displaced more than three million civilians⁸⁸ and left nearly ten million others in need of humanitarian assistance.⁸⁹ Armed conflict has decimated health systems and social institutions,⁹⁰ destroyed livelihoods,⁹¹ disrupted schooling for millions of children,⁹² and caused immense human suffering and trauma.⁹³

The Ethiopian federal government's extensive shutdowns of banking, electricity, fuel, transportation, and telecommunications systems, in particular, have deprived civilians in Tigray of basic goods and services for more than two years.⁹⁴ Journalists, human

The conflict has decimated health systems and social institutions, destroyed livelihoods, disrupted schooling for millions of children, and caused immense human suffering and trauma.

87 Due to the Ethiopian government's denials of access to Tigray and shutdown of telecommunications, the exact number of conflict-related deaths is unknown. Opposition parties in Tigray estimated in February 2021 that 50,000 civilians had been killed. Cara Anna, "More than 50,000 Ethiopia civilians have been killed, Tigray opposition says," *Los Angeles Times* (Feb. 2, 2021), <https://www.latimes.com/world-nation/story/2021-02-02/tigray-opposition-parties-assert-50-000-plus-civilian-deaths>. By November 2021, an independent researcher in Sweden had confirmed 3,080 civilian casualties in Tigray. Cara Anna, David Keyton & Nat Castaneda, "'You can't even cry loudly': Counting Ethiopia's war dead," (Nov. 15, 2021), <https://apnews.com/article/Counting-Ethiopias-War-Dead-ee2b9ad16ce952a5543fod767c109104>. Researchers led by a scholar at Ghent University have estimated that up to 500,000 people have died from violence and starvation. Geoffrey York, "Tigray war has seen up to half a million dead from violence and starvation, say researchers," *Globe & Mail* (Mar. 14, 2022), <https://www.theglobeandmail.com/world/article-tigray-war-has-seen-up-to-half-a-million-dead-from-violence-and/>.

88 UN High Commissioner for Refugees, *Ethiopia Emergency Situation: Regional Update #27*, p. 1 (Jan. 5, 2022), <https://reliefweb.int/report/ethiopia/unhcr-regional-update-27-ethiopia-emergency-situation-05-january-2022> (citing "estimates of some 1.8 million IDPs in Tigray, 1 million in Amhara, and 334,196 in Afar"). In 2021, more people were displaced in Ethiopia than anywhere else in the world. See "Almost 60 million people displaced in 2021, more to follow Ukraine war: monitoring centre," *Geneva Solutions* (May 19, 2022), <https://genevasolutions.news/peace-humanitarian/almost-60-million-people-displaced-in-2021-more-to-follow-ukraine-war-monitoring-centre> ("Ethiopia has the largest conflict-driven displacement [in 2021] with over 5.1 million people stranded from the northern region, where a protracted civil war has continued since 2020.").

89 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 2 (Feb. 17, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-17-february-2022>.

90 Sara Jerving, "Tigray: The deliberate destruction of a health system," *Devex*, (Jan. 18, 2022), <https://www.devex.com/news/tigray-the-deliberate-destruction-of-a-health-system-102252> ["Destruction of a health system"]; Anna, "Ethiopia's Tigray blockade," see above note 32.

91 Food and Agriculture Organization of the United Nations, *Emergency livelihood support for conflict-affected communities in Ethiopia's Tigray region* (Jul. 7, 2021), <https://reliefweb.int/report/ethiopia/emergency-livelihood-support-conflict-affected-communities-ethiopia-s-tigray-region> [*Emergency livelihood support for conflict-affected communities*].

92 Human Rights Watch, *Ethiopia: Tigray Schools Occupied, Looted* (May 28, 2021), <https://www.hrw.org/news/2021/05/28/ethiopia-tigray-schools-occupied-looted> [*Tigray Schools Occupied*]; Wossen Mulatu, "Amid conflict in northern Ethiopia, children share their dreams for the future," *UNICEF* (Nov. 4, 2021), <https://www.unicef.org/ethiopia/stories/amid-conflict-northern-ethiopia-children-share-their-dreams-future>.

93 "Anger and collective trauma scar Ethiopia's Tigray region," *DW* (Jun. 3, 2021), <https://www.dw.com/en/anger-and-collective-trauma-scar-ethiopias-tigray-region/a-56794452>.

94 See below Warring-Party Conduct, section 2(a-c).

rights and humanitarian organizations, and UN agencies have documented widespread human rights abuses and grave violations of international law committed by parties to the conflict: extrajudicial executions and other unlawful killings;⁹⁵ the forced displacement of civilians;⁹⁶ sexual and gender-based violence;⁹⁷ attacks on refugee settlements and violations of the principle of *non-refoulement*;⁹⁸ and attacks against cultural property.⁹⁹ Parties to the conflict have attacked and destroyed or damaged civilian institutions and infrastructure – including schools,¹⁰⁰ health facilities,¹⁰¹ places of worship and cultural property,¹⁰² and public infrastructure projects¹⁰³ – on a significant scale throughout Tigray, and Tigray forces have attacked, damaged, or destroyed many civilian institutions in Amhara and Afar.¹⁰⁴ Warring parties have reportedly committed

95 Katharine Houreld, Michael Georgy & Silvia Aloisi, “How ethnic killings exploded from an Ethiopian town,” *Reuters* (Jun. 7, 2021), <https://www.reuters.com/investigates/special-report/ethiopia-conflict-expulsions/> [“How ethnic killings exploded”]; Bellingcat Investigation Team, “Mahbere Dego: Clues to a Clifftop Massacre in Ethiopia,” *Bellingcat* (Apr. 1, 2021), <https://www.bellingcat.com/news/2021/04/01/mahbere-dego-clues-to-a-cliff-top-massacre-in-ethiopia/>; Amnesty International, *Ethiopia: The Massacre in Axum* (Feb. 26, 2021), <https://www.amnesty.org/en/documents/afr25/3730/2021/en/> [*Massacre in Axum*]; Human Rights Watch, *Ethiopia: Tigray Forces Summarily Execute Civilians* (Dec. 9, 2021), <https://www.hrw.org/news/2021/12/10/ethiopia-tigray-forces-summarily-execute-civilians>; “Stench of death: villagers flee site of Ethiopia mass killings,” *France24* (Sept. 15, 2021), <https://www.france24.com/en/live-news/20210915-stench-of-death-villagers-flee-site-of-ethiopia-mass-killings>; “Tigray forces killed 120 civilians in village in Amhara – Ethiopia officials,” *Reuters* (Sept. 9, 2021), <https://www.reuters.com/world/africa/tigray-forces-killed-120-civilians-amhara-village-ethiopia-officials-2021-09-08/>; Amnesty International, *Summary killings, rape and looting by Tigrayan forces*, see above note 24.

96 Houreld, Georgy & Aloisi, “How ethnic killings exploded,” see above note 95; Amnesty International & Human Rights Watch, *Ethiopia: New Wave of Atrocities in Western Tigray* (Dec. 16, 2021), <https://www.hrw.org/news/2021/12/16/ethiopia-new-wave-atrocities-western-tigray> [*New Wave of Atrocities*]; Amnesty International & Human Rights Watch, “*We Will Erase You*,” see above note 26.

97 Human Rights Watch, “*I Always Remember That Day*”: Access to Services for Survivors of Gender-Based Violence in Ethiopia’s Tigray Region (Nov. 9, 2021), <https://www.hrw.org/news/2021/11/09/ethiopia-blocking-tigray-aid-harms-rape-survivors> [“*I Always Remember That Day*”]; Amnesty International, *TPLF attack in Amhara*, see above note 37; Amnesty International, “*I don’t know if they realized I was a person*”: Rape and sexual violence in the conflict in Tigray, Ethiopia (Aug. 11, 2021), <https://www.amnesty.org/en/latest/news/2021/08/ethiopia-troops-and-militia-rape-abduct-women-and-girls-in-tigray-conflict-new-report/> [*Rape and sexual violence in the conflict in Tigray*].

98 Human Rights Watch, *Ethiopia: Eritrean Refugees Targeted in Tigray* (Sept. 16, 2021), <https://www.hrw.org/news/2021/09/16/ethiopia-eritrean-refugees-targeted-tigray>; “UN: Airstrike in Ethiopia kills 3 refugees, including kids,” *Associated Press* (Jan. 7, 2022), <https://apnews.com/article/africa-united-nations-kenya-ethiopia-5d6b55082b21996c02a1af0b6a7db2ac>; “Attack on Ethiopia refugee camp kills five, displaces thousands: UN,” *News24* (Feb. 18, 2022), <https://www.news24.com/news24/africa/news/attack-on-ethiopia-refugee-camp-kills-five-displaces-thousands-un-20220218>.

99 UN Human Rights Council, *Report of Special Rapporteur Mohamed Abdelsalam Babiker*, see above note 45, para. 18; Ayenat Mersie, “Factbox: Ethiopia’s war also takes toll on its cultural heritage,” *Reuters* (Nov. 3, 2021), <https://www.reuters.com/world/africa/ethiopias-war-also-takes-toll-its-cultural-heritage-2021-11-02/> [“Toll on cultural heritage”].

100 Human Rights Watch, *Tigray Schools Occupied*, see above note 92.

101 Médecins Sans Frontières, *People left with few healthcare options in Tigray as facilities looted, destroyed* (Mar. 15, 2021), <https://www.msf.org/health-facilities-targeted-tigray-region-ethiopia> [*Few healthcare options in Tigray*]; “Ministry Designates Addis Abeba Hospitals for Health Infrastructure Repair in the North,” *Addis Fortune*, (Dec. 19, 2021), <https://addisfortune.news/ministry-designates-addis-abeba-hospitals-for-health-infrastructure-repair-in-north/> (describing the alleged looting of or damage to hospitals in Dessie, Hayk, Kemise, Debre Sina, and Mehal Meda).

102 Mersie, “Toll on cultural heritage,” see above note 99.

103 “Ethiopia denies bombing Tigray’s Tekeze power dam,” *Reuters* (Nov. 13, 2020), <https://www.reuters.com/article/us-ethiopia-conflict-dam/ethiopia-denies-bombing-tigrays-tekeze-power-dam-idUSKBN27T1HM>; Max Bearak, “Unable to control Tigray, Ethiopia isolates region already beset by famine and war,” *Washington Post*, (Jul. 2, 2021), <https://www.washingtonpost.com/world/2021/07/02/ethiopia-tigray-war/>.

104 Amnesty International, *Summary killings, rape and looting by Tigrayan forces*, see above note 24; “Fighting in Ethiopia’s Afar region displaces 300,000, aid blocked to Tigray,” *Reuters* (Feb. 8, 2022), <https://www.reuters.com/world/africa/fighting-ethiopias-afar-region-displaces-300000-aid-blocked-tigray-2022-02-08/>.

acts of collective punishment,¹⁰⁵ arbitrary arrest and detention,¹⁰⁶ enforced disappearance,¹⁰⁷ and torture¹⁰⁸ and violated citizens' rights to free expression and access to information.¹⁰⁹ They have also reportedly violated the rights of migrants.¹¹⁰ Human Rights Watch, Amnesty International, and the International Commission of Human Rights Experts on Ethiopia (ICHREE) have found that some of these abuses and violations amount to war crimes¹¹¹ and crimes against humanity.¹¹²

The UN Office for the Coordination of Humanitarian Affairs (OCHA) has estimated that the war has left more than 5.2 million people in Tigray – roughly 90% of the population – in need of emergency food aid.¹¹³ In January 2022, based on face-to-face interviews with 980 households in the Tigray region in November and December 2021,¹¹⁴ the UN World Food Programme (UN WFP) reported that 4.6 million people in Tigray (83% of the population) were food insecure, including 2 million people (37% of the population) who were severely malnourished and suffering from “an extreme lack of food.”¹¹⁵ The WFP study indicated that, as of mid-December 2021, more than four

105 “US official condemns violence in Tigray, warns of new sanctions,” *Al Jazeera* (May 27, 2021), <https://www.aljazeera.com/news/2021/5/27/us-official-condemns-violence-in-tigray-warns-of-new-sanctions> (“Ethiopian and Eritrean forces have unleashed a ‘campaign of unremitting violence and destruction that amounts to the collective punishment of the people of Tigray,’ [a top official in the US Department of State] said.”).

106 United Nations, “Ethiopia: Mass arbitrary arrests target Tigrayans, says UN rights office,” *UN News* (Nov. 16, 2021), <https://news.un.org/en/story/2021/11/1105892>. See also Amnesty International, *Ethiopia: Tigrayans targeted in fresh wave of ethnically motivated detentions in Addis Ababa* (Nov. 12, 2021), <https://www.amnesty.org/en/latest/news/2021/11/ethiopia-tigrayans-targeted-in-fresh-wave-of-ethnically-motivated-detentions-in-addis-ababa/>; Amnesty International & Human Rights Watch, *New Wave of Atrocities*, see above note 96; UN Office for the Coordination of Humanitarian Affairs, *Multi Sectoral Rapid Assessment Dedebe, Asgede Woreda, NW zone of Tigray Assessment of Humanitarian Needs of Newly Arriving IDPs*, p. 3 (Nov. 22, 2021), <https://kmp.hpc.tools/assessment/multi-sectoral-rapid-assessment-dedebe-asgede-woreda-nw-zone-tigray-assessment> (“By their own account, most IDP arrivals [in northwestern Tigray] were detained in large makeshift detention facilities [in western Tigray] for two weeks [in November 2021] before being evicted to areas nearby the Tekeze river”); Giulia Paravicini & Katharine Houreld, “Some Ethiopians claim forced recruitment by Tigrayan forces,” *Reuters* (May 16, 2022), <https://www.reuters.com/world/africa/some-ethiopians-claim-forced-recruitment-by-tigrayan-forces-2022-05-16/>.

107 Human Rights Watch, *Ethiopia: Ethnic Tigrayans Forcibly Disappeared* (Aug. 18, 2021), <https://www.hrw.org/news/2021/08/18/ethiopia-ethnic-tigrayans-forcibly-disappeared>.

108 Amnesty International & Human Rights Watch, *New Wave of Atrocities*, see above note 96.

109 Freedom House, *Freedom in the World 2021: Ethiopia* (2021), <https://freedomhouse.org/country/ethiopia/freedom-world/2021>. See also Anna, “Ethiopia seeks to restrict media reporting,” see above note 64.

110 Human Rights Watch, *Ethiopia: Returned Tigrayans Detained, Abused* (Jan. 5, 2022), <https://www.hrw.org/news/2022/01/05/ethiopia-returned-tigrayans-detained-abused>.

111 Amnesty International, *Summary killings, rape and looting by Tigrayan forces*, see above note 24; Amnesty International & Human Rights Watch, “*We Will Erase You*,” see above note 26; UN Human Rights Council, *Report of the International Commission of Human Rights Experts on Ethiopia*, UN Doc. A/HRC/51/46 (2022), para. 97 [*Report of the International Commission of Human Rights Experts on Ethiopia*].

112 Amnesty International & Human Rights Watch, “*We Will Erase You*,” see above note 26; UN Human Rights Council, *Report of the International Commission of Human Rights Experts on Ethiopia*, see above note 111, para. 98.

113 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 3 (Jan. 28, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-27-january-2022>.

114 According to the WFP study, interviews were conducted between November 15 and December 16, 2021. Due to operational constraints, the analysis excluded Western Tigray, border areas with Eritrea, and some border areas of North Western and Southern zones. World Food Programme, *Emergency Food Security Assessment: Tigray Region, Ethiopia*, p. 7 (Jan. 2022), <https://reliefweb.int/sites/reliefweb.int/files/resources/WFP-0000136281.pdf> [*Tigray Emergency Food Security Assessment, January 2022*].

115 World Food Programme, *Severe hunger tightens grip*, see above note 15. See also World Food Programme, *Tigray Emergency Food Security Assessment: January 2022*, see above note 114. In August 2022, WFP found that the percentage of

of every five households in Tigray were surviving on limited and inadequate diets, with the average household consuming nutritious foods like fruit, vegetables, or animal proteins less than one day per week.¹¹⁶ WFP also found that 61% of pregnant or lactating women were malnourished; it estimated that rates of global acute malnutrition (GAM) and severe acute malnutrition (SAM)¹¹⁷

As of mid-December 2021, more than four of every five households in Tigray were surviving on limited and inadequate diets.

for children under five years old were 12.7% and 3.6%, respectively.¹¹⁸ Three quarters of the population in Tigray were relying on “severe consumption-based coping strategies,” like limiting the number of meals per day or reducing portion sizes for adults so that children can eat, WFP said, and 29% of households had resorted to emergency mechanisms like begging.¹¹⁹

Given the extremity of the hunger crisis in Tigray, some domestic and international observers have used the term “famine.”¹²⁰ Famine is both a commonly understood word that describes an extreme scarcity of food¹²¹ and a technical term that can trigger particular responses from and responsibilities for the UN system.¹²² In May 2021, a team from the Ethiopia country office of the Integrated Food Security Phase Classification (IPC) initiative – a collaborative research program established to provide governments, UN agencies, humanitarian organizations, and other relevant civil society actors with

Tigray’s population classified as food insecure had increased to 89%, with 47% considered severely food insecure. WFP recorded particularly alarming rates of food insecurity in Central Tigray (98% of the population), North Western Tigray (95% of the population), and South Eastern Tigray (90%). World Food Programme, *Tigray Emergency Food Security Assessment, August 2022*, see above note 16, p. 5.

116 World Food Programme, *Tigray Emergency Food Security Assessment, January 2022*, see above note 114, p. 5.

117 As defined by the WFP-led Global Food Security Cluster, “[g]lobal acute malnutrition (GAM) is the prevalence, or proportion, of children ages 6–59 months in a given population considered severely acutely malnourished (SAM) or moderately acutely malnourished (MAM).” Children are classified as MAM or SAM based on their weight-to-height ratio or the presence of nutritional oedema. Food Security Cluster, “Section 2: First Level Food Security Outcome Indicators,” in *FSC Indicator Handbook*, https://fscluster.org/handbook/assets/images/project/FSL%20Indicator_handbook_17.03.2020.pdf (last visited Sept. 27, 2022). Children who are classified as SAM have been shown to be at an increased risk of mortality. *Id.* GAM can also be an important indicator of food security among the general population. *Id.*

118 World Food Programme, *Tigray Emergency Food Security Assessment, January 2022*, see above note 114, p. 21. Generally, rates of acute malnutrition are important indicators of child mortality. The established global emergency threshold is a GAM rate of 15% or more among children under five. Helen Young & Anastasia Marshak, *Persistent Global Acute Malnutrition* (2017), https://fic.tufts.edu/wp-content/uploads/FIC-Publication-Persistent-Global-Acute-Malnutrition_web_2.26s.pdf.

119 World Food Programme, *Tigray Emergency Food Security Assessment, January 2022*, see above note 114, p. 6. WFP recorded similar percentages in August 2022, finding that 20% of households in Tigray relied on extreme coping measures like begging, 38% used crisis-level coping strategies like reduced spending on agricultural inputs, and 25% of households used stress-level coping strategies like selling livestock. World Food Programme, *Tigray Emergency Food Security Assessment, August 2022*, see above note 16, p. 6.

120 Alex de Waal, “Viewpoint: Why Ethiopia’s Tigray region is starving, but no famine declared,” *BBC News* (Oct. 16, 2021), <https://www.bbc.com/news/world-africa-58921744>; Refugees International, *7 Facts You Need to Know about the Famine in Tigray* (Aug. 13, 2021), <https://www.refugeesinternational.org/reports/7-facts-you-need-to-know-about-the-famine-in-tigray>; “‘Trying to survive’: millions in Tigray face hunger as they wait in vain for aid,” *The Guardian* (Mar. 23, 2022), <https://www.theguardian.com/global-development/2022/mar/23/trying-to-survive-millions-in-tigray-face-hunger-as-they-wait-in-vain-for-aid>.

121 Merriam-Webster, *Famine*, <https://www.merriam-webster.com/dictionary/famine> (last visited Feb. 20, 2022).

122 Integrated Food Security Phase Classification, *IPC and Famine: Using the Appropriate Terminology and Scientific Thresholds* (Mar. 2012), https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Famine_Def_Meas.pdf.

“rigorous, evidence- and consensus-based” analyses of food insecurity and acute malnutrition¹²³ – conducted an analysis of food insecurity in Tigray and neighboring zones of Amhara and Afar.¹²⁴ The IPC Analysis Team in Ethiopia estimated that more than 350,000 people in Tigray were facing “famine-like conditions” that the team determined to fit the criteria for IPC Phase 5 (Catastrophe).¹²⁵ This was the highest estimated number of people facing catastrophic, acute food insecurity that the IPC had recorded in any country since the 2011 famine in Somalia.¹²⁶

In July 2021, the IPC Famine Review Committee – a team of independent food security and nutrition experts who review IPC Phase 5 classification decisions in order to confirm or disprove a “famine” classification¹²⁷ – found “clear evidence to support the Analysis Team findings that roughly 400,000 people [in Tigray] are acutely food insecure in IPC Phase 5 (Catastrophe).”¹²⁸ The Committee noted that a famine classification was, in many ways, beside the point, given the already-evident, “extreme human suffering and humanitarian needs” among people in Tigray.¹²⁹

Gathering the data necessary to conclusively demonstrate the existence of famine during any armed conflict is exceptionally difficult.¹³⁰ In Ethiopia, the conduct of hostilities and the Ethiopian federal government’s restrictions on telecommunications and humanitarian access have created an especially challenging information environment. For this legal analysis of warring-party conduct that harms food security, it is not necessary to show that a famine has occurred. The most relevant and tragic fact is that, throughout the war, technical experts repeatedly confirmed the extreme scarcity of food in

123 Integrated Food Security Phase Classification, *IPC Overview and Classification System*, <https://www.ipcinfo.org/ipcinfo-website/ipc-overview-and-classification-system/en/> (last visited May 14, 2022).

124 Western Tigray was not included in the analysis. Integrated Food Security Phase Classification, *Ethiopia: Acute Food Insecurity Situation May–June 2021 and Projection for July–September 2021* (Jun. 2021), <https://www.ipcinfo.org/ipc-country-analysis/details-map/en/c/1154897>.

125 Integrated Food Security Phase Classification, *Ethiopia: Famine Review Committee confirms very high levels of acute food insecurity and Risk of Famine in Tigray* (Jul. 2021), <https://www.ipcinfo.org/ipcinfo-website/alerts-archive/issue-42/en/> [*Risk of Famine in Tigray*]. IPC Phase 5 (Catastrophe) and IPC Phase 5 (Famine) are not identical. “Famine is a classification of IPC Phase 5 at area level. In a given area, famine occurs when food security, nutrition and mortality altogether portray famine conditions, meaning at least 20% of the population is affected, with about one out of three children being acutely malnourished and two people dying per day for every 10,000 inhabitants due to outright starvation or to the interaction of malnutrition and disease. Catastrophe: Households may be classified in IPC Phase 5 Catastrophe even if the area is not classified in IPC Phase 5 Famine. This is the case when less than 20% of the population is experiencing famine conditions and/or when malnutrition and/or mortality levels have not (or not yet) reached famine thresholds. Even if an area has not been classified as being in Famine, it is still crucial to identify households that are facing Catastrophic levels of acute food insecurity.” Integrated Food Security Phase Classification, *The IPC Famine Fact Sheet*, p. 2 (Dec. 2020), <https://www.ipcinfo.org/ipcinfo-website/resources/resources-details/en/c/1152968/> [*Famine Fact Sheet*].

126 Integrated Food Security Phase Classification, *Ethiopia: 5.5 Million People in Tigray and Neighbouring Zones of Afar and Amhara Face High Levels of Acute Food Insecurity* (Jun. 2021), https://reliefweb.int/sites/reliefweb.int/files/resources/IPC_Ethiopia_Acute_Food_Insecurity_2021MaySept_national.pdf.

127 Integrated Food Security Phase Classification, *Famine Fact Sheet*, see above note 125, p. 3.

128 Integrated Food Security Phase Classification, *Risk of Famine in Tigray*, see above note 125.

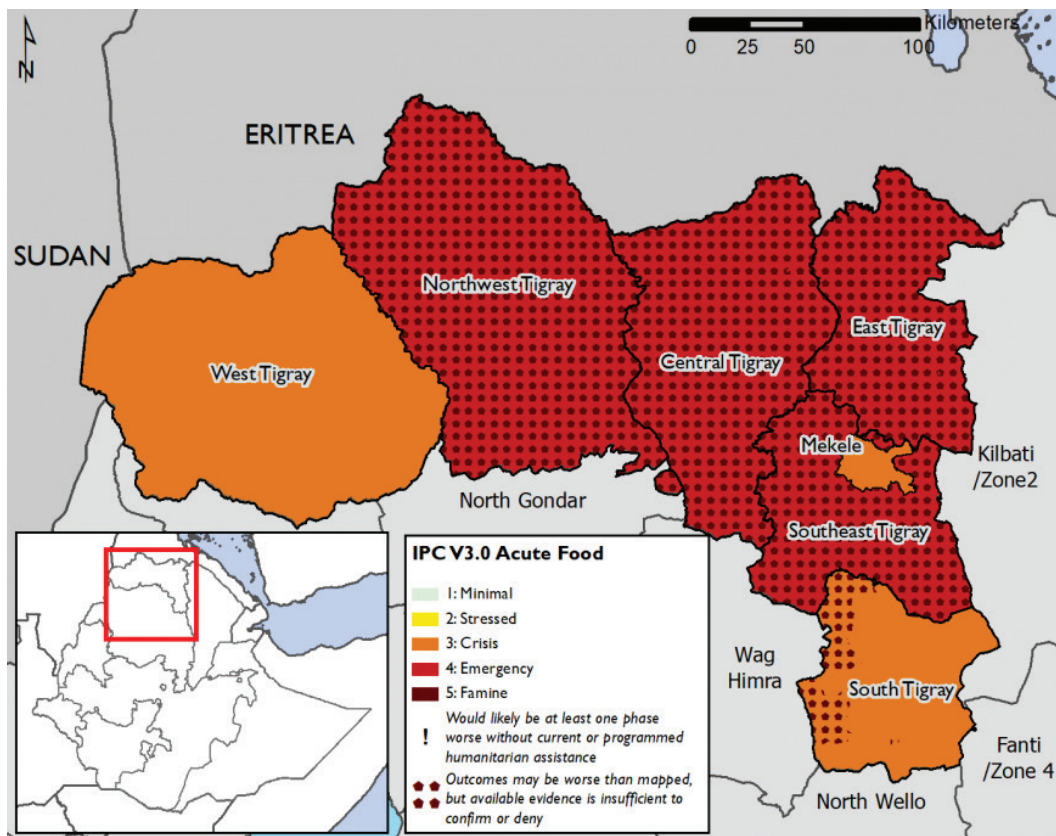
129 *Id.*

130 See, e.g., Daniel Maxwell, *Famine early warning and information systems in conflict settings: challenges for humanitarian metrics and response*, Feinstein International Center (2019), http://eprints.lse.ac.uk/102836/1/Maxwell_famine_early_warning_and_information_systems_published.pdf; Daniel Maxwell & Peter Hailey, *The Politics of Information and Analysis in Famines and Extreme Emergencies: Synthesis of Findings from Six Case Studies* (2020), https://fic.tufts.edu/wp-content/uploads/PIA-Synthesis-Report_May-13.pdf.

Tigray.¹³¹ Despite these findings, no Ethiopian government or international responses commensurate to the crisis occurred.

3. KEY CAUSES OF FOOD INSECURITY AND STARVATION

Many parts of Ethiopia have previously suffered from chronic food insecurity and recurrent crises of acute malnutrition, hunger, and starvation.¹³² According to the UN Food and Agriculture Organization (FAO), people are food insecure when they lack regular access to enough safe and nutritious food for normal growth and development and an active and healthy life.¹³³ Many factors limit the availability of safe and nutritious food in Ethiopia, including unstable weather conditions, recurrent



Projected food security outcomes in Tigray from July to September 2021. Source: Famine Early Warning Systems Network, 2021.

131 Integrated Food Security Phase Classification, *Risk of Famine in Tigray*, see above note 125.

132 See, e.g., Alexander de Waal, *Evil Days: Thirty Years of War and Famine in Ethiopia* (Oct. 1, 1991) [*Evil Days*]; Stephen Devereux, *Food Insecurity in Ethiopia: A discussion paper for DFID* (Oct. 2000); Getachew Diriba, *Economy at the Cross Road: Famine and Food Security in Rural Ethiopia* (1995).

133 UN Food and Agriculture Organization, *An Introduction to Basic Concepts in Food Security*, p. 1 (2008), <https://www.fao.org/3/al936e/al936e.pdf>. Also, according to FAO, “Hunger is usually understood as an uncomfortable or painful sensation caused by insufficient food energy consumption.” *Id.*, p. 3. The relationship of hunger to food insecurity is, generally, that “all hungry people are food insecure, but not all food insecure people are hungry as there are other causes of food insecurity, including those due to poor intake of micro-nutrients.” *Id.*, p. 3. FAO uses the term “undernourishment” to describe its measure for hunger, based on “the proportion of the population whose dietary energy consumption is less than a pre-determined threshold.” *Id.*, p. 2.

droughts and severe weather events, pests and disease, population growth, inadequate infrastructure and social services, and economic conditions.¹³⁴

Even prior to November 2020, food insecurity and undernourishment affected a large proportion of Ethiopia's population.¹³⁵ The country depended heavily on food aid.¹³⁶ In the past, the highland areas of northern Ethiopia have been particularly vulnerable to drought and famine, including the devastating 1972-75 and 1983-85 famines in the former Tigray and Wollo provinces.¹³⁷

Over the last three decades, Ethiopian federal government interventions like the Productive Safety Net Programme (PSNP) led to marked improvements in food security for many households in Ethiopia.¹³⁸ But, in January 2022, humanitarian organizations warned that the combined effects of armed conflict, drought, and economic downturn would soon push millions of Ethiopians – including some 850,000 children – into situations of severe food insecurity and hunger.¹³⁹

In Tigray, the disparity between pre-conflict conditions and the present catastrophe is vast.¹⁴⁰ According to the World Food Programme, approximately 400,000 people in Tigray were food insecure in October 2020.¹⁴¹ By early 2022, after fifteen months of fighting, at least 4.6 million people in Tigray were food insecure – an increase of 1,050%.¹⁴² Due to the conduct of hostilities and the Ethiopian federal government's siege of the region, the humanitarian response to the crisis has been severely inadequate: The United Nations estimated in July 2021 that 100 truckloads of humanitarian supplies had to enter Tigray each day to meet the population's basic needs, but, according to UN OCHA, less than ten percent of the required amount entered the region between July 2021 and March 2022.¹⁴³

134 See, e.g., Achenef Motbainor, Alemayehu Worku & Abera Kumie, "Level and determinants of food insecurity in East and West Gojjam zones of Amhara Region, Ethiopia: a community based comparative cross-sectional study," *BMC Public Health*, vol. 16(503) (2016), <https://bmcpublihealth.biomedcentral.com/track/pdf/10.1186/s12889-016-3186-7.pdf>.

135 Estimates of the percentage of Ethiopia's population that was food insecure prior to the armed conflict range widely, from 25 to 60%. See, e.g., Getahun Bilora, *The food security challenges in Ethiopia*, Professional Associations Joint Secretariat (2004); Adimasu Awoke Mota, Senbetie Toma Lachore & Yoseph Halala Handiso, "Assessment of food insecurity and its determinants in the rural households in Damot Gale Woreda, Wolaita zone, southern Ethiopia," *Agriculture & Food Security*, vol. 8 (2019), <https://agricultureandfoodsecurity.biomedcentral.com/track/pdf/10.1186/s40066-019-0254-0.pdf>.

136 Mesfin Welderufael, "Determinants of Households Vulnerability to Food Insecurity in Ethiopia: Econometric analysis of Rural and Urban Households," *Journal of Economics and Sustainable Development*, vol. 5(24), p. 70 (2014).

137 See generally Alexander de Waal, *Evil Days*, see above note 130; Hailu Lemma, "The Politics of Famine in Ethiopia," *Review of African Political Economy*, vol. 33 (Aug. 1985); Charles Mohr, "Ethiopian Famine Hits Millions," *New York Times* (Feb. 15, 1974), <https://www.nytimes.com/1974/02/15/archives/ethiopian-famine-hits-millions-ethiopian-famine-affects-millions.html>.

138 See generally Tasew Tadesse & Tariku Gebremedhin Zeleke, "The impact of the productive safety net program (PSNP) on food security and asset accumulation of rural households': evidence from Gedeo zone, Southern Ethiopia," *Cogent Economics & Finance*, vol. 10 (2022); Guush Berhane et al., "Can Social Protection Work in Africa? The Impact of Ethiopia's Productive Safety Net Programme," *Economic Development and Cultural Change*, vol. 63(1) (2014).

139 "We pray for rain': Ethiopia faces catastrophic hunger as cattle perish in severe drought," *The Guardian* (Jan. 30, 2022), <https://www.theguardian.com/global-development/2022/jan/30/we-pray-for-rain-ethiopia-faces-catastrophic-hunger-as-cattle-perish-in-severe-drought>.

140 See generally World Food Programme, *Tigray Emergency Food Security Assessment, January 2022*, see above note 114.

141 *Id.*, p. 5.

142 *Id.*

143 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 4 (Mar. 3, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-3-mar-2022> ("Since 12 July [2021], only 8 per cent of the 16,500 trucks with the needed humanitarian

Although the conflict in Tigray unfolded in a context of pre-existing food insecurity significantly exacerbated by the COVID-19 pandemic¹⁴⁴ and the 2020 desert locust infestation,¹⁴⁵ the conduct of the

By early 2022, after fifteen months of fighting, at least 4.6 million people in Tigray were food insecure—an increase of 1,050%.

warring parties has clearly and directly contributed to the scale and severity of the hunger crisis. The hunger crisis is largely man made. Civilians in Tigray have suffered from starvation¹⁴⁶ due to specific actions taken by the armed forces and armed groups engaged in the fighting, including Ethiopian federal and allied forces' looting of foodstuffs and household items,¹⁴⁷ looting of and destroying irrigation systems and improved wa-

ter sources,¹⁴⁸ attacking and occupying health facilities,¹⁴⁹ and shutting down essential public services, particularly banking and electricity,¹⁵⁰ as well as closing nearly all overland and air routes into Tigray,¹⁵¹ limiting civilian mobility,¹⁵² restricting fuel supplies,¹⁵³ impeding humanitarian relief operations,¹⁵⁴ and attacking aid workers.¹⁵⁵

supplies entered Tigray.”). For the original estimate, see “UN appeals for faster passage for aid convoys to Ethiopia’s Tigray,” *UN News* (Jul. 13, 2021), <https://news.un.org/en/story/2021/07/1095752>.

144 “Teff Disruption Pushes Tigray State Switch to Sorghum,” *Addis Fortune* (Jul. 25, 2020), <https://addisfortune.news/teff-disruption-pushes-tigray-state-switch-to-sorghum/>.

145 “Ethiopia struggles to suppress desert locust infestation,” *Al Jazeera* (Oct. 21, 2020), <https://www.aljazeera.com/gallery/2020/10/21/in-picture-ethiopia-struggles-to-suppress-desert-locust-infestat>. See also UN Food and Agriculture Organization, *Desert Locust situation update – 14 October 2020* (Oct. 14, 2020), <https://reliefweb.int/report/ethiopia/desert-locust-situation-update-14-october-2020>.

146 In this analysis, starvation refers to both an outcome, meaning death from the deprivation of food or the interaction of malnutrition and disease, and a process that occurs, as defined by two academic experts on starvation, “when actors impede the capacity of targeted persons to access the means of sustaining life.” Bridget Conley & Alex de Waal, “The Purposes of Starvation: Historical and Contemporary Uses,” *Journal of International Criminal Justice*, vol. 17, p. 700 (2019). See also Integrated Food Security Phase Classification Technical Manual Version 3.1, IPC Global Partners, pp. 8, 86 (Aug. 2021) (describing the classification of famine). In international humanitarian law, as discussed below, starvation refers to the denial of certain goods that are essential to sustaining the life of a civilian population whose survival is threatened. Dapo Akande & Emanuela-Chiara Gillard, “Conflict-induced Food Insecurity and the War Crime of Starvation of Civilians as a Method of Warfare,” *Journal of International Criminal Justice* 17, pp. 758-61 (2017) [“Conflict-Induced Food Insecurity”]. Civilians can be starving, as a legal matter, without deaths occurring. *Id.*, p. 761.

147 See below Warring-Party Conduct, section 1(a).

148 See below Warring-Party Conduct, section 1(b).

149 See below Warring-Party Conduct, section 1(c).

150 See below Warring-Party Conduct, section 2(a-b).

151 Although overland access to Tigray significantly worsened after the start of the armed conflict, demonstrators and members of Fano militia had previously blocked key access roads to Tigray through Amhara region since 2018. The Africa Report, “Ethiopia: Tigray’s economy destroyed by civil war,” *The Africa Report* (May 12, 2022), <https://www.theafricareport.com/203234/ethiopia-tigrays-economy-destroyed-by-civil-war/>. See also Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26, p. 26.

152 See, e.g., Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26, pp. 92-93.

153 See below Warring-Party Conduct, sections 2(c), 3(a).

154 See below Warring-Party Conduct, section 3(a).

155 See below Warring-Party Conduct, section 3(b).

WARRING-PARTY CONDUCT CAUSING OR CONTRIBUTING TO STARVATION IN TIGRAY

1. EXTENSIVE LOOTING

Since November 4, 2020, warring parties in Ethiopia have looted and destroyed public and private property in Tigray on a massive scale.¹⁵⁶ Many journalists, humanitarian aid workers, and human rights investigators have confirmed the looting or destruction of food and agricultural systems,¹⁵⁷ health-care institutions,¹⁵⁸ schools,¹⁵⁹ and household items.¹⁶⁰ This section describes acts of looting or property destruction that have directly affected the survival of the civilian population, including the looting of foodstuffs, agricultural equipment and livestock, drinking water and irrigation systems, and medicines and equipment from health-care institutions.¹⁶¹

The account in this section includes acts of looting or property destruction that journalists, human rights organizations, or humanitarian organizations have attributed to particular warring parties. Unfortunately, due to the conduct of hostilities and the Ethiopian federal government's limitations on humanitarian, media, and other access to the

places where looting and destruction of property have occurred, many acts of looting have not yet been precisely or fully documented or have been well documented but not clearly attributed to spe-

Many of these reports characterize Ethiopian and allied forces' looting of food, water, and health systems in Tigray as deliberate, widespread, and systematic.

¹⁵⁶ See, e.g., UN Human Rights Council, *Report of the International Commission of Human Rights Experts on Ethiopia*, see above note 111, paras. 32, 73. See also Addis Standard, "News Analysis: Ethiopia Rights Commission latest report on Tigray details killings of civilians, widespread looting and systemic displacement in areas visited," *Addis Standard* Jan. 20, 2021), <https://addisstandard.com/news-analysis-ethiopia-rights-commission-latest-report-on-tigray-details-killings-of-civilians-widespread-looting-and-systemic-displacement-in-areas-visited/>; Amnesty International, *Massacre in Axum*, see above note 95, pp. 4-5, 20-22.

¹⁵⁷ See, e.g., UN Food and Agriculture Organization, *Emergency livelihood support for conflict-affected communities*, see above note 91; Cara Anna, "Witnesses: Eritrean soldiers loot, kill in Ethiopia's Tigray," *Associated Press* (Jan. 25, 2021), <https://apnews.com/article/tigray-ethiopia-news-2bdd10888f7717690847ad117fo9fd4> ["Eritrean soldiers loot, kill"]; UN Human Rights Council, *Report of the International Commission of Human Rights Experts on Ethiopia*, see above note 111, para. 73.

¹⁵⁸ See, e.g., Médecins Sans Frontières, *Few healthcare options in Tigray*, see above note 101; Jerving, "Destruction of a health system," see above note 90; Eliza Mackintosh & Richard Roth, "UN confirms military forces blocking aid in Ethiopia's Tigray region following CNN investigation," *CNN* (May 13, 2021), <https://edition.cnn.com/2021/05/13/africa/ethiopia-tigray-un-confirms-military-aid-blockade-intl/index.html>.

¹⁵⁹ See, e.g., Human Rights Watch, *Tigray Schools Occupied*, see above note 92; UN Human Rights Council, *Report of the International Commission of Human Rights Experts on Ethiopia*, see above note 111, para. 73.

¹⁶⁰ UN Human Rights Council, *Report of Special Rapporteur Mohamed Abdelsalam Babiker*, see above note 39, paras. 17, 19.

¹⁶¹ This list reflects a category of items protected by international humanitarian law, called "objects indispensable to the survival of the civilian population," that will be discussed in the Legal Analysis section. See Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), adopted 8 June 1977, at art. 54.

cific warring parties. In many instances, information about the quantity of looted items, the specific context in which an act of looting took place, and the looters' intent remains unavailable.

Despite these challenges, many public reports indicate that, since the start of the conflict, Ethiopian and allied forces have extensively looted and destroyed food stores, agricultural systems, water and irrigation systems, and health supplies and health systems throughout Tigray.¹⁶² Many of these reports characterize Ethiopian and allied forces' looting of food, water, and health systems in Tigray as deliberate, widespread, and systematic.¹⁶³

Unattributed acts of looting and property destruction in Tigray are also relevant to this legal analysis. Regardless of which actors carried out particular acts of looting that affected food, water, and health supplies in Tigray, the overall damage that widespread looting caused to civilians' food security was known to warring parties early in the conflict; looting is relevant to the analysis of the subsequent actions or omissions of the Ethiopian government and its allies. For example, after conducting joint humanitarian rapid needs assessments with the United Nations in December 2020¹⁶⁴ and attending Emergency Coordination Center meetings in Tigray before July 2021,¹⁶⁵ the Ethiopian federal government knew that looting had caused severe food insecurity among civilians.¹⁶⁶ Nevertheless, the government continued to partially or completely obstruct aid to areas controlled by Tigray forces.¹⁶⁷

162 See, e.g., Anna, "Eritrean soldiers loot, kill," *see above* note 157; Médecins Sans Frontières, *Few healthcare options in Tigray*, *see above* note 101; Amnesty International & Human Rights Watch, "We Will Erase You," *see above* note 26, pp. 87-94; UN Human Rights Council, *Report of the International Commission of Human Rights Experts on Ethiopia*, *see above* note 109, para. 75.

163 See, e.g., UN Human Rights Council, *Report of the International Commission of Human Rights Experts on Ethiopia*, *see above* note 111, para. 73 ("[T]he ENDF, EDF, and their allies began to systematically loot and destroy goods indispensable to the survival of the civilian population in Tigray, ransacking homes, businesses, medical facilities, and schools on a widespread scale."); Anna, "Eritrean soldiers loot, kill," *see above* note 157 (citing a human rights investigation that documented the "widespread looting" of crops by Eritrean and Amhara forces in Western Tigray); Amnesty International & Human Rights Watch, "We Will Erase You," *see above* note 26, p. 91 ("In addition, Fano militias and other security forces, and in some cases non-Tigrayan farmers, systematically looted [Tigrayan civilians'] crops and livestock."). Lowenstein Clinic interviews corroborated these accounts. Lowenstein Clinic interviews with former interim administration officials, April 2022; Lowenstein Clinic interview with a staff member at a humanitarian organization, October 2021; Lowenstein Clinic interview with an academic expert who studies Tigray, October 2021; Lowenstein Clinic interview with a health professional in Sudan, May 2022.

164 Government of Ethiopia – National Disaster Risk Management Commission, *Joint Rapid Needs Assessment Mission*, *see above* note 28. Participating partner organizations included the United Nations Children's Fund, Lutheran World Federation, International Organization for Migration, Catholic Relief Services, World Health Organization, Action against Hunger, United Nations Office for the Coordination of Humanitarian Affairs, World Food Programme, and United Nations Department of Safety & Security. *Id.*

165 Lowenstein Clinic interview with a former interim administration official, April 2022. The Ethiopian federal government established the Emergency Coordination Center (ECC), a coordination body led by the interim administration in Mekelle, in February 2021. According to a Commissioner from the National Disaster Risk Management Commission, the ECC brought together "personnel from Ethiopia government ministries, Tigray interim administration bureaus, United Nations agencies, bilateral partners and International non-governmental organizations to help it [the ECC] effectively coordinate humanitarian aid supplies in Tigray region." See "Ethiopia establishes emergency coordination center to address humanitarian needs of 2.5 mln people," *Xinhua* (Feb. 5, 2021), http://www.xinhuanet.com/english/2021-02/05/c_139723835.htm.

166 The International Commission of Human Rights Experts on Ethiopia has said that the Ethiopian federal government "acknowledged that some 4.5 million people in Tigray were in need of emergency food assistance by January 2021." UN Human Rights Council, *Report of the International Commission of Human Rights Experts on Ethiopia*, *see above* note 111, para. 73.

167 See *below* Warring-Party Conduct, section 3(a).

(a) *Food and agricultural systems*

Witnesses, journalists, human rights and humanitarian organizations, and former government officials have consistently reported that, after November 4, 2020, Ethiopian and allied forces looted food and agricultural systems, including public and private property, throughout Tigray on an enormous scale.¹⁶⁸ Members of the ENDF, EDF, Amhara special forces, and Fano militia have looted, burned, and deliberately spoiled crops;¹⁶⁹ looted food supplies, farm equipment, livestock, and household items from individual households;¹⁷⁰ looted public property from the Tigray regional bureau of agriculture;¹⁷¹ and destroyed animal-health structures like veterinary clinics and feed-production plants.¹⁷²

The impact on agricultural systems in Tigray has been severe.¹⁷³ The UN Food and Agriculture Organization and the World Food Programme have estimated that an overwhelming percentage – more than 90% – of the 2020 harvest in Tigray was looted, burned, or destroyed by parties to the conflict.¹⁷⁴ In February 2021, UN OCHA reported that “agricultural systems have been devastated by months of fighting and extensive looting and destruction. Crops and animals have been looted or burned, particularly notably in eastern and central zones. Farmers are becoming increasingly desperate, with

168 Rodney Muhumuza, “‘Our season’: Eritrean troops kill, rape, loot in Tigray,” *Associated Press* (May 28, 2021), <https://apnews.com/article/only-on-ap-eritrea-africa-religion-9fe9140b76da946e4fa65095a1d5b04f> [“Our season”]; Lowenstein Clinic interview with a former interim administration official, April 2022; Lowenstein Clinic interview with a medical professional in Sudan, May 2022; Amnesty International & Human Rights Watch, “*We Will Erase You*,” see above note 26, pp. 87-94.

169 See below notes 196-199.

170 See below notes 185-190. See also Jan Nyssen et al., “Crop Cultivation at Wartime – Plight and Resilience of Tigray’s Agrarian Society (North Ethiopia),” *Defence and Peace Economics* (May 1, 2022), pp. 4-5.

171 See “A summary of the Bureau of Agriculture and Rural Development brief assessment report on the extent of damage caused by the war,” *Tghat Media* (May 2, 2021), <https://www.tghat.com/2021/05/02/a-summary-of-the-bureau-of-agriculture-and-rural-development-brief-assessment-report-on-the-extent-of-damage-caused-by-the-war/>.

172 See, e.g., UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 5 (Mar. 13, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-13-march-2021>; Fetiën Abay & Biadgilgn Demissie, “Tigray’s Wounded Agriculture and a Second Year of Famine: An Urgent Call for Action,” *World Peace Foundation* (May 9, 2022), <https://sites.tufts.edu/reinventingpeace/2022/05/09/tigrays-wounded-agriculture-and-a-second-year-of-famine-an-urgent-call-for-action/> [“Tigray’s Wounded Agriculture”]. In interviews, former interim administration officials attributed responsibility for looting public infrastructure, like animal-health clinics, to Ethiopian and allied forces. Lowenstein Clinic interviews with former interim administration officials, April 2022.

173 *Id.* Additionally, the Tigray interim administration’s Bureau of Agriculture and Rural Development prepared several emergency response plans that discussed the extent of the damage. For example, the Livestock and Fisheries Development Sub-Sector estimated in January 2021 that 60-80% of the region’s animal feed resources had been damaged or destroyed by the war; 75% of Tigray’s pre-war livestock population of seventeen million cattle, goats, camels, horses, mules, and donkeys had been “slaughtered/looted” or otherwise lost due to insecurity; 80% of the region’s 198 veterinary clinics had been looted and partially or totally destroyed; and that all of the Bureau’s clinic and *woreda* offices had been damaged by warring parties, who destroyed office furniture and looted electronic devices and other office materials. As discussed in the Overview section of the report, the interim administration was appointed by the Ethiopian federal government. Tigray interim administration emergency response plan (Jan. 2021), on file with the Lowenstein Clinic. An assessment by the Ethiopian federal government’s Ministry of Agriculture and the Tigray regional Bureau of Agriculture in April 2021 found that due to “[f]acility and infrastructure destruction and looting at grassroot [sic] level,” agricultural offices at the *woreda* level in five zones (Southern, South Eastern, Eastern, Central, and North Western) required at least 200 million *birr* [approximately US \$3.8 million] worth of emergency aid to resume activities, and that “[farmers’] cooperatives and their stores [had been] looted (fertilizer, seed, and other items).” Tigray interim administration planning document (Apr. 2021), on file with the Lowenstein Clinic.

174 UN Food and Agriculture Organization, *Emergency livelihood support for conflict-affected communities*, see above note 91; World Food Programme, *Tigray Emergency Food Security Assessment, August 2022*, see above note 16, p. 9.

partners describing their food security status as catastrophic.”¹⁷⁵ Researchers have estimated that the 2021 harvest yielded, on average, only 33% as much as the region’s typical pre-war harvest,¹⁷⁶ chiefly because important agricultural inputs had been looted or destroyed¹⁷⁷ and ongoing conflict restricted farmers’ access to their fields.¹⁷⁸

There are many credible reports of Eritrean troops looting food and agricultural items from civilians, including via house-to-house operations. For example, Eritrean soldiers conducted extensive looting of food and agricultural items in the city of Axum, in Central Tigray, and its surroundings.¹⁷⁹ According to Amnesty International, EDF forces looted Axum “systematically and on a massive scale, leaving residents without food or drink.”¹⁸⁰ The looting began when Eritrean forces entered Axum on November 19, 2020 and escalated significantly after Eritrean forces massacred hundreds of civilians on November 28 and 29.¹⁸¹ Axum residents told Amnesty International that Eritrean soldiers had looted grain stores, supermarkets, bakeries, and small vendors’ shops throughout the city.¹⁸² One resident told investigators that he watched Eritrean soldiers loot “all the groceries and cooking oil, butter, teff, flour, the kitchen cabinet, clothes, the beers in the fridge, the water pump” and many other items from his home.¹⁸³

Journalists have reported similar accounts from witnesses in many parts of Central, North Western, and Eastern Tigray.¹⁸⁴ In Debre Harmaz, a village in Central Tigray, one inhabitant told VICE World News that, on January 10, 2021, Eritrean soldiers “set our crops on fire, then they started burning the homes.”¹⁸⁵ Farmers in another village, Adi Mendi, reported that EDF soldiers forced them to slaughter their cows and prepare food for Eritrean troops.¹⁸⁶ Civilians also reported that EDF forces later attacked several nearby villages, including Adi Mengedi, Adi Berbere and Haftom, and that Eritreans

175 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 4 (Feb. 28, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-28-february-2021>.

176 Abay & Demissie, “Tigray’s Wounded Agriculture,” *see above* note 172.

177 *Id.*

178 Biadgilgn Demissie et al., “Geospatial solutions for evaluating the impact of the Tigray conflict on farming,” *Acta Geophysica* (2022), <https://link.springer.com/article/10.1007/s11600-022-00779-7>. *See also* Rodney Muhumuza, “In Tigray, food is often a weapon of war as famine looms,” *Associated Press* (Jun. 11, 2021), <https://apnews.com/article/only-on-ap-united-nations-africa-business-6181c3751f90fd758dc99e2257ccc4a5> (“The [Ethiopian and Eritrean] soldiers also are accused of stopping farmers from harvesting or plowing, ...”).

179 Amnesty International, *Massacre in Axum*, *see above* note 95, p. 20.

180 *Id.*

181 *Id.* Specifically, residents reported that Eritrean soldiers stole sugar and flour from a store called Guna Trading; robbed a large community store, May Akko, of truckloads of sugar, cooking oil and lentils; took flour and animal fodder from the Dejen Flour Factory; and looted the budget student grocery store of Axum University. *Id.*, p. 21.

182 *Id.*

183 *Id.*

184 *See, e.g.*, Muhumuza, “Our season,” *see above* note 168 (quoting a witness from Gulomakeda as saying: “They [Eritrean troops] burnt our crops and took everything else.”) The *Associated Press* also reported that, according to witnesses, Eritrean forces had “looted and burned sacks of grain and killed livestock” in Hawzen. *Id.*

185 Zecharias Zelalem, “They Started Burning the Homes’: Ethiopians Say Their Towns Are Being Razed in Ethnic Cleansing Campaign,” *VICE World News* (Feb. 27, 2021), <https://www.vice.com/en/article/n7vgex/they-started-burning-the-homes-ethiopians-say-their-towns-are-being-razed-in-ethnic-cleansing-campaign>.

186 *Id.*

“took all the cattle, camels and food as loot.”¹⁸⁷ As reported by Reuters, after aid workers visited Ziban Gedena, in North Western Tigray, on June 6, 2021, UN briefing notes indicated that Eritrean soldiers had killed 300 civilians, looted or slaughtered 90% of the village’s oxen and livestock, burnt 150 houses, burnt and stolen harvests, and set fire to animal fodder.¹⁸⁸

In Dengelat, in Eastern Tigray, a witness told a team of investigative journalists from CNN that Eritrean troops, who were present in several encampments around the town during the first two weeks of December 2020, had terrorized the civilian population by “burning crops and killing livestock before eventually moving on.”¹⁸⁹ A medical professional who fled Hawzen, in Central Tigray, in mid-December 2020 told the Associated Press that Eritrean forces’ conduct included “house-to-house looting of civilians [in Hawzen], weaponizing hunger, [and] merciless killing.”¹⁹⁰

Members of the ENDF also engaged in large-scale looting. In Mekelle, according to the International Commission of Human Rights Experts on Ethiopia, ENDF soldiers “carried out well-orchestrated looting. Official properties at several government offices, including the Mayor’s office, the Supreme Court, schools, and hospitals were thoroughly looted by ENDF soldiers.”¹⁹¹ In Western Tigray, Amnesty International and Human Rights Watch reported, Ethiopian federal government forces committed acts of looting and destruction.¹⁹² In some cases, Ethiopian federal government forces who did not partake in the looting did little to intervene.¹⁹³ For example, a witness told Amnesty International that, in Axum, as Eritrean troops massively looted the city on November 20, “[t]he Ethiopian soldiers did nothing – [they] just controlled the city, looking for hidden weapons and controlling government buildings.”¹⁹⁴

Human rights investigations have found that, in Western Tigray, federal and allied forces – including Amhara special forces, members of Fano and Welkai¹⁹⁵ militia, and, in some cases, Eritrean military

187 *Id.*

188 Giulia Paravicini & Katharine Houreld “Exclusive: UN official accuses Eritrean forces of deliberately starving Tigray,” Reuters (Jun. 14, 2021), <https://www.reuters.com/world/africa/exclusive-un-official-accuses-eritrean-forces-deliberately-starving-tigray-2021-06-11/> [“UN official accuses Eritrean forces of deliberately starving Tigray”]. Local farmers also told the visiting UN aid workers, “Continuing harassment from Eritrean forces meant that no one was plowing the land for the next crop.” *Id.*

189 Barbara Arvanitidis, Nima Elbagir, Bethlehem Feleke, Eliza Mackintosh, Gianluca Mezzofiore, & Katie Polglase, “Massacre in the mountains,” *CNN* (Mar. 22, 2021), <https://edition.cnn.com/2021/02/26/africa/ethiopia-tigray-dengelat-massacre-intl/index.html>.

190 Anna, “Eritrean soldiers loot, kill,” *see above* note 157.

191 UN Human Rights Council, *Report of the International Commission of Human Rights Experts on Ethiopia*, *see above* note 111, para. 32. ENDF forces also “forcibly seized jewellery from women, as well as money and other household items,” the Commission said. *Id.*

192 Amnesty International & Human Rights Watch, “*We Will Erase You*,” *see above* note 26, pp. 4-5.

193 Human Rights Watch, *Eritrean Forces Massacre Tigray Civilians*, *see above* note 37; Amnesty International & Human Rights Watch, “*We Will Erase You*,” *see above* note 26, p. 102.

194 Amnesty International, *Massacre in Axum*, *see above* note 95, p. 20.

195 According to Amnesty International & Human Rights Watch, the term “Welkai” (also spelled Wolkait, Wolqayt, or Walqayte) “refers to a group of people historically inhabiting the highland areas collectively known as Kafta Humera, Welkai, Tsegede (or Tegede in Amharic) who speak Tigrinya and Amharic.” Amnesty International & Human Rights Watch, “*We Will Erase You*,” *see above* note 26, p. 16, note 16.

forces¹⁹⁶ – extensively looted crops, livestock, and household items from Tigrayan civilians.¹⁹⁷ For example, a Tigrayan farmer from May Woini village, near Adi Goshu, reported that, on January 29, 2021, Amhara militia fighters took “almost 4,000 cattle and 90 camels, 8,000 sheep and goats” from Tigrayan farmers in a single day.¹⁹⁸ In farmland near Mai Kadra, a seventy-year-old woman said that, in early December 2020, “[t]he Amhara militia ... brought daily laborers ... who started looting what Tigrayans harvested from last summer. ... We saw them putting the harvest on trucks and taking it in the direction of their region.”¹⁹⁹

According to Human Rights Watch and Amnesty International, the looting of food, livestock, and crops in Western Tigray was often the first of a deliberate series of actions that, by “depriv[ing] Tigrayan communities of their means of survival,” eventually forced hundreds of thousands of Tigrayan civilians to flee their homes.²⁰⁰ As one farmer in Adi Goshu explained, the looting of harvested crops, especially sorghum, by militia and security forces caused “extreme hunger.”²⁰¹ Another Tigrayan civilian in nearby May Woini agreed: “We want to move to any other place that is safe and accessible for food. There’s no food. ... Things are critical. I have no words to explain it.”²⁰²

Amhara security forces and members of the Fano militia – often with the knowledge and, in some cases, participation of ENDF and EDF troops, as well as Amhara regional officials²⁰³ – also indefinitely detained tens of thousands of Tigrayan civilians in overcrowded, informal detention centers in Western Tigray.²⁰⁴ Witness reports suggest that armed forces deliberately withheld food and water from Tigrayan civilians in detention sites.²⁰⁵ For example, a civilian who was held in Yetbarek warehouse in Humera told Human Rights Watch and Amnesty International that if civilians “asked for any food,” the armed forces guarding the warehouse would reply: “Your food is a bullet. We will kill you!”²⁰⁶

A civilian who was held Yetbarek warehouse in Humera reported that if civilians asked for any food, the armed forces guarding the warehouse would reply: “Your food is a bullet. We will kill you!”

196 *Id.*, p. 102.

197 *Id.* See also Human Rights Watch & Amnesty International, *New Wave of Atrocities*, see above note 96. The Ethiopian Human Rights Commission (EHRC), a governmental body, has also confirmed reports of looting by federal forces, Eritrean forces, Amhara Special Forces, and Fano militia in Western Tigray. See, e.g., The Ethiopian Human Rights Commission, *Situation of Civilians in Humera, Dansha, and Bissaber – Brief Monitoring Report*, p. 2 (Jan. 2021), <https://ehrc.org/wp-content/uploads/2021/05/Brief-Monitoring-Report-Humera-Dansha-and-Bissaber-2-1.pdf>.

198 Amnesty International & Human Rights Watch, “*We Will Erase You*,” see above note 26, p. 109.

199 *Id.*, p. 107.

200 *Id.*, pp. 102-7. See also Human Rights Watch & Amnesty International, *New Wave of Atrocities*, see above note 96.

201 Amnesty International & Human Rights Watch, “*We Will Erase You*,” see above note 26, p. 106.

202 *Id.*, pp. 106-7.

203 *Id.*, pp. 6, 43, 77, 122.

204 *Id.*, pp. 2, 123. Lowenstein Clinic interview with a health professional in Sudan, May 2022.

205 *Id.*, p. 79.

206 *Id.*, p. 175.

Prime Minister Abiy denied reports of looting and specifically defended the conduct of Amhara forces.²⁰⁷ In a speech to parliament on March 23, 2021, Abiy denied allegations of “targeted, intentional ethnic cleansing” in Western Tigray and said: “Portraying this [Amhara] force as a looter and conqueror is very wrong.”²⁰⁸

(b) *Water and irrigation systems*

Northern Ethiopia is, on the whole, a drought-prone area.²⁰⁹ In Tigray, the amount of seasonal rainfall varies considerably between the region’s lowlands, middle highlands, and upper highlands (known locally as *kola*, *weina-degua* and *degua*, respectively).²¹⁰

Historically, the insufficiency and vulnerability of water-supply systems in Tigray have damaged agricultural production, livestock productivity, and health outcomes in the region.²¹¹ Most households in Tigray, for example, rely on groundwater sources, such as wells, boreholes, and reservoirs, that are vulnerable to water shortages.²¹² In highland areas in the north of Ethiopia, including Tigray, dry periods and droughts can reduce or exhaust water levels in groundwater sources, especially springs or rivers, and have, in the past, worsened health and social outcomes and resulted in interpersonal and inter-communal violence.²¹³

Over the past three decades, public and private investments in water, sanitation, and hygiene (WASH) systems significantly expanded the reach and quality of the water supply in many parts of northern Ethiopia.²¹⁴ As of 2016, according to the Central Statistics Agency of Ethiopia (CSA), roughly 72% of households in Tigray had sufficient access to clean drinking water within a reasonable

207 Houreld, Georgy & Aloisi, “How ethnic killings exploded,” *see above* note 95.

208 *Id.*

209 Asaminew Teshome & Jie Zhang, “Increase of Extreme Drought over Ethiopia under Climate Warming,” *Advances in Meteorology* (2019); Woldeamlak Bewket & Declan Conway, “A note on the temporal and spatial variability of rainfall in the drought-prone Amhara region of Ethiopia,” *International Journal of Climatology*, vol. 27 pp. 1467-77 (2007).

210 Amare Sisay Tefera et al., “Comparative analyses of SPI and SPEI as drought assessment tools in Tigray Region, Northern Ethiopia,” *SN Applied Sciences* vol. 1 (2019).

211 Tewodros Gebreegiabher et al., “Contour furrows for in situ soil and water conservation, Tigray, Northern Ethiopia,” *Soil and Tillage Research*, vol. 103, pp. 257-264 (2009); A. M. Macdonald et al., “Groundwater and resilience to drought in the Ethiopian highlands,” *Environmental Research Letters*, vol. 14 (2019), https://centaur.reading.ac.uk/84394/9/MacDonald_2019_Environ._Res._Lett._14_095003.pdf. [“Groundwater and resilience to drought in the Ethiopian highlands”].

212 *See generally* Abdu Y. Yimam et al., “Estimating Surface and Groundwater Irrigation Potential under Different Conservation Agricultural Practices and Irrigation Systems in the Ethiopian Highlands,” *Water*, vol. 13(2), p. 2 (2021) (“Groundwater levels from shallow wells [in the Ethiopian highlands] decrease in dry spells (by 27% on average) resulting in water shortages, ...”); Kiros Gebremichail Gebresilasie et al., “Assessment of Some Physicochemical Parameters and Heavy Metals in Hand-Dug Well Water Samples of Kafta Humera Woreda, Tigray, Ethiopia,” *International Journal of Analytical Chemistry*, vol. 2021, p. 2 (2021). *See also* Central Statistical Agency of Ethiopia, *Drinking Water Quality in Ethiopia: Results from the 2016 Ethiopia Socioeconomic Survey*, p. 38 (Dec. 2017), <https://washdata.org/report/drinking-water-quality-ethiopia-ess-2016> [*Drinking Water Quality in Ethiopia*].

213 A. M. MacDonald et al., “Groundwater and resilience to drought in the Ethiopian highlands,” *see above* note 211.

214 Japan International Cooperation Agency, *Basic Design Study Report on the Project for Water Supply Development in the Afar National Regional State in the Federal Democratic Republic of Ethiopia* (Jul. 2006), http://open_jicareport.jica.go.jp/pdf/11836178_01.pdf; Kifle Woldearegay & Frank Van Steenbergen, “Shallow Groundwater Irrigation in Tigray, Northern Ethiopia: Practices and Issues,” *Engineering Geology for Society and Territory*, vol. 3, p. 505 (2014).

distance from their home.²¹⁵ Although these official statistics are likely somewhat inflated,²¹⁶ including by underreporting the non-functionality of water sources in rural areas,²¹⁷ they nonetheless provide a sense of baseline access to water before the current conflict, as well as an official benchmark against which to measure the Ethiopian federal government's response to the crisis.

Since November 2020, access to water for civilians in Tigray has decreased dramatically.²¹⁸ After the conflict began, humanitarian agencies expressed immediate concern about the interruption of essential services, including water supplies, for the general population, due, at least in part, to the “damage and destruction of water infrastructure.”²¹⁹ By February 2021, humanitarian agencies had restored access to clean water for just 120,000 people in Tigray – around 27% of the 455,000 people that humanitarian organizations had intended to reach and a tiny fraction of Tigray's general population.²²⁰ In January 2022, UN OCHA reported: “About 9,300 water points or more than 54 per cent of the 17,080 water points in Tigray are not functional[,] affecting the access of more than 3.5 million people to safe drinking water.”²²¹ In other words, more than half of the boreholes, wells, springs, and other water sources in Tigray were not supplying civilians with safe drinking water in January 2022, a sharp increase from the estimated 7.1% non-functionality of Tigray's water points before the war.²²²

215 Central Statistics Agency of Ethiopia, *Drinking Water Quality in Ethiopia*, see above note 212, p. 18; see also World Health Organization, *Capacity Building training on Climate-Resilient Water Safety Plan*, p. 31 (Dec. 2015), https://cdn.who.int/media/docs/default-source/climate-change/climate-resilient-water-safety-planning-capacity-development.pdf?sfvrsn=85c39e6_3 [*Climate-Resilient Water Safety Plan*]; see also UNICEF, *One WASH national program: a multi-sectoral swap*, p. 32 (Mar. 2018), <https://www.unicef.org/ethiopia/reports/one-wash-national-program-ownp>.

216 Lowenstein Clinic interview with an academic expert who studies Tigray, October 2021. Statistical estimates of water coverage in Ethiopia vary considerably. One study found that the nationwide rate of access to water in Ethiopia was 49.6%. See Muluken Azage et al., “Exploring geographical variations and inequalities in access to improved water and sanitation in Ethiopia: mapping and spatial analysis,” *Heliyon*, vol. 6 (2020). One study in Eastern and Southern Tigray found that rainwater-harvesting ponds were the most important source of water for most households. G. Honor Fagan et al., “Rural households' access to water resources under climate impacts based on field evidence in Tigray Region, Ethiopia,” *Journal of Environmental Science and Technology*, vol. 13, p. 233 (2019).

217 Lowenstein Clinic interview with an academic expert who studies Tigray, October 2021.

218 Humanitarian organizations report that most water points in Tigray have been damaged or destroyed by the armed conflict. See People in Need, *Having access to water is a matter of survival in conflict-affected areas in the Tigray region of Ethiopia* (May 13, 2022), <https://reliefweb.int/report/ethiopia/having-access-water-matter-survival-conflict-affected-areas-tigray-region-ethiopia>. Another important reason, as discussed extensively below in Warring-Party Conduct 2(b), has been the federal government's indiscriminate shutdown of electricity. In urban areas, groundwater pumping, as well as distribution, depend on electricity. Lowenstein Clinic interview with an academic expert who studies Tigray, October 2021.

219 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 1 (Dec. 1, 2020), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-no-7-1-december-2020>; UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report* (Nov. 26, 2020), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-no-6-26-november-2020>.

220 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 9 (Feb. 12, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-12-february-2021>.

221 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 18 (Jan. 20, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-20-january-2022>. As defined by the United Nations, the term “water point” is “a generic term used to describe any point of access to water for domestic uses. This includes a household connection, stand-pipe, well, borehole, spring, rainwater harvesting unit, water kiosk or other point of transaction with a water vendor.” UN-Water Decade Programme on Advocacy and Communication, *Glossary on the Human Right to Water and Sanitation*, p. 3, https://www.un.org/waterforlifedecade/pdf/hrw_glossary_eng.pdf (last visited Sept. 27, 2022).

222 UNICEF, *Ethiopia: Humanitarian Situation Report No. 10*, p. 2 (Dec. 21, 2021), <https://reliefweb.int/report/ethiopia/unicef-ethiopia-humanitarian-situation-report-no-10-november-2021>.

Humanitarian agencies and journalists have reported that looting and other attacks on improved water sources – including on developed springs, reservoirs, and boreholes fitted with hand pumps – have diminished access to water.²²³ In January 2021, UN OCHA estimated that more than 300 motorized pumping systems were dysfunctional due to damage, looting, or lack of fuel.²²⁴ Humanitarian officials reported that parties to the conflict had looted electromechanical equipment, crane lifts, and water trucks.²²⁵ The Gereb Geba dam in Enderata was non-functional for the early period of the conflict,²²⁶ due to insecurity²²⁷ and, allegedly, looting.²²⁸ In mid-April 2021, UN OCHA reported that water, sanitation, and hygiene services were still “largely disrupted” across much of Tigray because “electromechanical equipment, including switchboards, generators, pumps, solar panels, transformers, reservoirs and spare parts, [sic] were damaged or looted, while all water offices building [sic] had been looted or vandalized.”²²⁹

Witness accounts have attributed some acts of looting water-infrastructure supplies and equipment to Eritrean armed forces. For example, a refugee who was captured by Eritrean soldiers in his hometown, Adigrat, told a team of investigative journalists, “I was forced to dismantle my native city.”²³⁰ According to the journalists, “He and other Tigrayans were forced to drive from factory to factory and shop to shop in the old Italian trucks belonging to the Eritreans, loading them up with generators, water pumps and other machines.”²³¹ The witness alleged that the trucks then took the looted items back to Eritrea.²³²

Similarly, a man displaced from the town of May Gaba, Western Tigray, told Human Rights Watch that he witnessed Eritrean soldiers looting water supplies from a neighbor’s home: “There was a big

223 Muhumuza, “Our season,” *see above* note 168; Amnesty International, *Massacre in Axum*, *see above* note 95, p. 21; Human Rights Watch, *Eritrean Forces Massacre Tigray Civilians*, *see above* note 37.

224 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, pp. 2-3 (Jan. 7, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-6-january-2021> [*Tigray Situation Report*, Jan. 7, 2021]; UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 11 (Feb. 20, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-19-february-2021>.

225 UN Office for the Coordination of Humanitarian Affairs, *Tigray Situation Report*, Jan. 7, 2021, *see above* note 224, pp. 2-3.

226 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Jan. 25, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-25-january-2021>.

227 “Dam down, water supplies failing in Ethiopia’s conflict-hit Tigray,” *Reuters* (Jan. 20, 2021), <https://www.reuters.com/article/uk-ethiopia-conflict/dam-down-water-supplies-failing-in-ethiopias-conflict-hit-tigray-idUSKBN29P1oG> (“The Gereb Geba clean water dam project has stopped operating as workers left the project area following the unrest created in the state,’ he [a Tigray Water Resource Management Bureau official] said, ...”).

228 Lowenstein Clinic interview with a former interim government official, April 2022. *See also* World Peace Foundation, *Starving Tigray*, p. 43 (Apr. 6, 2021), <https://sites.tufts.edu/wpf/files/2021/04/Starving-Tigray-report-final.pdf> [*Starving Tigray*].

229 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 16 (Apr. 13, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-13-april-2021>.

230 Fritz Schaap & Andy Spyra, “An Ethiopian Doctor Records the Destruction of His Homeland,” *Spiegel International* (Mar. 15, 2021), <https://www.spiegel.de/international/world/chronicler-of-horrors-an-ethiopian-doctor-records-the-destruction-of-his-homeland-a-ba9139do-d443-4dde-9458-cd18dc38cae1>.

231 *Id.*

232 *Id.*

water tank, they emptied all the water, then stole the tank and pump. ... They took everything, all they could, on a truck.”²³³ In Axum, Amnesty International reported, Eritrean soldiers stole generators and water pumps.²³⁴ A woman told Human Rights Watch that, in December 2020, Axum had become “a dark city where everyone lived in fear of soldiers. Everything was looted, shops weren’t open, and there was no food, light, or water. I drank water dug from a hole.”²³⁵ In some rural communities in Tigray, witnesses told the Associated Press, Eritrean soldiers had inserted sand into water pumps to disable them.²³⁶

Armed forces in Tigray have also reportedly looted jerrycans,²³⁷ an important household item that is essential to safe water consumption, especially in rural areas.²³⁸ In late December 2020 and early January 2021, a joint rapid needs assessment in northern Wollo and southern Tigray by three international

In some rural communities in Tigray, witnesses told the Associated Press, Eritrean soldiers had inserted sand into water pumps to disable them.

humanitarian organizations found, “Most of the households don’t have jerrycans to fetch water as many houses were looted or destroyed during the conflict.”²³⁹ One civilian who fled from Mekelle through Tembien toward Adet in January 2021 reported that Eritrean soldiers took jerrycans from individual households, “perhaps to deprive farmers from accessing water.”²⁴⁰

Warring parties have reportedly looted government property crucial to maintaining the water system in Tigray. In December 2020, the United Nations and the Ethiopian government found that “most *woredas*²⁴¹ [in Southern Tigray] have experienced looting of repair kits and tools for water supply in-

233 Human Rights Watch, *Eritrean Forces Massacre Tigray Civilians*, see above note 37.

234 Amnesty International, *Massacre in Axum*, see above note 95, p. 21.

235 Human Rights Watch, *Eritrean Forces Massacre Tigray Civilians*, see above note 37.

236 Muhumuza, “Our season,” see above note 168.

237 See, e.g., Tghat (@TghatMedia), Twitter (May 26, 2021, at 3:53 AM EST), <https://twitter.com/tghatmedia/status/1397460902472003585>; Alex de Waal, “Who Will Call Out Eritrea’s War Crimes in Tigray?,” *World Peace Foundation* (Dec. 23, 2020), <https://sites.tufts.edu/reinventingpeace/2020/12/23/who-will-call-out-eritreas-war-crimes-in-tigray/>. According to one former interim administration official, after Eritrean troops looted or destroyed “pots and vessels used to get water from rivers,” farmers in rural Tigray were forced to go to rivers daily to drink water. Lowenstein Clinic interview with a former interim administration official, April 2022.

238 See generally Negasa Eshete Soboksa et al., “Association between microbial water quality, sanitation and hygiene practices and childhood diarrhea in Kersa and Omo Nada districts of Jimma Zone, Ethiopia,” *PLoS One*, vol. 15(2), p. 7 (2020); Charity: Water, *The story behind the Jerry Can*, <https://blog.charitywater.org/post/143491921667/the-story-behind-the-jerry-can> (last visited Sept. 27, 2022); Susan Martinez, “Clean Water Brings Prosperity and Health,” *Action Against Hunger* (Dec. 16, 2021), <https://www.actionagainsthunger.org/story/clean-water-brings-prosperity-and-health>.

239 Oxfam et al., *Multiagency and Multisectoral Rapid Need Assessment in Raya Kobo, Raya Alamata, Raya Azebo, Chercher, Wajirat and Ofra Woredas of North Wollo and South Tigray Zones* (Jan. 2021), https://careevaluations.org/wp-content/uploads/Multiagency_Multisectoral_RNA_N.-Wollo-S.Tigray_FV.pdf [*Multiagency and Multisectoral Rapid Need Assessment*]. See also Oxfam et al., *Multiagency and Multisectoral Rapid Need Assessment in North Gondar and West Tigray Zones Among Conflict Affected IDPs and Host Communities* (Jan. 2021), http://careevaluations.org/wp-content/uploads/Multiagency_Multisectoral_RNA-Report_N.-Gondar-W.Tigray_FV.pdf.

240 Mistir Sew, “‘The sadism is very disturbing’: Two months on the run in Tigray,” *Ethiopia Insight* (Feb. 8, 2021), <https://www.ethiopia-insight.com/2021/02/08/the-sadism-is-very-disturbing-two-months-on-the-run-in-tigray/>.

241 A *woreda* is a district-level administrative unit in Ethiopia. See Amnesty International & Human Rights Watch, “*We Will Erase You*,” see above note 26, p. iii.

frastructure.”²⁴² In Chercher town, for example, the Tigray Bureau of Water Resources’ maintenance tools and computers were stolen.²⁴³ In June 2021, UN OCHA reported delays in resuming WASH services in urban centers throughout Tigray due to “looting and destruction of water utilities offices.”²⁴⁴ The vice head of the interim administration’s Bureau of Water Resources told the state-run Ethiopian Press Agency that water-resource management offices in more than 30 cities and 53 *woredas* in Tigray had been “mercilessly” looted, resulting in a severe lack of drinking water in the region. He did not identify the perpetrators.²⁴⁵

Reports suggest that Ethiopian federal government and allied armed forces have been responsible for looting of water systems in Tigray, as well as for the obstruction and looting of humanitarian water, sanitation, and hygiene (WASH) supplies. On May 19, 2021, when OCHA denounced the “military take-over of some water sources, reservoir sites in Shire, Mekelle (Endagabriel) and water offices in Adishihu town and Hagere Selam town,” in Central Tigray,²⁴⁶ those locations were reportedly under ENDF and EDF control.²⁴⁷ In June 2021, OCHA said that Ethiopian federal forces had seized a truck from an international humanitarian organization that was carrying water treatment chemicals, among other aid items, and “confiscated” the contents of the truck.²⁴⁸

Most access to clean water in pre-conflict Tigray was the result of long-term investments in and management of water infrastructure. The predictable effect of the looting and destruction of water points and public resources has been a severe reduction in civilians’ access to clean water. For example, when a team of humanitarian relief workers from Médecins Sans Frontières arrived in Adigrat on December 19, 2020, they saw “queues of 500 people next to a water truck waiting to get 20 litres of water per family at most.”²⁴⁹ Prior to the conflict, roughly 75% of households in Adigrat had reliable and convenient access to safe water.²⁵⁰ The MSF team also reported that Adigrat hospital had “no

242 Government of Ethiopia – National Disaster Risk Management Commission, *Joint Rapid Needs Assessment Mission*, see above note 28, p. 5.

243 *Id.*, p. 4.

244 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 12 (Jun. 10, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-10-june-2021>.

245 “Dam down, water supplies failing in Ethiopia’s conflict-hit Tigray,” *Reuters* (Jan. 20, 2021), <https://www.reuters.com/business/environment/dam-down-water-supplies-failing-ethiopias-conflict-hit-tigray-2021-01-20/>; see also “Bureau expresses operation difficulty following immense damage,” *The Reporter Ethiopia* (Jan. 23, 2021), <https://www.thereporterethiopia.com/article/bureau-expresses-operation-difficulty-following-immense-damage>. Other former interim administration officials have attributed responsibility to EDF, Amhara, and ENDF forces. Lowenstein Clinic interviews with former interim administration officials, April 2022.

246 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 11 (May 19, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-19-may-2021>.

247 Lowenstein Clinic email correspondence with an academic expert who studies Tigray, March 2022.

248 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Jun. 10, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-10-june-2021>.

249 Médecins Sans Frontières, *Ethiopia: “If seriously ill people can’t get to hospital, you can imagine the consequences”* (Feb. 1, 2021), <https://www.msf.org/people-finding-access-healthcare-difficult-tigray-ethiopia> [People can’t get to hospital].

250 World Health Organization, *Climate-Resilient Water Safety Plan*, see above note 215, p. 31.

water.”²⁵¹ During the same period, in Southern Tigray, the United Nations and the Ethiopian government found “a significant reduction in water supply” because “water schemes lack treatment chemicals; some irrigation schemes have been destroyed.”²⁵² UN OCHA found in December 2020 that many women in Tigray were travelling up to 25 kilometers to fetch water, and were thus at heightened risk of sexual and gender-based violence.²⁵³

Moreover, in places where maintenance equipment and other specialized tools had been looted, restoring functionality to damaged water sources was delayed or impossible. In northern Wollo and southern Tigray, international humanitarian organizations found in early January 2021 that many

A wide array of journalists, humanitarian aid workers, human rights organizations, and UN agencies have documented the large-scale looting and destruction of Tigray’s health system.

improved water sources had been “broken during the conflict and no one from the communities or the local authorities have been able to repair them, as the water resource authorities are no longer functioning in Raya Azebo, Raya Chercher, Ofla and Wajirat.”²⁵⁴ As late as June 2021, UN OCHA, UNICEF, and Save the Children found entirely “dysfunctional water systems” in Maryknetal, Edega Arbi, and Nebelet towns in Central Tigray.²⁵⁵

(c) *Health supplies and health-care systems*

A wide array of journalists, humanitarian aid workers, human rights organizations, and UN agencies have documented the large-scale looting and destruction of Tigray’s health system.²⁵⁶ Journalists and human rights investigators have attributed responsibility for many acts of looting and destruction

251 Médecins Sans Frontières, *People can’t get to hospital*, see above note 249.

252 Government of Ethiopia – National Disaster Risk Management Commission, *Executive Summary: Joint Rapid Needs Assessment Mission, Tigray South*, pp. 1-2 (Jan. 2021), <https://assessments.hpc.tools/assessment/01456385-bba9-40be-a43e-5e3fb85779a8> [Executive Summary].

253 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Dec. 11, 2020), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-11-december-2020>.

254 Oxfam et al., *Multiagency and Multisectoral Rapid Need Assessment*, see above note 239, p. 14.

255 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Jun. 10, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-10-june-2021> (“In Maryknetal, Edega Arabi, and Nablet [Nebelet] towns, the mission observed dysfunctional water systems, looted and not functional health facilities, farmlands are being cultivated while limited number of people received food support.”).

256 See, e.g., Médecins Sans Frontières, *Few healthcare options in Tigray*, see above note 101 (reporting that of the 106 health facilities visited by MSF teams between mid-December 2020 and early March 2021, nearly 70% had been looted and more than 30% had been damaged by the fighting; just 13% were functioning normally.); UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 10 (Jul. 19, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-19-july-2021> (“9 out of the 10 health facilities visited in critical locations” – including hospitals in Adigrat, Edega Arbi and Engabaguna, as well as health centers in Kisd Gaba, Adaga Hebrat, Hitsats, and Nebelet, and the health post in Dedebeit – “had been looted, with medical equipment destroyed.”); Human Rights Watch, *“I Always Remember That Day,”* see above note 97, pp. 29-30 (quoting a humanitarian relief worker who said: “[We found] a huge amount of destruction of healthcare facilities in most places we looked at [in Tigray]. A half to a third being completely destroyed or demolished or looted to the extent that it’s

of Tigray’s medical facilities to Ethiopian federal and allied forces, including Eritrean troops.²⁵⁷ The Ethiopian government’s restrictions on cash, fuel, and electricity, detailed below, have reduced and, in some cases, eliminated civilian access to life-saving health-care services in Tigray.²⁵⁸ In January 2022, staff at Ayder Referral Hospital in Mekelle told journalists that 80-90% of Tigray’s hospitals and clinics were “non-functional.”²⁵⁹

It is beyond the scope of this analysis to comprehensively discuss the myriad harms that civilians in Tigray suffered after losing access to health care. There are, however, important, well-established causal links between health care, malnutrition, and starvation deaths. Broadly, the collapse of an entire regional health-care system can be expected to cause, as the World Health Organization has warned, a surge in preventable illness and death as vaccination campaigns are interrupted and sanitation conditions deteriorate.²⁶⁰ Malnourished people, who are far more likely than adequately nourished people to get sick and die, are disproportionately threatened by that surge.²⁶¹ For patients with chronic diseases – cancer, tuberculosis, and HIV/AIDS, for example – the lack of

The destruction of health-care systems in Tigray has increased rates of malnutrition and reduced the availability of therapeutic foods, resulting in children dying of starvation.

a shell of a building and can’t be used as a health post anymore.”); Amnesty International, *Massacre in Axum*, see above note 95, p. 22.

257 See, e.g., UN Human Rights Council, *Report of the International Commission of Human Rights Experts on Ethiopia*, see above note 111, para. 73 (reporting that in November 2020, “the ENDF, EDF, and their allies began to systematically loot and destroy goods indispensable to the survival of the civilian population in Tigray,” including medical facilities, “on a widespread scale.”); Muhumuza, “Our season,” see above note 168 (“Eritrean soldiers are in fact more firmly entrenched than ever in Tigray, where they are ... looting hospitals and blocking food and medical aid, *The Associated Press* has found.”); Human Rights Watch, “*I Always Remember That Day*,” see above note 97, p. 4 (“During the first nine months of the conflict, Ethiopian and Eritrean government forces, as well as Amhara militias, pillaged and destroyed health facilities in Tigray, ...”).

258 See, e.g., Human Rights Watch, “*I Always Remember That Day*,” see above note 97; UN Human Rights Council, *Report of the International Commission of Human Rights Experts on Ethiopia*, see above note 111, paras. 74, 84; Katharine Houreld & Giulia Paravicini, “Doctors say lives are lost in hospitals in Ethiopia’s Tigray due to dwindling supplies, blame blockade,” *Reuters* (Jan. 5, 2022), <https://www.reuters.com/business/healthcare-pharmaceuticals/doctors-say-lives-are-lost-hospitals-ethiopia-tigray-due-dwindling-supplies-2022-01-05/> [“Doctors say lives are lost”]. See also UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 2 (Jun. 3, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-3-june-2022> (“Ayder hospital in Mekelle, the biggest referral hospital in the region, serving more than 300,000 patients is reportedly at risk of closure due to lack of fuel. The hospital has reportedly grounded 70 per cent of their vehicles ...”).

259 Houreld & Paravicini, “Doctors say lives are lost,” see above note 258.

260 “WHO Warns of Diseases Spreading in Tigray Because of Conflict,” *Voice of America* (Jan. 23, 2021), https://www.voanews.com/a/africa_ethiopia-tigray_who-warns-diseases-spreading-tigray-because-conflict/6201128.html.

261 Reynaldo Martorell & Teresa J. Ho, “Malnutrition, Morbidity, and Mortality,” *Population and Development Review*, vol. 10 (1984); Lisa Soderstrom et al., “Malnutrition is associated with increased mortality in older adults regardless of the cause of death,” *British Journal of Nutrition*, vol. 117(4) (2017); Abel Gebre et al., “Prevalence of Malnutrition and Associated Factors among Under-Five Children in Pastoral Communities of Afar Regional State, Northeast Ethiopia: A Community-Based Cross-Sectional Study,” *Journal of Nutrition and Metabolism* (2019).

appropriate treatment and essential medicines can cause acute malnutrition, severe loss of strength and body mass, and, eventually, death.²⁶²

Access to health care in Tigray has an immediate, direct impact on food security among children under the age of five. In Ethiopia, prior to the conflict, an estimated 11% of children suffered from severe acute malnutrition (SAM); SAM was the reason for almost 20% of pediatric hospital admissions in Ethiopia before the war.²⁶³ Globally, the risk of death among children with SAM is about ten times higher than for normally nourished children.²⁶⁴ Before the war, the majority of Ethiopian children with SAM came to the hospital for treatment in therapeutic feeding centers.²⁶⁵ In Tigray, hospitals that followed standardized SAM treatment guidelines from the WHO and the Ethiopian Ministry of Health often managed to significantly reduce fatality rates among children with SAM.²⁶⁶ Before the conflict, the health system in Tigray also successfully managed SAM cases via decentralized outpatient programs, where ready-to-use therapeutic foods like Plumpy’Nut were made available in primary health-care settings.²⁶⁷

The destruction of health-care systems in Tigray has increased rates of malnutrition and reduced the availability of therapeutic foods, resulting in children dying of starvation.²⁶⁸ In November 2021, data from 14 hospitals in Tigray indicated that 7.1% of children in surveyed areas were severely and acutely malnourished, up from 1.3% before the war, and that nearly 200 children had died of starvation in the surveyed hospitals.²⁶⁹ As of January 2022, more than 40% of children under five years old at Ayder Referral Hospital in Mekelle were malnourished.²⁷⁰ Staff at Ayder said, though, that the hospital was “running out of therapeutic foods” to treat malnourished children because humanitarian agencies had

262 Tsegazeab Hailu Hadgu et al., “Undernutrition among HIV positive women in Humera hospital, Tigray, Ethiopia, 2013: antiretroviral therapy alone is not enough, cross sectional study,” *BMC Public Health*, vol. 13 (2013). See also Ethiopia Federal Ministry of Health, *Protocol for the Management of Severe Acute Malnutrition* (Mar. 2007), <https://motherchildnutrition.org/resources/pdf/mcn-ethiopia-sam-guidelines.pdf>.

263 Gebremicael Guesh et al., “Survival status and predictors of mortality among children with severe acute malnutrition admitted to general hospitals of Tigray, North Ethiopia: a retrospective cohort study,” *BMC Research Notes*, vol. 11 (2018), p. 2 [“Survival status and predictors of mortality”].

264 Melaku Gebremichael et al., *Treatment Outcomes and Associated Risk Factors of Severely Malnourished under Five Children Admitted to Therapeutic Feeding Centers of Mekelle City*, p. 2 (2014), https://www.scirp.org/pdf/OALibJ_2016030710065343.pdf [Treatment Outcomes and Associated Risk Factors].

265 Guesh et al., “Survival status and predictors of mortality,” see above note 263.

266 Gebremichael et al., *Treatment Outcomes and Associated Risk Factors*, see above note 264.

267 Henock Gebremedhin Yebo et al., “Outpatient Therapeutic Feeding Program Outcomes and Determinants in Treatment of Severe Acute Malnutrition in Tigray, Northern Ethiopia: A Retrospective Cohort Study,” *PLOS One*, (2013), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0065840>.

268 Lowenstein Clinic interview with a health professional in Sudan, May 2022.

269 “Scores of children die of starvation in Tigray hospitals,” *Mail & Guardian* (Nov. 20, 2021), <https://mg.co.za/africa/2021-11-20-scores-of-children-die-of-starvation-in-tigray-hospitals/>. See also Cara Anna, “‘God have mercy’: Tigray residents describe life under siege,” *Associated Press* (Oct. 16, 2021), <https://apnews.com/article/ethiopia-tigray-crisis-hunger-malnutrition-a772602d2caac96e8024769c012ce8c6> [“Tigray residents describe life under siege”].

270 Catherine Byaruhanga, “Ethiopia civil war: Tigray hospital running out of food for starving children,” *BBC News* (Jan. 6, 2022), <https://www.bbc.com/news/world-africa-59893216>. See also Peter Mwai, “Ethiopia’s Tigray crisis: Why it’s hard getting aid into the region,” *BBC News* (Apr. 7, 2022), <https://www.bbc.com/news/57929853> (“About half a million children are estimated to be lacking food in Tigray, including more than 115,000 severely malnourished.”).

been unable to adequately restock therapeutic food supplies in Tigray since June 2021.²⁷¹ At the end of January 2022, there were, according to UN OCHA, “[z]ero therapeutic nutrition supplies in Tigray, including for the treatment of children with severe acute malnutrition.”²⁷²

2. SIEGE

The term “siege” refers, as a general matter, to a military effort to surround and isolate an area, often but not always a city. Military forces use a siege to deny external access or egress to an area and,

The Ethiopian government consistently blocked civilians’ access to supplies of cash, fuel, and electricity in encircled areas of Tigray.

in many cases, in an effort to compel opposing forces to surrender.²⁷³ After the beginning of the conflict in Tigray, and especially after June 2021, Ethiopian federal government and allied forces encircled areas under the control of Tigray forces and restricted the movement of weapons, ammunition, supplies, and people into or out of those areas.²⁷⁴ The Ethiopian government consistently blocked civilians’ access to supplies of cash, fuel,

and electricity in encircled areas of Tigray and implemented a blanket shutdown of telecommunications services.²⁷⁵ The deprivation of these goods and services, which are essential to life in the 21st century, can also constitute part of a modern siege operation. For more than two years, these tactics have isolated Tigray and continuously deprived millions of civilians of basic, essential goods and services that sustain civilian life.

271 *Id.* (quoting a doctor at Ayder as saying: “It is now six months since any supply [of therapeutic food] has come here from Addis Ababa We’ve almost finished what we had since our last supply arrived in June [2021]. Everything is running out.”). UN OCHA has said, however, that in October 2021, an EU Humanitarian Air Bridge flight had arrived in Mekelle with “4.4 MT [metric tons] of ready-to-use therapeutic food for severely malnourished children.” UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 4 (Oct. 14, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-14-oct-2021>. However, OCHA’s reported figures reveal significant disparities between the 4.4 metric tons of therapeutic food supplies airlifted to Tigray and the amount delivered in Amhara and Afar, where “[s]ome 95 per cent of the 1,079 MT [metric tons] of allocated therapeutic and nutrition foods [for civilians in Amhara and Afar] were delivered to food distribution sites” during the same period. *Id.*, p. 7.

272 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 1 (Jan. 27, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-27-january-2022>. According to OCHA, even though life-saving therapeutic food supplies ran out in January, no additional supplies reached Tigray until humanitarian agencies airlifted 10 metric tons to Mekelle in early March 2022. UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 4 (Mar. 3, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-3-mar-2022>.

273 See Emanuela-Chiara Gillard, *Sieges, the Law and Protecting Civilians (Briefing)* pp. 1-2 (Jun. 2019), https://www.chathamhouse.org/sites/default/files/publications/research/2019-06-27-Sieges-Protecting-Civilians_o.pdf [*Sieges, the Law and Protecting Civilians*]; see also Sean Watts, “Siege Law,” *Lieber Institute* (Mar. 4, 2022), <https://lieber.westpoint.edu/siege-law/>.

274 Congressional Research Service, *Ethiopia’s Transition and the Tigray Conflict*, p. 2 (Sept. 9, 2021), <https://sgp.fas.org/crs/row/R46905.pdf>.

275 See below sections 2(a-c), 3(a). See also UN Human Rights Council, *Report of the International Commission of Human Rights Experts on Ethiopia*, see above note 111, paras. 74-75.

(a) Cutting off access to cash

Since November 4, 2020, there have been acute shortages of cash throughout the Tigray region, especially in rural areas of Central, North Western, and Eastern Tigray. This section focuses on one of the key causes of the cash shortages in Tigray: policy-level decisions by the Ethiopian federal government and Ethiopian commercial banks.²⁷⁶ By closing banks and shutting down telecommunications, the Ethiopian government caused or significantly accelerated the collapse of Tigray's banking system. Combined with skyrocketing prices that have resulted, in large part, from the siege imposed by the Ethiopian government and its allies, the banking collapse led to steep declines in household purchasing power.²⁷⁷

Cash shortages have worsened food insecurity for civilians throughout Tigray. In times of peace, even for households that consume mostly food that they produce themselves, markets are a crucial way that households diversify and improve their diets.²⁷⁸ During periods of conflict or scarcity, most households, particularly households reliant on farmers whose harvests have failed or households whose members have been displaced, come to depend heavily or entirely on purchasing food products from markets.²⁷⁹ By disrupting market systems and decreasing household purchasing power, cash shortages and inflation in Tigray have contributed to civilians' inability to secure food, including staple grains and other essential food items.²⁸⁰

By closing banks and shutting down telecommunications, the Ethiopian government caused or significantly accelerated the collapse of Tigray's banking system.

²⁷⁶ Another important cause of cash shortages was the large-scale looting of commercial banks, savings associations, and microfinance institutions in Tigray by Ethiopian federal and allied forces after November 4, 2020. See Jan Nyssen et al., "Tigray: Atlas of the humanitarian situation," vol. 2.2, pp. 68-70 (Dec. 27, 2021), https://www.researchgate.net/publication/349824181_Tigray_Atlas_of_the_humanitarian_situation ["Atlas of the humanitarian situation"]. Lowenstein Clinic interviews with former interim administration officials in April 2022 corroborated these accounts. A TPLF official also accused Ethiopian soldiers of looting banks in Mekelle during the retreat on June 28, 2021. Quoted in Declan Walsh, "Jubilant Tigray Capital Greets Insurgents After Ethiopian Retreat," *New York Times* (Jun. 29, 2021), <https://www.nytimes.com/2021/06/29/world/africa/Tigray-Ethiopia.html>. The Commercial Bank of Ethiopia, on the other hand, has said that TPLF forces looted 238 CBE bank branches in Tigray. See "Terrorist TPLF Loots, Vandalizes 238 branches of CBE," *Fana Broadcasting Corporate S.C.* (Dec. 13, 2021), <https://www.fanabc.com/english/terrorist-tplf-loots-vandalizes-238-branches-of-cbe>. Further investigations are required to confirm the precise scale of the looting and to attribute responsibility to particular actors.

²⁷⁷ World Food Programme, *Tigray: Conflict Affected Areas Update # 1*, p. 3 (Sept. 23, 2021), <https://docs.wfp.org/api/documents/WFP-0000132140/download/> [*Conflict Affected Areas Update #1*] ("Transport restrictions, shortage of cash, low fuel supplies, acute shortage of commodities and trader hoarding and price speculation have led to increased food prices between July and August 2021.").

²⁷⁸ Derek Headey et al., "Rural Food Markets and Child Nutrition," *American Journal of Agricultural Economics*, vol. 101(5) (2019).

²⁷⁹ See generally Annet Adong et al., "Conflict exposure and food consumption pathways during and after conflict: Evidence from Northern Uganda," *World Development*, vol. 147 (Nov. 2021).

²⁸⁰ World Food Programme, *Conflict Affected Areas Update #1*, see above note 277, pp. 1-3.

After the start of the conflict, the National Bank of Ethiopia (NBE) closed banks in Tigray and drastically curtailed Tigrayan customers' access to their accounts in other parts of Ethiopia. The NBE is an Ethiopian federal government institution; the federal government appoints the members of the NBE's governing Board of Directors, and, under Ethiopian federal law, the NBE is directly accountable to the Prime Minister's office.²⁸¹ The NBE has a mandate to act as "banker, fiscal agent and financial advisor to the Government" and to license, supervise, and regulate the operations of banks, insurance companies, and other financial institutions.²⁸² In November 2020, allegedly in response to looting by the TPLF, the NBE ordered all 616 commercial bank branches in Tigray to close.²⁸³

About four weeks later, in early December 2020, banking services were partially restored in a few urban centers in Southern and Western Tigray, including Alamata²⁸⁴ and Humera,²⁸⁵ and, later, on December 28, 2020, in Mekelle.²⁸⁶ By March, in some parts of Tigray, including Shire, Axum, Adigrat, and Wukro, only one branch of one bank—the Commercial Bank of Ethiopia²⁸⁷—had reopened, resulting in long queues and severe cash shortages.²⁸⁸ In most other areas, banking services were continuously offline for more than two years.²⁸⁹ After the TDF regained territorial control of parts of Tigray in June 2021, the Ethiopian federal government shut down commercial banking throughout the region for the second time, shuttering any banks that had reopened since the start of the conflict.²⁹⁰

Discriminatory policies targeting Tigrayans have further limited civilians' access to banking and cash in Tigray. On November 16, 2020, the NBE directed, via text message, the presidents of all Ethiopian commercial banks to freeze any accounts that were opened in Tigray Regional State, preventing customers in any part of Ethiopia from withdrawing cash or making transactions from accounts they

281 The National Bank of Ethiopia Establishment (as Amended) Proclamation No. 591/2008, art. 4; see also "News: PM Abiy forms new gov't; adds 20 institutions including NISS, INSA, investment & financial security accountable to his office," *Addis Standard* (Oct. 6, 2021), <https://addisstandard.com/news-pm-abiy-forms-new-govt-adds-20-institutions-including-niss-insa-investment-financial-security-accountable-to-his-office/>.

282 National Bank of Ethiopia, *Mandates of the Bank – National*, <https://nbebank.com/mandates-of-the-bank/> (last visited May 15, 2022).

283 "Ethiopia shuts banks in Tigray after 'TPLF robbery,'" *New Business Ethiopia* (Nov. 9, 2020), <https://newbusinessethiopia.com/politics/ethiopia-shuts-banks-in-tigray-after-tplf-robbery/>.

284 "Ethiopia Rejects Independent Probes of Tigray Conflict," *Bloomberg* (Dec. 9, 2020), <https://www.bloomberg.com/news/articles/2020-12-09/ethiopia-rejects-independent-probes-into-tigray-conflict>.

285 Lowenstein Clinic email correspondence with an academic expert who studies Tigray, April 2022. Tigrayan civilians were reportedly still denied access to their accounts after banking reopened in Humera. Lowenstein Clinic interview with a medical professional in Sudan, May 2022. See also Amnesty International & Human Rights Watch, *"We Will Erase You,"* see above note 26, p. 92.

286 "Ethiopia: Mekelle's banks reopen for first time since Tigray war," *Al Jazeera* (Dec. 28, 2021), <https://www.aljazeera.com/economy/2020/12/28/banks-reopen-in-ethiopia-mekelle-for-first-time-since-war-began>

287 The Commercial Bank of Ethiopia is a state-owned commercial bank. See generally National Bank of Ethiopia, *History of Banking – National Bank*, <https://nbebank.com/history-of-banking/> (last visited May 15, 2022).

288 Jan Nyssen et al., "Atlas of the humanitarian situation," see above note 276, pp. 69-70.

289 *Id.* The full list of urban centers without banking services, as documented by Ghent University researchers, is: Sheraro, Adi Daero, Selekleka, Endabaguna, Rama, Adwa, Semema, Zana, Wukro (Marai), Edaga Arbi, Enticho, Maikinetal, Nebelet, Workamba, Abiy Adi, Yechilay, Bizet, Zala Anbessa, Fatsi, Dewhan, Senkata, Hawzen, Atsbi, Agulae, Kwiha, Hagera Selam, Adigudom, Samre, Hiwane, and Chercher. *Id.*

290 "Ethiopia's economy battered by Tigray war," *BBC News* (Aug. 30, 2021), <https://www.bbc.com/news/world-africa-58319977>.

had originally opened in Tigray.²⁹¹ The NBE reportedly reversed its directive the following month.²⁹² But, after Tigray forces recaptured Mekelle on June 28, 2021, the Ethiopian federal government again directed banks to freeze any accounts opened in Tigray.²⁹³ Although the central bank technically left decisions to freeze accounts up to the banks, every major commercial bank in Ethiopia complied with the NBE's request.²⁹⁴

As a result, thousands of Tigrayans in Addis Ababa and other parts of Ethiopia lost access to their bank accounts twice in the span of a year, with the denial of banking services lasting months at a time.²⁹⁵ For example, any accounts that were originally opened at one of United Bank's 23 regional branches in Tigray were deactivated after Ethiopian federal government and allied forces retreated from Tigray in June 2021.²⁹⁶ The repeated cutoffs of access to banking for Tigrayans thus affected Tigrayans in and outside of Tigray.

The government's economic restrictions on Tigray have also shut down important microfinance institutions, harming farmers and individuals without bank accounts.²⁹⁷ On November 16, 2020, the Federal Attorney General's Office froze the bank accounts of 34 subsidiaries of the Endowment Fund for the Rehabilitation of Tigray (EFFORT), alleging that the companies were "participating in financing ethnic-based violence, acts of terrorism, [in] connection with the TPLF, which seeks to overthrow the constitutional order."²⁹⁸ Among the delisted companies was Dedebit Credit and Savings

The government's economic restrictions on Tigray have also shut down important microfinance institutions, harming farmers and individuals without bank accounts.

291 "Central Bank Suspends Accounts Opened in Tigray State," *Addis Fortune* (Sept. 1, 2021), <https://addisfortune.news/central-bank-suspends-accounts-opened-in-tigray-state/>.

292 "National Bank Activates Accounts Opened in Tigray," *Ethiopian Monitor* (Dec. 3, 2020), <https://ethiopianmonitor.com/2020/12/03/national-bank-activates-accounts-opened-in-tigray/>.

293 "Central Bank Cautions Banks over Accounts in Tigray," *Addis Fortune* (Jul. 3, 2021), <https://addisfortune.news/central-bank-cautions-banks-over-accounts-in-tigray/>.

294 *Id.*

295 *Id.*

296 *Id.*

297 In addition to Dedebit Credit and Savings Institution SC, which is discussed below, some important microfinance institutions in Tigray include Adeday Microfinance Institution (Amfi) and various village savings and loan groups. See "Midre Geez Enters Microfinance Arena," *Addis Fortune* (Apr. 4, 2020), <https://addisfortune.news/midre-geez-enters-microfinance-arena/>. For a discussion of village savings cooperatives, see Hagos Gemechu Haile, *Impact Analysis of the Loan Interest Rate on the Poor: The Case of Tigray, Northern Ethiopia* (Thesis submitted to the University of South Africa for the Doctoral Degree in Development Studies). Witnesses have reported that Ethiopian and allied forces extensively looted all of these types of institutions, which rely on offline infrastructure at small shops and branch offices. Lowenstein Clinic phone interview with a medical professional in Sudan, May 2022. See also Jan Nyssen et al., "Atlas of the humanitarian situation," see above note 276, p. 62. Further investigations are needed to document the extent of the looting of farmers' assets from microfinance institutions and savings groups, and to make determinations of intent and responsibility.

298 "Central Bank Suspends Accounts Opened in Tigray State," *Addis Fortune* (Sept. 1, 2021), <https://addisfortune.news/central-bank-suspends-accounts-opened-in-tigray-state/>; Samuel Gebre & Simon Marks, "Ethiopia Tightens Economic Clampdown on Rebel Tigray Region," *Bloomberg* (Nov. 18, 2020), <https://www.bloomberg.com/news/articles/2020-11-18/ethiopia-freezes-assets-of-fund-accused-of-backing-war-in-tigray> ["Ethiopia Tightens Economic Clampdown"].

Institution SC (Dedebit Microfinance),²⁹⁹ a microfinance institution with more than 460,000 account holders in Tigray.³⁰⁰ Prior to the conflict, Dedebit Microfinance was the most accessible financial institution in Tigray, especially in rural areas,³⁰¹ and one of the largest microfinance institutions in Africa.³⁰²

The Federal Attorney General's decision to freeze Dedebit Microfinance accounts has diminished the availability of cash or credit in rural Tigray, which has, in turn, curtailed farmers' ability to secure agricultural inputs. Statements by humanitarian aid workers and civilians in Tigray have consistently noted that branch services of microfinance institutions were unavailable throughout the region for the duration of the conflict.³⁰³ Farmers' inability to secure access to their savings or to receive loans has reduced their access to agricultural inputs,³⁰⁴ which, by reducing crop yields, worsens food insecurity for rural households.³⁰⁵ Farmers who managed to plant in spring 2021 had reduced access, not only to agricultural inputs, but also to assistance from humanitarian organizations and the regional Bureau of Agriculture and Rural Development, which, before the conflict, provided cash transfers.³⁰⁶

Bank closures in Tigray have also disrupted the Productive Safety Net Programme, a government-run social-protection program in Ethiopia that provides support to food-insecure households. Prior to the conflict, approximately 1 million people in Tigray received financial assistance, food aid, or food vouchers through PSNP.³⁰⁷ An estimated 600,000 people in the region, including 96,000 Eritrean refugees and "a significant number of IDPs," received in-kind food aid distributions through PSNP.³⁰⁸ At least 250,000 people, who, according to UN OCHA, "are among [the region's] poorest," qualified for monthly cash transfers.³⁰⁹ Beneficiaries of PSNP's financial assistance could receive payments either in person at small shops or through an electronic payment system.³¹⁰ Tigray was historically

299 "Bank Accounts of 34 TPLF Financial Institutions Frozen," *Fana Broadcasting Corporate S.C.* (Nov. 17, 2020), <https://www.fanabc.com/english/bank-accounts-of-34-tplf-financial-institutions-frozen/>. Dedebit Microfinance is also referred to as "DECSI." See, e.g., M-Birr, *Dedebit Credit and Savings Institution S.C.*, <http://m-birr.com/serviceProvidersDecsi.html> (last visited Sept. 27, 2022).

300 Innovations for Poverty Action, *Dedebit Credit and Savings Institution*, <https://www.poverty-action.org/organization/dedebit-credit-and-savings-institution-decsi> (last visited May 15, 2022).

301 Jan Nyssen et al., "Atlas of the humanitarian situation," see above note 276, p. 70.

302 Innovations for Poverty Action, *Dedebit Credit and Savings Institution (DECSI)*, <https://www.poverty-action.org/organization/dedebit-credit-and-savings-institution-decsi> (last visited May 15, 2022).

303 Lowenstein Clinic interview with a staff member of a humanitarian organization, October 2021.

304 *Id.*

305 See generally World Peace Foundation, *Starving Tigray*, see above note 228.

306 Lowenstein Clinic interview with a staff member of a humanitarian organization, October 2022.

307 ACAPS, *Ethiopia: Pre-Crisis Situation in Tigray*, pp. 8-9 (Feb. 2021), <https://www.acaps.org/special-report/ethiopia-pre-crisis-situation-tigray> [*Pre-Crisis Situation in Tigray*]; see also UNICEF, *Ethiopia: Humanitarian Situation Report No. 1 (Tigray Crisis)*, p. 2, note 5 (Jan. 2021), <https://www.unicef.org/media/91161/file/Ethiopia-Humanitarian-SitRep-Tigray-Crisis-14-January-2021.pdf> [*Situation Report No. 1*].

308 UNICEF, *Situation Report No. 1*, see above note 307, p. 2, note 5.

309 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Nov. 24, 2020), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-no-5-24-november-2020>. See also ACAPS, *Pre-Crisis Situation in Tigray*, see above note 307, p. 9.

310 Rachel Sabates-Wheeler & Jeremy Lind, *Social protection during conflict: reflections on Tigray*, Institute of Development Studies (Mar. 16, 2021), <https://www.ids.ac.uk/opinions/social-protection-during-conflict-reflections-on-tigray/> [*Social protection during conflict*].

one of the best-performing PSNP regions in Ethiopia, in terms of the percentage of participants who were eligible to graduate from the program.³¹¹

In late 2020, regional authorities stopped delivering PSNP assistance in Tigray, both because the Ethiopian federal government froze subsidies to Tigray's regional government in October³¹² and because, after the federal government installed the interim administration in November 2020, insecurity, personnel shortages, and bank closures made transfers impossible.³¹³ On December 20, 2020, a joint needs assessment in southern Tigray, conducted by the United Nations and the Ethiopian government, found that PSNP clients in Tigray had not received food distributions since July 2020 and that "the banks' closure affected the PSNP program, and authorities expressed difficulty in getting cash assistance to beneficiaries."³¹⁴ In spring 2021, a group of humanitarian organizations in the Joint Emergency Operations Program (JEOP) – an emergency food assistance program funded by the United States Agency for International Development (USAID) Bureau for Humanitarian Assistance and led by Catholic Relief Services – took over responsibility for the PSNP caseload in Tigray.³¹⁵ Although JEOP partners were able to organize a limited number of food distributions to PSNP clients under the interim administration,³¹⁶ cash transfers to PSNP clients in Tigray did not resume during the period of interim administration control.³¹⁷

Finally, the NBE decision in mid-September 2020 to introduce a 200 *birr* note and to change the color and security features of the 100 *birr*, 50 *birr* and 10 *birr* notes³¹⁸ – and its corresponding decision to ban business transactions using old bank notes after December 1, 2020³¹⁹ – compounded the cash crisis in Tigray. Prime Minister Abiy described the demonetization initiative as an attempt to fight corruption and reduce the number of Ethiopians without a bank account.³²⁰ When banking services resumed in Mekelle in December 2020, the NBE authorized a two-week extension to change old banknotes, but the policy allowed people to exchange only up to 100,000 *birr* per account (approximately US\$2,200), instead of the earlier limit of 1.5 million *birr* (approximately US\$33,000).³²¹

311 Rachel Sabates-Wheeler et al., "Graduation after 10 years of Ethiopia's Productive Safety Net Programme: Surviving but still not thriving," *Development Policy Review*, vol. 39(4), p. 519 (2020).

312 Gebre & Marks, "Ethiopia Tightens Economic Clampdown," *see above* note 298.

313 Lowenstein Clinic interview with a staff member of a humanitarian organization, October 2021.

314 Government of Ethiopia – National Disaster Risk Management Commission, *Joint Rapid Needs Assessment Mission*, *see above* note 28, p. 4. *See also* Cara Anna, "People go hungry in Ethiopia's Tigray as conflict marches on," *Associated Press* (Nov. 18, 2020), <https://apnews.com/article/international-news-coronavirus-pandemic-ethiopia-united-nations-kenya-5becfca36751f5bccf5b21b79de1398d>.

315 USAID, *Ethiopia – Tigray Crisis, Fact Sheet #6*, p. 4 (Apr. 15, 2021), https://www.usaid.gov/sites/default/files/documents/04.15.2021_-_USG_Tigray_Crisis_Fact_Sheet_6.pdf.

316 Lowenstein Clinic interview with a staff member of a humanitarian organization, October 2021.

317 *Id.* *See also* Sabates-Wheeler & Lind, *Social protection during conflict*, *see above* note 310.

318 "Ethiopia Introduces 200 Br Denomination, Currency Symbol, Changed Banknotes," *Addis Fortune* (Sept. 14, 2020), <https://addisfortune.news/news-alert/ethiopia-introduces-200-br-denomination-currency-symbol-changed-banknotes/>.

319 "Central Bank Outlaws Transactions with Old Notes," *Addis Fortune* (Nov. 21, 2020), <https://addisfortune.news/central-bank-outlaws-transactions-with-old-notes/>.

320 "Currency Revamp Spurs Rush for New Bank Accounts in Ethiopia," *Bloomberg* (Oct. 18, 2020), <https://www.bloomberg.com/news/articles/2020-10-18/new-currency-notes-gets-1-million-ethiopians-into-banking-system>.

321 "Tigray gets extended time to change old banknotes," *Borkena* (Dec. 30, 2020), <https://borkena.com/2020/12/30/tigray-gets-extended-time-to-change-old-banknotes/>.

Civilians from other parts of the region who reached Mekelle after the deadline passed were reportedly unable to exchange any banknotes or to withdraw savings.³²² People also reportedly bought new banknotes from Ethiopian or Eritrean soldiers at unfavorable rates.³²³

The inaccessibility of cash in Tigray – which coincided with restrictions on inter-regional trade and civilian mobility and enormously high rates of inflation has left many essential items far out of reach

After the end of June 2021, the Ethiopian government and its allies' siege of Tigray exacerbated cash shortages and severely limited the availability of food products throughout the region. Prices of essential goods skyrocketed.

for civilians. After the end of June 2021, the Ethiopian government and its allies' siege of Tigray exacerbated cash shortages and severely limited the availability of food products throughout the region. Prices of essential goods skyrocketed. In early July 2021, the World Food Programme found that prices of staple goods at markets in Shire rose by up to 40% in a single week.³²⁴ In October 2021, the Associated Press reported that, according to the United Nations, “[c]ooking oil prices [in Mekelle] have shot up 400% since June, fuel up 1200%, flour up 300%, and salt up 500%.”³²⁵ In March 2022, the World Food Pro-

gramme reported that consumers in Tigray, who were “already constrained by [the] lack of cash and livelihood options[,]” were forced to pay “sky-rocketed price[s]” for staple items like maize, sorghum, wheat, rice, and cooking oil.³²⁶

The rates of inflation in Tigray – which reportedly surpassed 1000% for certain products between November and December 2020,³²⁷ as well as after June 2021³²⁸ – have far exceeded inflation rates registered in other parts of the country during the same periods.³²⁹ In mid-December 2020, the World

322 Teklehaymanot G. Weldemichel, “Inventing hell: how the Ethiopian and Eritrean regimes produced famine in Tigray,” *Human Geography*, vol. 15(3), p. 3 (Nov. 2021).

323 *Id.*

324 World Food Programme, *Conflict Affected Areas Update #1*, see above note 277, p. 3.

325 Anna, “Tigray residents describe life under siege,” see above note 269. See also Lucy Kassa, “Tigray mothers share shocking accounts of dire famine conditions,” *Al Jazeera* (Sept. 23, 2021), <https://www.aljazeera.com/news/2021/9/23/tigray-mothers-share-shocking-accounts-of-dire-famine-conditions>.

326 World Food Programme, *Monthly Market Watch: Ethiopia, March 2022*, p. 14 (Mar. 2022), https://fscluster.org/sites/default/files/documents/etco_market_watch_march_2022_final.pdf.

327 World Food Programme, *Monthly Market Watch: Ethiopia, December 2020*, p. 4 (Dec. 2020), <https://reliefweb.int/sites/reliefweb.int/files/resources/WFP-0000122798.pdf> [*Market Watch: Ethiopia, December 2020*] (citing a 1,150% change in the price of benzene in Mekelle market from the first week of November 2020 to the second week of December 2020).

328 “Inflation Rages in War Torn Tigray Region,” *Addis Fortune* (Oct. 23, 2021), <https://addisfortune.news/inflation-rages-in-war-torn-tigray-region/>.

329 In July 2021, for example, consumer prices in Tigray “skyrocket[ed]” after the Ethiopian federal government tightened its siege of the region. *Id.* In other parts of Ethiopia, the overall inflation rate for a representative basket of consumer goods was 26.4%. World Food Programme, *Monthly Market Watch: Ethiopia, August 2021* (Aug. 2021), <https://reliefweb.int/report/ethiopia/wfp-ethiopia-market-watch-august-2021>. See also UN Office for the Coordination of Humanitarian Affairs, *Ethiopia: Northern Ethiopia Access Snapshot (May 2022)* (Jun. 13, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-access-snapshot-may-2022> (“Meanwhile, ... the [Tigray] region continues to experience ... extremely high inflation levels, above the rest of the country.”); World Food Programme, *Monthly Market*

Food Programme said that in Mekelle, the costs of staple food and non-food items had risen sharply compared to pre-war prices recorded in the first week of November, including a 56% change in the price of teff, a 650% change in the price of kerosene, and a 1,150% change in the cost of benzene.³³⁰ In October 2021, the *Addis Fortune* reported that, according to a UN OCHA rapid assessment, the price of benzene in Mekelle had increased to 600 *birr* per liter, a 2300% change from mid-June 2021, and the price of cooking oil in Shire had quintupled to 500 *birr* per liter.³³¹

The Ethiopian federal government’s strangling of the banking system also reduced humanitarian organizations’ capacity to deliver life-saving aid to civilians. Throughout the conflict, especially after late June 2021, humanitarian organizations were unable to transfer money through the banking system.³³² Instead, organizations had to physically transport cash via air or overland routes, subject to government approval.³³³ But such approval was severely limited and frequently withheld. From July 12 to September 2, 2021, for example, the Ethiopian government cleared only 4.2% of the money needed to sustain humanitarian operations to Tigray.³³⁴ By April 2022, that figure remained a paltry 8%.³³⁵ Without access to banking services or permission to transport cash, humanitarian organizations cannot buy critical supplies, transport goods, or pay staff salaries – and thus cannot sustain their operations.³³⁶

The Ethiopian federal government’s strangling of the banking system also reduced humanitarian organizations’ capacity to deliver life-saving aid to civilians.

Watch: Ethiopia, July 2021 (Jul. 2021), <https://docs.wfp.org/api/documents/WFP-0000131765/download/> (citing the “rapid deterioration” of markets in Tigray and recording, for example, a 12% increase in the price of teff in Shire during just the first week of July 2021, compared to a 2% increase in teff prices in Addis Ababa in June 2021).

330 World Food Programme, *Monthly Market Watch: Ethiopia, December 2020* p. 4 (Dec. 2020), <https://reliefweb.int/sites/reliefweb.int/files/resources/WFP-0000122798.pdf>.

331 “Inflation Rages in War Torn Tigray Region,” *Addis Fortune* (Oct. 23, 2021), <https://addisfortune.news/inflation-rages-in-war-torn-tigray-region/>. See also UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 3 (Oct. 7, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-07-oct-2021>; Simon Marks (@MarksSimon), Twitter (Oct. 1, 2021, at 12:21 PM EST), <https://twitter.com/markssimon/status/1443974324885639171> (“Prices in Tigray have risen sharply. These data from an international aid org show a litre of cooking oil in the town of Shire at 400 birr, or nearly \$9. That’s compared to just 120 birr in Addis.”).

332 Lowenstein Clinic interview with a staff member of a humanitarian organization, October 2021; Lowenstein Clinic interview with a medical professional in Sudan, May 2022.

333 UN Office for the Coordination of Humanitarian Affairs, *Statement by Acting Humanitarian Coordinator for Ethiopia, Grant Leaity, on the operational constraints and de facto humanitarian blockade of Tigray* (Sept. 2, 2021), <https://reliefweb.int/report/ethiopia/statement-acting-humanitarian-coordinator-ethiopia-grant-leaity-operational> [*Statement by Acting Humanitarian Coordinator*].

334 *Id.*

335 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 1 (Apr. 7, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-7-apr-2022> [*Northern Ethiopia Situation Report, Apr. 7, 2022*].

336 See, e.g., UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, pp. 4-6 (Sept. 2, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-2-sep-2021>.

(b) Shutting down electricity

The Ethiopian federal government repeatedly cut off access to electricity in Tigray during the conflict.³³⁷ Some parts of Tigray, including most of the region's rural areas, have been deprived of access

The Ethiopian federal government repeatedly cut off access to electricity in Tigray during the conflict. Some parts of Tigray, including most of the region's rural areas, have been deprived of access to electricity for more than two years.

to electricity for more than two years.³³⁸ Civilians in Tigray reportedly lost access to electricity a few hours after the government's military operation began on November 4, 2020.³³⁹ Electricity was partially restored in some urban areas two months later. In late December 2020 and early January 2021, residents of Mekelle, Alamata, and Meihoni regained access to electricity.³⁴⁰ Electricity was also restored in Adigrat, Axum, and Adwa towns on January 19, 2021.³⁴¹

When Ethiopian and allied forces retreated from Tigray on June 28, 2021, the Ethiopian government again cut off electricity throughout Tigray.³⁴² Apart from a brief restoration of electricity one week later,³⁴³ the Ethiopian government continuously blocked electricity to Tigray for the next eighteen months.³⁴⁴ On August 21, 2021, Tigray authorities partially restored electricity in major towns in

337 See generally Catherine Byaruhanga, "Ethiopia's Tigray conflict: Nasa shows how a war zone faded from space," *BBC News* (Oct. 20, 2022), <https://www.bbc.com/news/world-africa-63315388> ["Nasa shows how a war zone faded"].

338 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Mar. 13, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-13-march-2021>; UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 1 (May 3, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-3-may-2021>.

339 "Tigray State: A Glance Through the Window," *Addis Fortune* (Dec. 19, 2020), <https://addisfortune.news/tigray-state-a-glance-through-the-window/>. See also UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Dec. 11, 2020), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-11-december-2020> (reporting that, as of December 11, 2020, people in "multiple parts of Tigray" had "gone more than a month without electricity" and other basic services.).

340 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Jan. 6, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-6-january-2021>.

341 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Jan. 25, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-25-january-2021>.

342 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 1 (Jul. 1, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-flash-update-1-july-2021> (warning of the harmful effects of "the blackout of electricity ... throughout Tigray region" on the "already dire humanitarian situation.").

343 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 3 (Jul. 9, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-9-july-2021>.

344 At the time of this report's publication in December 2022, electricity services had reportedly been partially restored in some urban centers in Tigray. See, e.g., "EEP Reconnects Mekelle Power Control Center to National Electric Grid," *Ethiopian Monitor* (Dec. 7, 2022), <https://ethiopianmonitor.com/2022/12/07/eep-reconnects-mekelle-power-control-center-to-national-electric-grid/>.

Tigray by distributing electricity generated by the Tekeze dam.³⁴⁵ A few months later, on December 3, 2021, the Tigray regional government said that the Ethiopian Air Force bombed and destroyed the Tekeze Dam's electricity substation, cutting off power throughout the entire region for a third time.³⁴⁶

Prior to the conflict, access to electricity in Tigray had expanded considerably over the past three decades; as of 2019, according to the Ethiopian Ministry of Water, Irrigation and Energy (MoWIE), nearly 90% of people in Tigray had some access to electricity.³⁴⁷ One effect of electrification in Tigray was that many households shifted to using mechanized grain mills to grind wheat, teff, sorghum, or other grains into flour for staple foods like bread or *injera*. Before electrification, most households manually ground grain with stones – a physically taxing and time-intensive practice³⁴⁸ – or transported grain to the nearest diesel-powered grinding mill.³⁴⁹ World Bank research indicates that, for many people in Tigray, especially in rural areas, the shift to electric grain milling was one of the most significant achievements of village electrification.³⁵⁰ Many households in Tigray reportedly no longer own grinding stones, and most internally displaced people have no way to obtain them.³⁵¹

Many improved water sources in Tigray are also motorized and cannot operate without electricity.³⁵² In March 2021, UN OCHA found that around 250 motorized water pumps were non-functional due to a combination of a lack of electricity, a lack of fuel, looting of equipment, and damage.³⁵³

345 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 4 (Aug. 26, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-26-august-2021>. Hydropower is an important source of electricity in Ethiopia, accounting for 90% of the country's installed power capacity. See Sofie Annys et al., "Impact of Hydropower Dam Operation and Management on Downstream Hydrogeomorphology in Semi-Arid Environments (Tekeze, Northern Ethiopia)," *Water*, vol. 12(8), p. 2237 (2020).

346 Tigray External Affairs Office (@TigrayEAO), Twitter (Dec. 3, 2021, at 2:33 PM EST), <https://twitter.com/TigrayEAO/status/1466853082113916932>. See also Byaruhanga, "Nasa shows how a war zone faded," see above note 337. For a prior but unconfirmed claim of a government airstrike on the Tekeze substation in November 2020, see "Ethiopia denies bombing Tigray's Tekeze power dam," *Reuters* (Nov. 13, 2020), <https://www.reuters.com/article/us-ethiopia-conflict-dam/ethiopia-denies-bombing-tigrays-tekeze-power-dam-idUSKBN27T1HM>.

347 Federal Democratic Republic of Ethiopia, *National Electrification Program 2.0*, p. 133 (2019), <https://www.powermag.com/wp-content/uploads/2020/08/ethiopia-national-electrification-program.pdf>. According to sources familiar with electrification in Tigray, the Ethiopian government likely inflated these figures. Lowenstein Clinic interview with a Tigrayan academic, October 2021.

348 See generally Stergios Emmanouil et al., "A Comprehensive Approach to the Design of a Renewable Energy Microgrid for Rural Ethiopia: The Technical and Social Perspectives," *Sustainability*, vol. 13(7), p. 3974 (2021).

349 See generally Scarlett Santana et al., *Productive Uses of Energy in Ethiopia Agricultural Value Chain and Electrification Feasibility Study*, RMI (Mar. 2021), <https://rmi.org/insight/productive-uses-of-energy-in-ethiopia/>.

350 Douglas F. Barnes et al., *Beyond Electricity Access: Output-Based Aid and Rural Electrification in Ethiopia*, p. 2 (Nov. 2016), <https://openknowledge.worldbank.org/bitstream/handle/10986/26317/112967-WP-P105651-PUBLIC-Beyond-Electricity-Access-Ethiopia-FINAL.pdf?sequence=1&isAllowed=y>.

351 Jan Nyssen, "Catastrophe stalks Tigray, again," *Ethiopia Insight* (Feb. 19, 2021), <https://www.ethiopia-insight.com/2021/02/19/catastrophe-stalks-tigray-again/>. See also World Peace Foundation, *Starving Tigray*, see above note 228, p. 28.

352 For example, in December 2020, the United Nations and the Ethiopian government jointly found that, in "Hawulti Tabia in Mehoni Woreda, there is one existing borehole (BH) that stopped functioning as power went off during the conflict." Government of Ethiopia – National Disaster Risk Management Commission, *Joint Rapid Needs Assessment Mission*, see above note 28, p. 5.

353 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 15 (Mar. 8, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-8-march-2021>.

OCHA also found that only 4 of 36 towns it surveyed had even partially operating water sources.³⁵⁴ Further investigation is needed to determine the specific impact of electricity shutdowns on access to clean water.

Shutdowns of electricity also damaged Tigray's health-care system, including in ways that worsen civilian starvation.³⁵⁵ The use of medical oxygen to treat children for complications resulting from severe acute malnutrition,³⁵⁶ for example, typically requires specialized machines, called concentrators, that depend on a reliable power supply from either an electrical grid or a generator.³⁵⁷ In many of Tigray's health-care facilities, medical professionals had little to no access to such power sources during the war.³⁵⁸ Doctors at a hospital in Adwa, Central Tigray, for example, reportedly said in March 2022 that "patients are dying because of a lack of oxygen, a lack of electricity and they cannot keep the babies breathing. The machines are failing."³⁵⁹ Although information is not publicly available about how many of these children died specifically of malnutrition, many medical conditions, like pneumonia, that require oxygen therapy are exacerbated by malnutrition.³⁶⁰

The Ethiopian government has publicly acknowledged its control over the provision of electricity in the country and its responsibility for the delivery of electricity to Tigray.³⁶¹ During the war, the Ethiopian government repeatedly shut off electricity to areas where its forces did not exercise military

354 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 16 (Mar. 13, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-13-march-2021>.

355 See generally Sara Jerving, "Investigation finds only 40 of 224 health centers in Tigray functional," *Devex* (Nov. 3, 2021), <https://www.devex.com/news/investigation-finds-only-40-of-224-health-centers-in-tigray-functional-102009>; Lisa Schlein, "WHO: Millions of Tigrayans Without Basic Health Care," *VOA News* (Jul. 28, 2021), https://www.voanews.com/a/africa_who-millions-tigrayans-without-basic-health-care/6208835.html.

356 World Health Organization, *Guideline: Updates on the Management of Severe Acute Malnutrition in Infants and Children*, p. 53 (2013) (recommending that "future WHO guidelines should emphasize other general principles of resuscitation, in particular providing oxygen and improving breathing[,] for the treatment of severe acute malnutrition in infants and children.).

357 See generally Stephen RC Howie et al., "The development and implementation of an oxygen treatment solution for health facilities in low and middle-income countries," *Journal of Global Health*, vol. 10(2), p. 2 (2020).

358 See, e.g., Aklilu Tsegay "Tigray largest hospital stops services amid crisis," *BBC Tigrinya* (Jun. 1, 2022), https://www.bbc.com/news/world?pinning_post_locator=urn:asset:2cd803a9-665a-487f-b6f4-9ef12004f3fd&pinning_post_asset_id=62971b764259031cb5a25b74&pinning_post_type=share ("Now there is no electricity in Tigray and we have stopped producing oxygen," he [a doctor at Ayder Referral Hospital] added."); "People die at home': Tigray medical services struggle after turmoil of war," *Reuters* (Feb. 8, 2021), <https://www.reuters.com/article/us-ethiopia-conflict-health-idUKKBN2A80JZ>. The lack of fuel to operate generators is discussed below in Warring-Party Conduct, section 2(c).

359 Lizzy Davies, "Patients dying as conflict prevents supplies reaching Tigray hospitals," *The Guardian* (Mar. 2, 2022), <https://www.theguardian.com/global-development/2022/mar/02/patients-dying-as-conflict-prevents-supplies-reaching-tigray-hospitals>. For the purposes of this analysis, further investigation is required to determine whether and how many of these children died of malnutrition, specifically.

360 See, e.g., Teshome Abuka, "Prevalence of pneumonia and factors associated among children 2-59 months old in Wondo Genet district, Sidama zone, SNNPR, Ethiopia," *Current Pediatric Research*, vol. 21, p. 19 (2017); Awoke Keleb et al., "Pneumonia remains a leading public health problem among under-five children in peri-urban areas of north-eastern Ethiopia," *PLoS One*, vol. 15 (2020).

361 See, e.g., Abiy Ahmed Ali (@AbiyAhmedAli), Twitter (Dec. 13, 2020, at 12:48 PM EST), <https://twitter.com/abiyahmedali/status/1338179108581335041>; "Tekeze Dam Resumes Power Generation," *Ethiopian Monitor* (Apr. 7, 2021), <https://ethiopianmonitor.com/2021/04/07/tekeze-dam-resumes-power-generation/>. See also United Nations, *Secretary-General Welcomes Prime Minister's Assurance on Access to Ethiopia's Tigray Region, Reiterates Call for Protection of Civilians* (Jul. 9, 2021), <https://press.un.org/en/2021/sgsm20821.doc.htm> [*Secretary-General Welcomes Prime Minister's Assurance*].

control,³⁶² including throughout Tigray in late June 2021 and in Dessie and Kombolcha in Amhara region in November 2021.³⁶³ In July 2021, Prime Minister Abiy reportedly told the United Nations that electricity would “resume swiftly” in Tigray.³⁶⁴ For the next eighteen months, though, the Ethiopian federal government continued to block the region’s access to the national power grid.³⁶⁵

Ethiopia’s two state-run utility firms, Ethiopian Electric Power (EEP) and Ethiopian Electric Utility (EEU), have repeatedly blamed Tigray forces for damaging electrical infrastructure, alleging that TPLF attacks on substations, electric towers, and transmission lines had caused damage amounting to more than 500 million *birr*.³⁶⁶ The EEP – providing sparse details – claimed that Tigray fighters sabotaged transmission lines in Adi Gudem, near Mekelle, on an unspecified date in February 2021,³⁶⁷ that Tigray fighters attacked transmission lines connecting the Tekeze Dam to the national grid,³⁶⁸ and that, in Afar region, artillery strikes by Tigray forces damaged two high-voltage transmission towers between Bati town and Mille.³⁶⁹

Further investigation is required to determine the extent to which fighting, including military action by the TDF, damaged electrical infrastructure and interrupted access to electricity in Tigray. However, the specific incidents that the Ethiopian government and utility firms have alleged do not explain the full timeline of electricity shutoffs in Tigray.³⁷⁰ Neither the EEP nor the Ethiopian government has ex-

362 See, e.g., “Analysis: Civilians in Oromo Special Zone of Amhara Region caught in crossfires, face looming humanitarian crisis,” *Addis Standard* (Nov. 24, 2021), <https://addisstandard.com/analysis-civilians-in-oromo-special-zone-of-amhara-region-caught-in-crossfires-face-looming-humanitarian-crisis/> (reporting a “communication blackout” and the disruption of “basic services such as electricity, telecommunication, healthcare service, and banks” around Kemise in November 2021); see also “People flee TPLF-controlled Lalibela,” *Ethiopia Observer* (Sept. 26, 2021), <https://www.ethiopiaobserver.com/2021/09/26/people-flee-tplf-controlled-lalibela/> (“Since the town was taken over by TPLF forces in early August, infrastructure and basic services have virtually come to a standstill ... Residents have described grim scenes as food and water supplies have been exhausted and electricity was cut.”).

363 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 4 (Nov. 4, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-4-nov-2021>.

364 United Nations, *Secretary-General Welcomes Prime Minister’s Assurance*, see above note 361 (“The Secretary-General welcomed ... the Prime Minister’s [Abiy’s] commitment that essential basic services [in Tigray], including power and communications, will resume swiftly.”); see also “UN says Ethiopia’s PM vows ‘immediate’ aid access to Tigray,” *Associated Press* (Jul. 9, 2021), <https://apnews.com/article/africa-united-nations-ethiopia-ea38ee9e0e5d2455546ef410331561c4>.

365 “EU, US envoys urge Ethiopia to restore services in Tigray,” *Al Jazeera* (Aug. 2, 2022), <https://www.aljazeera.com/news/2022/8/2/eu-us-envoys-urge-ethiopia-to-restore-services-in-tigray>.

366 “Terrorist TPLF Causes Over Half A Billion Birr Electricity Damage,” *Fana Broadcasting Corporate S.C.* (Aug. 15, 2021), <https://www.fanabc.com/english/terrorist-tplf-causes-over-half-a-billion-birr-electricity-damage/> [“TPLF Causes Electricity Damage”]; see also “Power to be Restored to Tigray Towns by Sunday: Ethiopian Electric Power,” *ENA* (Dec. 9, 2021), <https://www.ena.et/en/?p=19469>.

367 *Addis Standard* (@addisstandard), Twitter (Feb. 17, 2021, at 10:07 AM EST), <https://twitter.com/addisstandard/status/1362056156856938500?lang=en>. See also “Ethiopia’s Tigray region hit by power blackout,” *Africanews* (Feb. 17, 2021), <https://www.africanews.com/2021/02/17/ethiopia-s-tigray-region-hit-by-power-blackout/>.

368 *Fana BC*, “TPLF Causes Electricity Damage,” see above note 366.

369 “EEP says Electric Power Restored in Kombolcha, Dessie Next,” *Ethiopian Monitor* (Dec. 10, 2021), <https://ethiopianmonitor.com/2021/12/10/EEP-says-electric-power-restored-in-kombolcha-dessie-next/>.

370 The federal government has also not credibly explained its failure to make repairs to the electrical grid during the period of the humanitarian truce. On August 2, 2022, the Special Envoys for the Horn of Africa from the US and the European Union (EU) received a letter from Tigray President Debretsion “to be passed to the Government of Ethiopia providing security guarantees for those who need to work to restore services [in Tigray].” The Envoys said in a joint statement, “With this security assurance there should be no obstacle for the restoration of services to begin.” “News: With letter of assurance, ‘there should be no obstacle’ for services to begin in Tigray: EU and US Special Envoys,” *Addis Standard*

plained how the TPLF could have taken Tigray's entire energy grid offline in a matter of hours when the conflict began on November 4, 2020, nor why Tigray authorities would have shut down electricity to areas under their control, as the government and EEP allege.

(c) *Disrupting the fuel supply*

During the war, several important fuel sources – including benzene for transport, diesel for transport and generators, and kerosene for cooking – became extremely scarce and prohibitively expensive throughout Tigray.³⁷¹ Fuel shortages worsened inflation, disrupted market systems, and limited civilian mobility. Motorized water pumps and grain mills have been non-functional for extended periods,³⁷² and humanitarian relief operations have been geographically constrained and repeatedly suspended.³⁷³ The deprivation of fuel supplies in Tigray reduced civilians' access to food and worsened food insecurity.

Ethiopia depends heavily on imported petroleum products.³⁷⁴ According to data from the state-owned Ethiopian Petroleum Supply Enterprise (EPSE), Ethiopia consumes 2.2 million liters of benzene (gasoline) and 9 million liters of diesel fuel daily.³⁷⁵ Roughly 40% of Ethiopia's annual gasoline demand is supplied by Sudan, with the rest imported through the port of Djibouti.³⁷⁶ The state-owned EPSE, which is Ethiopia's sole importer and distributor of refined petroleum products, stores gasoline, diesel, and jet fuel in 13 fuel depots around Ethiopia.³⁷⁷ Thus, in Ethiopia's regional states, the price and availability of fuel depends on policy decisions by the Ethiopian federal government. Authorities in the Ethiopian federal government, including in the Ministry of Trade and in the Fuel

(Aug. 2, 2022), <https://addisstandard.com/news-with-letter-of-assurance-there-should-be-no-obstacle-for-services-to-begin-in-tigray-eu-and-us-special-envoys/>. The Main Peace Committee established by Prime Minister Abiy's Prosperity Party rejected the Special Envoys' calls as "indulging in appeasement," however, and said that the federal government would only take steps to restore basic services "within the enabling environment that would be created once a ceasefire is concluded." "News Analysis: Ethiopia peace committee wants "enabling environment" after ceasefire to resume basic services in Tigray," *Addis Standard* (Aug. 17, 2022), <https://addisstandard.com/news-analysis-ethiopia-peace-committee-wants-enabling-environment-after-ceasefire-to-resume-basic-services-in-tigray/>. TPLF leaders reportedly described that decision as "blackmail." "Why has Ethiopia's ceasefire failed?" *The Economist* (Sept. 7, 2022), <https://www.economist.com/the-economist-explains/2022/09/07/why-has-ethiopias-ceasefire-failed>.

371 See generally "Fuel shortage leaves Ethiopia's Tigray 'running on fumes,'" *Devex*, (Feb. 17, 2022), <https://www.devex.com/news/fuel-shortage-leaves-ethiopia-s-tigray-running-on-fumes-102702>; "Inflation Rages in War Torn Tigray Region," *Addis Fortune* (Oct. 23, 2021), <https://addisfortune.news/inflation-rages-in-war-torn-tigray-region/>.

372 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 15 (Mar. 8, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-8-march-2021>.

373 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 4 (Jan. 27, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-27-january-2022>.

374 Natei Ermias Benti et al., "The current status, challenges and prospects of using biomass energy in Ethiopia," *Biotechnology for Biofuels*, vol. 14, no. 209, p. 4 (2021).

375 "Fuel demand falls as COVID-19 slows down economic activities," *The Reporter* (Jun. 13, 2020), <https://www.thereporterethiopia.com/article/fuel-demand-falls-covid-19-slows-down-economic-activities>.

376 "Fuel tanker trucks stranded in Western Gondar," *The Reporter* (Jan. 12, 2019), <https://www.thereporterethiopia.com/article/fuel-tanker-trucks-stranded-western-gondar> ["Fuel tanker trucks stranded"].

377 "Petroleum enterprise seeks fund for new fuel depot," *The Reporter* (Jul. 11, 2020), <https://www.thereporterethiopia.com/article/petroleum-enterprise-seeks-fund-new-fuel-depot>.

Subsidization Fund, a federal agency established to absorb price shocks,³⁷⁸ work with the EPSE to manage the country's fuel supply chain and regulate the price of fuel products.³⁷⁹

To import petroleum products and to transport fuel to petrol stations across Ethiopia, the EPSE operates convoys of fuel trucks.³⁸⁰ The EPSE has previously acknowledged that the system is inefficient³⁸¹ and prone to disruptions by armed groups.³⁸² After November 4, 2020, the conduct of hostilities drastically constrained road passage into and within Tigray.³⁸³ Fuel shortages occurred almost immediately: In December 2020, the World Food Programme reported that “road transport continues to be impeded by fuel shortages, which is sold [sic] on the black market at skyrocketed prices.”³⁸⁴ As a result of the fuel crisis, public transport services in Tigray – where 91% of vehicles use gasoline and 9% use diesel³⁸⁵ – were either non-functional or up to 300% more expensive than before the conflict.³⁸⁶

Severe disruptions to the fuel supply in Tigray continued long after Prime Minister Abiy declared the end of military operations in late November 2020. For example, on March 21, 2021, UN OCHA reported that fuel suppliers were unwilling to transport fuel on major roads around Shire without a military escort.³⁸⁷ Petrol stations across

Between June 2021 and November 2022, Ethiopian federal government and allied forces tightly controlled the Semera-Mekelle road and consistently prevented fuel tankers from reaching Tigray, even when other humanitarian aid convoys were intermittently permitted.

378 “Fuel Subsidy Scale Back Drives Record-High Prices at Pumping Stations,” *Addis Fortune*, (Dec. 11, 2021), <https://addisfortune.news/fuel-subsidy-scale-back-drives-record-high-prices-at-pumping-stations/> [“Fuel Subsidy Scale Back”]. See also Green Fiscal Policy Network, *Ethiopia – Country Profile* (Mar. 30, 2017), https://greenfiscalspolicy.org/policy_briefs/ethiopia-country-profile/.

379 Melaku Mammo, *Challenge of Integration of Fuel Supply Chain in Ethiopia*, p. 5 (Jun. 2017), <http://213.55.95.56/bitstream/handle/123456789/13354/MELAKU%20MAMMO.pdf?sequence=1&isAllowed=y>. For one example, see *Addis Fortune*, “Fuel Subsidy Scale Back,” see above note 378.

380 “National reserve agency assures uninterrupted energy supplies,” *World Folio* (Apr. 8, 2016), <https://www.theworldfolio.com/interviews/national-reserve-age/3976/>; “Interview: Ethiopia eyes fuel distribution improvement with help of Chinese-contracted railway project,” *Xinhua* (Feb. 2, 2021), http://www.xinhuanet.com/english/africa/2021-02/02/c_139715594.htm.

381 See, e.g., “Inefficient Transportation Creates ‘Benzene’ Shortage,” *Ethiopian Business Review* (Mar. 2014), <https://ethiopianbusinessreview.net/inefficient-transportation-creates-benzene-shortage/>; Tom Minney, “\$1.4bn petroleum pipeline proposed for Ethiopia,” *African Capital Markets News* (Dec. 5, 2014), <https://africancapitalmarketsnews.com/1-4bn-petroleum-pipeline-proposed-for-ethiopia/>.

382 The Reporter, “Fuel tanker trucks stranded,” see above note 376.

383 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 1 (Nov. 7, 2020), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-no-1-7-november-2020> (citing the “blockage of ... road access to the [Tigray] region”).

384 World Food Programme, *Market Watch: Ethiopia, December 2020*, see above note 326, p. 4.

385 Addis Ababa Institute of Technology, *Final Report on Pilot Global Fuel Economy Initiative Study in Ethiopia*, p. 69 (2012), https://www.globalfueleconomy.org/media/461026/africa_final-report-ethiopia.pdf.

386 World Food Programme, *Market Watch: Ethiopia, December 2020*, see above note 327, p. 4.

387 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (May 20, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation->

North Western Tigray were closed; some fuel was available on the black market but at inflated prices and with reduced quality.³⁸⁸ During the same period, UN OCHA reported that fuel supplies were declining in Mekelle because of “difficulties” transporting fuel from Afar region that were “due to recent insecurity there.”³⁸⁹ One Mekelle resident told the Associated Press in July 2021 that “the roads for fuel transport are closed,” and, as a result, “[f]uel stations are shut down;” black-market prices reached 100 *birr* (2.30 US dollars) per liter, more than triple the price of fuel elsewhere in Ethiopia.³⁹⁰

The chronic fuel shortages in Tigray worsened dramatically after June 28, 2021, when retreating soldiers destroyed two bridges over the Tekeze River that linked Western Tigray to the rest of the region³⁹¹ and the Ethiopian federal government tightened the siege of Tigray.³⁹² Humanitarian access by road into Tigray was reduced to one single route from Semera, in Afar region, to Mekelle.³⁹³ Between June 2021 and November 2022, Ethiopian federal government and allied forces tightly controlled the Semera-Mekelle road and consistently prevented fuel tankers from reaching Tigray, even when other humanitarian aid convoys were intermittently permitted.³⁹⁴

Fuel shortages in Tigray have limited civilians’ access to electricity. Ethiopia has, in addition to the electrical grid system described above, which is generally referred to as the interconnected system

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388 *Id.*

389 *Id.*

390 “Ethiopia Tigray Hardship,” *AP Archive* (Jul. 15, 2021), <http://www.aparchive.com/metadata/youtube/bc155e85221143c9ba9b62ed14dofae9> [“Ethiopia Tigray Hardship”]. For comparison, see “Ethiopian revised retail price of petroleum products March 2021,” *Addis Go* (Mar. 2021), <https://addisgo.com/2021/03/06/ethiopian-revised-retail-price-of-petroleum-products-march-2021> (“Accordingly, the Ministry has announced the retail price of petroleum products in Addis Ababa. Gasoline per liter: 25 Birr 86 cents. ... Kerosene at 23 Birr per liter and 18 cents.”); “Ministry Adjusts Fuel Prices,” *Addis Fortune* (Dec. 8, 2021), <https://addisfortune.news/news-alert/ministry-adjusts-fuel-prices> (“Effective December 9, 2021, a litre of benzene will cost 31.74 Br at gas stations, up from 25.86 Br. A litre of diesel will see prices rise by nearly six Birr to 28.94 Br, while kerosene will retail for the same price.”).

391 Cara Anna, “Bridge key to delivering aid to Ethiopia’s Tigray destroyed,” *Associated Press* (Jul. 1, 2021), <https://apnews.com/article/ethiopia-africa-f3d493256f4196c07f5e72e845ecoa29>. UN OCHA initially attributed responsibility to Amhara Security Forces; the Ethiopian federal government, however, blamed the TPLF. “News: Government contradicts UNOCHA account of Tekeze bridge destruction by Amhara Special Forces, blames TPLF,” (Jul. 2, 2021), <https://addisstandard.com/news-government-contradicts-unocha-account-of-tekeze-bridge-destruction-by-amhara-special-forces-blames-tplf/>. OCHA has since changed its report to say that the bridges “were destroyed and rendered inoperative,” without attributing responsibility. UN Office for the Coordination of Humanitarian Affairs, *Ethiopia: Situation in Tigray, Flash Update* (Jul. 1, 2021), <https://reports.unocha.org/en/country/ethiopia/flash-update/1rqqugkhrDC4JuK7gN7giG/>.

392 “This Ethiopian Road Is a Lifeline for Millions. Now It’s Blocked.,” *New York Times* (Jul. 29, 2021), <https://www.nytimes.com/2021/07/29/world/africa/ethiopia-tigray-aid-crisis.html> [“This Ethiopian Road Is a Lifeline for Millions”].

393 *Id.*

394 UN Office for the Coordination of Humanitarian Affairs, *Northern Ethiopia Situation Report, Apr. 7, 2022*, see above note 335, p. 3 (reporting the April 1 arrival of “one fuel tanker of 47,000 liters, the first fuel delivery to enter Tigray in eight months.”). During the period of the humanitarian truce, the federal government’s restrictions on fuel supplies relaxed somewhat, but fuel deliveries never came close to meeting humanitarian agencies’ needs. Between April 1 and August 3, 2022, around 1.8 million liters of fuel entered Tigray, which, in light of the fact that, according to UN OCHA, humanitarian agencies in Tigray require 2 million liters of fuel per month, represents less than a quarter of the needed supplies. UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Situation Report, Aug. 5, 2022*, see above note 30, p. 2. According to the UN Logistics Cluster, the movement of cargo, including fuel, to Tigray resumed in November 2022 for the first time since the end of the humanitarian truce. See UN Logistics Cluster, *Ethiopia – Meeting Minutes – Addis Ababa, 13 December 2022* (Dec. 29, 2022), <https://logcluster.org/document/ethiopia-meeting-minutes-addis-ababa-13-december-2022>.

In Western Tigray, where UN OCHA reported that only one fuel tanker arrived between October 2020 and April 2021, the breakdown of water pumps forced girls and women to walk for nearly three hours to find water.

(ICS),³⁹⁵ a self-contained system (SCS) of off-grid power-generating units, like generators, that operate on diesel.³⁹⁶ In Tigray, where power outages have historically been more common and longer lasting than in other parts of Ethiopia³⁹⁷ and where, as described above, the Ethiopian federal government deliberately shut off electricity after November 4, 2020, diesel-generated sources of electricity were important but, for many civilians, prohibitively expensive. A shopkeeper in Mekelle explained to the Associated Press in July 2021, “There is no electricity at home and there is

no electricity here as well. We are using a diesel generator. And the diesel for the generator is expensive, we [sic] pay 100-150 Birr (2.30-3.40 US dollars) for one litre.”³⁹⁸

Diesel shortages thus exacerbated the effects of electricity shutdowns, increasing the number of water pumps and grain mills rendered non-functional. In November 2020, UNHCR warned that 96,000 Eritrean refugees in Tigray would lose access to water if humanitarian agencies could not deliver fuel for water pumps.³⁹⁹ In Western Tigray, where UN OCHA reported that only one fuel tanker arrived between October 2020 and April 2021, the breakdown of water pumps forced girls and women to walk for nearly three hours to find water.⁴⁰⁰

Fuel shortages also had a detrimental effect on health services; at various points in the war, health facilities in Tigray had to close due to a lack of fuel to run generators, leaving patients without access to health services.⁴⁰¹ Ayder Referral Hospital in Mekelle, for example, had to close its intensive care unit and its surgical operations in December 2020.⁴⁰² Fuel shortages also reduced civilian mobility and

395 Zenebe Gebreegziabher et al., “Urban energy transition and technology adoption: The case of Tigray, northern Ethiopia,” *Energy Economics*, vol. 34, p. 414 (2012).

396 *Id.*

397 Muluaem Gebreslassie et al., “The State of Manufacturing Infrastructure and Business Environment in Tigray: Challenges and Recommended Policies,” *Branna Journal of Engineering and Technology*, vol. 2, p. 120 (Dec. 2020).

398 AP Archive, “Ethiopia Tigray Hardship,” *see above* note 390.

399 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 1 (Nov. 20, 2020), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-no-4-20-november-2020>.

400 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 5 (Apr. 13, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-13-april-2021>.

401 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Dec. 11, 2020), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-11-december-2020>.

402 “Ethiopia: Red Cross sends medicines, relief supplies to Mekelle to fortify paralyzed health care facilities,” *International Committee of the Red Cross* (Dec. 12, 2020), <https://www.icrc.org/en/document/ethiopia-red-cross-sends-medicines-relief-supplies-mekelle-fortify-paralyzed-health-care-o>.

access to transport,⁴⁰³ restricting civilians' ability to reach health facilities and receive care, and limited the transport of essential medicines to health centers outside of Mekelle.⁴⁰⁴

3. DENIAL OF HUMANITARIAN RELIEF

Since November 4, 2020, Ethiopia and its allies have repeatedly blocked or obstructed the distribution of humanitarian relief to civilians in Tigray. Officials in the Ethiopian federal government, as well as in the Amhara and Afar regional governments, have imposed onerous, unpredictable, and contradictory bureaucratic restrictions on the distribution of humanitarian relief.⁴⁰⁵ Ethiopian federal government and allied forces have used roadblocks to deny humanitarian access to certain areas or delay the distribution of humanitarian relief, sometimes for weeks or months at a time;⁴⁰⁶ have harassed, intimidated, attacked, and killed humanitarian aid workers;⁴⁰⁷ and have looted food aid and other humanitarian supplies.⁴⁰⁸

Between November 2020 and June 2021, the Ethiopian government and its allies facilitated the distribution of only limited amounts of humanitarian aid to civilians in areas of Tigray under Ethiopian federal government control. Aid distributions were never sufficient to meet civilian needs.⁴⁰⁹ Over the same time period, the Ethiopian federal government and allied forces impeded the delivery of aid to millions of civilians living in rural areas or areas controlled by Tigray forces.⁴¹⁰ Across Tigray, Ethiopian federal government and allied forces obstructed civilian access to aid by restricting the move-

403 See, e.g., Fred Harter, "Tigray's health system 'totally collapsed,' say health workers," *The New Humanitarian* (Apr. 26, 2022), <https://www.thenewhumanitarian.org/news-feature/2022/04/26/tigrays-health-system-collapsed> ["Tigray's health system"].

404 *Id.*

405 See, e.g., UN Office for the Coordination of Humanitarian Affairs, *Statement by Acting Humanitarian Coordinator*, see above note 333.

406 Lowenstein Clinic interview with a former interim administration official, April 2022. See also Paravicini & Houreld, "UN official accuses Eritrean forces of deliberately starving Tigray," see above note 188.

407 See, e.g., Simon Marks & Declan Walsh, "'Finish Them Off': Aid Workers, Found on Battlefield, Executed by Soldiers," *New York Times* (Mar. 17, 2022), <https://www.nytimes.com/2022/03/17/world/africa/ethiopia-tigray-aid-workers-killed.html> ["Finish Them Off"].

408 See, e.g., "Eritrean troops block, loot food aid in Tigray: documents," *France 24* (Apr. 27, 2021), <https://www.france24.com/en/live-news/20210427-eritrean-troops-block-loot-food-aid-in-tigray-documents> ["Eritrean troops block, loot food aid in Tigray"]; UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Jun. 10, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-10-june-2021>.

409 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 1 (Feb. 20, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-19-february-2021>.

410 See, e.g., UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 4 (Mar. 8, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-8-march-2021>.

ment of aid workers and supplies throughout the region,⁴¹¹ attacking and killing humanitarian aid workers,⁴¹² looting aid supplies,⁴¹³ and drastically limiting humanitarian organizations' fuel supplies.⁴¹⁴

Across Tigray, Ethiopian federal government and allied forces obstructed civilian access to aid by restricting the movement of aid workers and supplies throughout the region, attacking and killing humanitarian aid workers, looting aid supplies, and drastically limiting humanitarian organizations' fuel supplies.

After Tigray forces regained control over a portion of Tigray in late June 2021, the Ethiopian government tightened its siege; the UN called it a “de facto blockade.”⁴¹⁵ Of the fifteen possible overland routes into Tigray, Ethiopia and its allies blocked all but one route, the route from Semera to Mekelle, into Tigray.⁴¹⁶ Convoys of food aid and fuel were delayed in Semera town for weeks or months at a time.⁴¹⁷ At the same time, the Ethiopian federal government reinstated its blanket shut-downs of banking, fuel, and electricity, which – in addition to directly harming civilians – further restricted the distribution of humanitarian relief in Tigray.⁴¹⁸ In total, between July and December 2021, the government and its allies allowed less than 12% of the necessary food aid, as estimated by the United Nations, to enter Tigray.⁴¹⁹

In the context of such severe disruptions of public utilities and basic services, the obstruction of humanitarian aid inevitably resulted in immense civilian suffering.⁴²⁰ On July 2, 2021, a senior UN humanitarian official told the UN Security Council that 400,000 people in Tigray had “crossed the threshold into famine,” with an additional 1.8 million civilians on the brink.⁴²¹ Other UN officials

411 See, e.g., UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Jan. 25, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-25-january-2021>.

412 See, e.g., Marks & Walsh, “Finish Them Off,” *see above* note 407.

413 See, e.g., “Eritrean troops block, loot food aid in Tigray,” *see above* note 408.

414 See *above* Warring-Party Conduct, section 2(c).

415 United Nations, *Daily Press Briefing by the Office of the Spokesperson of the Secretary General* (Sept. 29, 2021), <https://www.un.org/press/en/2021/db210929.doc.htm>.

416 Walsh, “This Ethiopian Road Is a Lifeline for Millions,” *see above* note 392.

417 United Nations, Statement by Acting Humanitarian Coordinator, *see above* note 333.

418 See *above* Warring-Party Conduct, section 2(a-c).

419 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 4 (Dec. 30, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-30-dec-2021>.

420 The overwhelming humanitarian needs of Tigrayan civilians were the result of a number of factors, including a combination of poverty and food insecurity that predated the armed conflict; desert locusts and other environmental hazards that damaged food supplies; interruptions to agriculture caused by the armed conflict; restrictions on cash, electricity, and fuel in the region; and looting and destruction of food, health, and water supplies. As discussed in Key Causes of Food Insecurity and Starvation *above*, the humanitarian need is primarily caused by the armed conflict.

421 “400,000 in Tigray cross ‘threshold into famine’, with nearly 2 million on the brink, Security Council told,” *UN News* (Jul. 2, 2021), <https://news.un.org/en/story/2021/07/1095282> [“400,000 in Tigray cross ‘threshold into famine’”].

and agencies, including the UN secretary-general, continued to cite those figures over the following months.⁴²² Other experts argued that, in light of the deteriorating conditions, the real numbers were almost certainly higher.⁴²³ Throughout this period, the Ethiopian government continued to cut off access to cash, shut down electricity, disrupt the fuel supply, and restrict humanitarian access to Tigray.

(a) *Refusing entry of humanitarian aid*

Actions of the Ethiopian federal government and its allies severely hindered the initial humanitarian response to the crisis in Tigray, and poor coordination also caused grave delays.⁴²⁴ For the first six weeks of the conflict in November and December 2020, Ethiopian federal government and allied actors permitted almost no humanitarian organizations to enter Tigray.⁴²⁵ Insecurity, shortages of cash and fuel, and the government-imposed telecommunications blackout made it difficult for humanitarian organizations to coordinate logistics or assess needs.⁴²⁶

Despite its knowledge of the urgent needs in Tigray, the Ethiopian government did not take steps to facilitate an adequate humanitarian response.

On November 29, 2020, the United Nations and the Ethiopian government signed an agreement to allow, as the United Nations announced a few days later, “unimpeded, sustained and secure access” for humanitarian supplies to reach civilians in areas of Tigray under the federal government’s con-

422 “At Least 400,000 ‘Living in Famine-Like Conditions’ in Ethiopia’s Tigray Region, Secretary-General Tells Security Council, Calling for End to Hostilities,” *UN News* (Aug. 26, 2021), <https://www.un.org/press/en/2021/sc14614.doc.htm>.

423 “See No Evil: How the United Nations is Blind to the Famine in Tigray,” *World Peace Foundation* (Sept. 24, 2021), <https://sites.tufts.edu/reinventingpeace/2021/09/24/see-no-evil-how-the-united-nations-is-blind-to-the-famine-in-tigray/> [“See No Evil”].

424 Amnesty International & Human Rights Watch, “*We Will Erase You*,” *see above* note 26, p. 112.

425 *See, e.g.*, UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Dec. 28, 2020), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-28-december-2020> (reporting that, by the eighth week of the conflict, humanitarian organizations had officially requested federal government clearance for 10 humanitarian assessment missions and 12 humanitarian cargo deliveries to Tigray. However, just one assessment had been completed, one was ongoing, and only two cargo shipments had reached the region). Another indication that policy-level decisions were more significant logistical concerns is the fact that the JEOP consortium had reportedly “anticipated the potential for increased needs relating to violence in the run-up to [September 2020] elections and had imported large amounts of food aid.” Humanitarian Outcomes, *Humanitarian Access SCORE Report: Tigray, Ethiopia*, p. 15 (Apr. 2021), https://www.humanitarianoutcomes.org/sites/default/files/publications/score_tigray_report_2021_v2.pdf.

426 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 1 (Nov. 7, 2020), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-no-1-7-november-2020>; UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 4 (Nov. 11, 2020), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-no-2-11-november-2020>.

trol.⁴²⁷ “Until now, no supplies have been allowed into the conflict zone,” the United Nations said.⁴²⁸ A week later, on December 9, the UN High Commissioner for Human Rights noted that, despite the agreement, the humanitarian situation remained “deeply distressing,” with an “appalling impact on civilians.”⁴²⁹ The first humanitarian convoy did not arrive in Mekelle until December 12, more than a month after the conflict began.⁴³⁰

In late December 2020, the Ethiopian government and several humanitarian partner agencies conducted joint humanitarian needs assessment missions in Southern and Western Tigray.⁴³¹ The assessments clearly established that civilian needs were severe: In assessed areas of southern Tigray, for example, “[a]ll the food stocks that people left in their homes were looted or destroyed.”⁴³² The region had “run entirely out of medical and nutrition supplies,” the mission team reported, and all communities the team visited were suffering from “a significant reduction in water supply ... [and] poor hygiene conditions.”⁴³³

Despite its knowledge of the urgent needs in Tigray, the Ethiopian government did not take steps to facilitate an adequate humanitarian response. Reports from UN OCHA and its partner organizations indicate that between November 2020 and February 2021, the Ethiopian government consistently used bureaucratic processes to obstruct the movement of humanitarian staff and supplies. Under the terms of its November 29 agreement with the United Nations, the Ethiopian government had agreed to conduct its clearance review process for humanitarian personnel and cargo in 48 hours or less.⁴³⁴ However, in January 2021, UN OCHA reported that more than seventy “critical humanitarian staff deployment [requests] submitted to the federal Government have not been granted” and that clearance had been “pending ... for several weeks.”⁴³⁵ Similarly, USAID said, in February 2021, that “de-

427 United Nations, “Ethiopian Government and UN strike deal for ‘unimpeded’ humanitarian access in Tigray,” *UN News* (Dec. 2, 2020), <https://news.un.org/en/story/2020/12/1079112>; see also “Ethiopia’s forces shoot at, detain UN staffers in Tigray,” *Associated Press* (Dec. 8, 2020), <https://apnews.com/article/africa-ethiopia-united-nations-kenya-f945a81239325a418ee22f123058f39f>.

428 United Nations, “Ethiopian Government and UN strike deal for ‘unimpeded’ humanitarian access in Tigray,” *UN NEWS* (Dec. 2, 2020), <https://news.un.org/en/story/2020/12/1079112>.

429 Office of the United Nations High Commissioner for Human Rights, *Exceedingly worrying and volatile situation in Ethiopia – Bachelet* (Dec. 9, 2020), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26583&LangID=E>.

430 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Dec. 22, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-22-december-2020>.

431 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Jan. 6, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-6-january-2021>.

432 Government of Ethiopia – National Disaster Risk Management Commission, *Executive Summary*, see above note 252, p. 1.

433 *Id.*, p. 2.

434 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Jan. 25, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-25-january-2021>.

435 *Id.* On March 12, 2021, OCHA stated: “Partners are now able to move humanitarian commodities by informing NDRMC 48 hours ahead of any cargo movement into Tigray, without waiting for clearance.” UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 4 (Mar. 13, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-13-march-2021>.

layed GoE [government of Ethiopia] approval processes ... are preventing humanitarians from accessing [Tigray]" and that "[s]imilar procedures initially impeded the delivery of relief supplies in the region as well."⁴³⁶

Compounding the problem, other actors sometimes continued to deny humanitarian access at the local level even after clearances had been granted by the federal government.⁴³⁷ At military checkpoints dotting the region's road network, Ethiopian federal government and allied forces routinely limited the movement of humanitarian aid workers and obstructed the distribution of food and other aid supplies.⁴³⁸ In June 2021, UN Under-Secretary-General for Humanitarian Affairs Mark Lowcock told Reuters that, on at least 50 occasions, Eritrean troops were "clearly" responsible for turning away aid agencies at checkpoints and assaulting staff members.⁴³⁹ Under-Secretary-General Lowcock said that men in Ethiopian military uniforms had been responsible for 50 similar incidents, members of Amhara militia for 27 incidents, and Tigray forces for at least one occasion.⁴⁴⁰

In April 2021, humanitarian organizations criticized the "systemic denial" of humanitarian aid to civilians in Tigray and told the interim administration that Eritrean soldiers had looted food supplies at distribution points.

Statements by some warring parties, such as members of Amhara Fano militia, suggest that the denial of humanitarian relief was, in some cases, intended to punish Tigrayan civilians. In Western Tigray, Tigrayan civilians held in detention sites in Mai Kadra told medical professionals in Sudan that on one occasion, an international humanitarian organization came to distribute biscuits, but that Fano militia denied the organization access after that day;⁴⁴¹ members of Fano militia reportedly told humanitarian relief workers that they had "no right" to assist Tigrayan civilians.⁴⁴² Civil-

ians detained in Mai Kadra and Humera also reportedly said that armed guards told them: "We won't spend bullets to kill all of you. We'll punish you by hunger. That is what you junta deserve."⁴⁴³

⁴³⁶ USAID, *Ethiopia – Tigray Conflict*, p. 2 (Feb. 3, 2021), https://www.usaid.gov/sites/default/files/documents/o2.03.2021_Tigray_Fact_Sheet_1.pdf. Similarly, the UN High Commissioner for Refugees, Filippo Grandi, said on February 1, 2021, that "access is fundamental for the UN and NGOs. There are 16 UN agencies and 25 NGOs that have submitted requests for clearances," but because clearances were not being granted, "access is insufficient." UNHCR, *Remarks by the UN High Commissioner for Refugees Filippo Grandi at the press conference in Addis Ababa* (Feb 1, 2021), <https://www.unhcr.org/en-us/news/press/2021/2/6019584e4/remarks-un-high-commissioner-refugeesfilippo-grandi-press-conference-addis.html>.

⁴³⁷ See, e.g., Amnesty International & Human Rights Watch, "*We Will Erase You*," see above note 26, p. 117.

⁴³⁸ Lowenstein Clinic interview with a former interim administration official, April 2022.

⁴³⁹ Paravicini & Houreld, "UN official accuses Eritrean forces of deliberately starving Tigray," see above note 188.

⁴⁴⁰ *Id.*

⁴⁴¹ Lowenstein Clinic interview with a medical professional in Sudan, May 2022. For examples of similar conduct, see Amnesty International & Human Rights Watch, "*We Will Erase You*," see above note 26, pp. 79-80, 117.

⁴⁴² Lowenstein Clinic interview with a medical professional in Sudan, May 2022.

⁴⁴³ *Id.* For examples of similar statements, see Amnesty International & Human Rights Watch, "*We Will Erase You*," see above note 26, p. 175.

Parties to the armed conflict have also looted, diverted, or resold food rations and water supplies intended for civilians.⁴⁴⁴ In February 2021, UN OCHA reported that in an Emergency Coordination Center meeting with the Tigray interim administration, aid agencies said that “it is unclear how much aid is reaching their [the agencies’] intended beneficiaries.”⁴⁴⁵ In April 2021, humanitarian organizations criticized the “systemic denial” of humanitarian aid to civilians in Tigray and told the interim administration that Eritrean soldiers had looted food supplies at distribution points.⁴⁴⁶ Based on interviews with aid workers, civilians, and government officials in Tigray in February 2021, researchers at the University of Ghent raised serious concerns about the diversion of aid, including: the use of aid as a political tool to incentivize civilians to join the Prosperity Party;⁴⁴⁷ the looting of aid by military forces;⁴⁴⁸ the fraudulent registration of inflated numbers of aid recipients by federal and interim administration officials;⁴⁴⁹ and collusion between interim administration officials and military officials to resell aid to flour factories.⁴⁵⁰

Restrictions on humanitarian relief workers and supplies in Tigray, imposed by Ethiopian federal government policies and by local armed forces, significantly contributed to the inconsistency and inadequacy of the aid response. Two key coordination bodies, UN OCHA and the interim administration-led Emergency Coordination Center, consistently described the humanitarian response as unacceptably slow and “drastically inadequate” compared to civilian needs.⁴⁵¹ To meet the minimum caloric needs of people in need of food aid, the distribution of rations was required every six weeks; in April 2022, UN OCHA warned that, in Tigray, where each round of distributions since November 2020 had “stretched over months, it is estimated that on average, the distributed rations covered significantly less than the minimum caloric needs of the people assisted.”⁴⁵² Reported figures suggest that even during the peak of the aid response in the first half of 2021, food aid was nowhere near sufficient to meet civilians’ caloric needs.⁴⁵³

444 Lowenstein Clinic interview with a former interim administration official, April 2022.

445 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Feb. 28, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-28-february-2021>.

446 “Eritrean troops block, loot food aid in Tigray,” *see above* note 408.

447 Jan Nyssen et al., “Atlas of the humanitarian situation,” *see above* note 276, p. 62.

448 *Id.*, p. 56.

449 *Id.*, p. 64.

450 *Id.*, p. 62.

451 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 4 (Feb. 4, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-4-february-2021>; UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 7 (Feb. 20, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-19-february-2021>; UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 9 (Mar. 13, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-13-march-2021>.

452 UN Office for the Coordination of Humanitarian Affairs, *Northern Ethiopia Situation Report, Apr. 7, 2022*, *see above* note 335, p. 5.

453 UN OCHA reported in April 2021 that 50-60% of Tigray’s population had received some form of humanitarian assistance since January. Based on the Lowenstein Clinic’s analysis, those food deliveries likely satisfied only a quarter of targeted civilians’ minimum caloric intake needs during that time. Since distributions every six weeks were necessary, targeted civilians would have needed to receive at least four rations over the five-month period between the start of the conflict and April 2021; according to UN OCHA, however, food assistance was “generally ... delivered [to recipients in

Even in urban areas, civilian need far outstripped the humanitarian response. Ongoing violence and the absence of food aid in rural areas forced millions of civilians to seek safety and aid in urban centers across Tigray in the first half of 2021.⁴⁵⁴ The Ethiopian government failed to provide displaced people with adequate – or, in most cases, any – food aid. In February 2021, for example, the Tigray interim administration’s Bureau of Labor and Social Affairs surveyed 11,455 displaced people in Mekelle and found that 75% had not received any food assistance.⁴⁵⁵ Similarly, in Adwa and Axum, where, in mid-May 2021, rapidly rising numbers of displaced people were living in overcrowded schools and informal settlements, only one food distribution had taken place since the start of the armed conflict.⁴⁵⁶ Most displaced people in both cities had not received any food assistance.⁴⁵⁷ Even in urban areas where the interim administration exercised authority until June 2021, aid distributions were dramatically insufficient,⁴⁵⁸ forcing displaced people to resort to emergency measures, including begging.⁴⁵⁹

When Tigray forces regained control of a substantial part of the region on June 28, 2021, civilian access to aid in Tigray changed significantly. Almost immediately, on July 9, UN OCHA reported “improved access within the [Tigray] region” but noted that “stock levels are currently low, and there are still huge challenges to bring in supplies from outside the region.”⁴⁶⁰ Those challenges were, in large part, the product of the Ethiopian federal government’s siege.⁴⁶¹ Since July 2021, UN WFP has consistently stated that the arrival of 100 trucks of humanitarian aid in Tigray were needed each day to prevent mass hunger and starvation. UN OCHA reported, however, that, over the eight-month period between July 2021 and March 2022, less than ten percent of the required amount of humanitarian

Tigray] once, or in some cases twice,” by April 2021. UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 5 (Apr. 13, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-13-april-2021>.

454 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 1 (Mar. 8, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-8-march-2021>.

455 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, pp. 2, 5 (Feb. 19, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-19-february-2021>.

456 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (May 20, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-20-may-2021>.

457 *Id.*

458 Lowenstein Clinic interview with a former interim administration official, April 2022.

459 See, e.g., Médecins Sans Frontières, *Tigray’s cities fill with displaced people fleeing insecurity and in need of aid* (Mar. 29, 2021), <https://www.msf.org/ethiopia-tigray%E2%80%99s-cities-fill-displaced-people-need-aid> (quoting the experience of one internally displaced person, Worku: “I finally came to Abi Adi because there is more presence of humanitarian organisations,” he [Worku] says. ‘Over the past few months, I had to beg from local people. At the most, I received an injera each day. I need food, clothes, water, shelter Everywhere I’ve been, I’ve been sleeping on the ground.’”).

460 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 11 (Jul. 9, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-9-july-2021>.

461 United Nations, *Statement by Acting Humanitarian Coordinator*, see above note 333.

food aid entered the region.⁴⁶² Humanitarian food stocks in Tigray ran out repeatedly during this period.⁴⁶³

The Ethiopian government also prevented the transport of humanitarian fuel supplies, which further limited the distribution of humanitarian aid in Tigray.⁴⁶⁴ Without fuel, humanitarian relief organizations are unable to transport food, water, or supplies, run generators, conduct needs assessments, or operate ambulances.⁴⁶⁵ The World Food Programme estimated that humanitarian agencies in Tigray needed at least 150,000 liters of fuel per week in order to deliver food aid to civilians.⁴⁶⁶

The Ethiopian government allowed humanitarian agencies to transport only a tiny fraction of the necessary fuel supplies into Tigray during the war, especially after June 2021. In July and early August 2021, only two government-approved tankers reached Mekelle.⁴⁶⁷ Over the next eight months, no government-approved shipments of fuel reached Tigray, until one 47,000-liter fuel tanker entered

462 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 4 (Mar. 3, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-27-january-2022>; see also UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 3 (Jan. 27, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-27-january-2022>. For the original estimate, see “UN appeals for faster passage for aid convoys to Ethiopia’s Tigray,” *UN News*, (Jul. 13, 2021), <https://news.un.org/en/story/2021/07/1095752>.

463 United Nations, *Statement by Acting Humanitarian Coordinator*, see above note 333.

464 See, e.g., UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 1 (Nov. 24, 2020), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-no-5-24-november-2020>; UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report* (Dec. 16, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-16-dec-2021>.

465 See, e.g., UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Dec. 1, 2020), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-no-7-1-december-2020>; UNICEF, *Ethiopia: Humanitarian Situation Report No. 2 (Tigray Crisis)*, p. 3 (Feb. 3, 2021), <https://reliefweb.int/report/ethiopia/unicef-ethiopia-humanitarian-situation-report-no2-tigray-crisis-14-31-january-2021>.

466 World Food Programme, *World Food Programme convoy reaches Tigray, many more are vital to meet growing needs* (Jul. 12, 2021), <https://www.wfp.org/news/world-food-programme-convoy-reaches-tigray-many-more-are-vital-meet-growing-needs> [*World Food Programme convoy reaches Tigray*]. More recently, UN OCHA has estimated that humanitarian organizations need 200,000 liters of fuel per week to meet civilian needs. See UN Office for the Coordination of Humanitarian Affairs, *Northern Ethiopia Situation Report, Apr. 7, 2022*, see above note 335, p. 3.

467 One government-approved tanker reached Tigray in July 2021. See World Food Programme, *World Food Programme convoy reaches Tigray*, see above note 466. At least one fuel tanker reportedly arrived from Afar on August 4, 2021. UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 3 (Aug. 5, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-05-august-2021>. No other government-approved fuel supplies arrived until April 1, 2022. See UN Office for the Coordination of Humanitarian Affairs, *Northern Ethiopia Situation Report, Apr. 7, 2022*, see above note 335, p. 3 (reporting that “one fuel tanker of 47,000 liters [reached Tigray on April 1, 2022], the first fuel delivery to enter Tigray in eight months”). Tigray forces made at least one fuel tanker available to WFP in November 2021. See World Food Programme, *Millions more in need of food assistance as a direct result of conflict in Northern Ethiopia, says WFP* (Nov. 26, 2021), <https://www.wfp.org/news/millions-more-need-food-assistance-direct-result-conflict-northern-ethiopia-says-wfp>.

Tigray on April 1, 2022.⁴⁶⁸ In other words, the Ethiopian government approved less than one percent of humanitarian fuel needs between July 2021 and April 2022.⁴⁶⁹

The Ethiopian government approved less than one percent of humanitarian fuel needs between July 2021 and April 2022.

The shortages of key supplies limited the amount of aid that humanitarian organizations could deliver to civilians in Tigray. For example, UN OCHA reported that between October 7 and 13, 2021, it had, because of fuel and supply shortages, been able to deliver food aid to only 1% of the 5.2 million people it targeted in Tigray.⁴⁷⁰ In December 2021, UN OCHA

reported that 37 of the United Nations' 46 partner agencies in Tigray were non-operational because of shortages of fuel, cash, and essential supplies.⁴⁷¹ When the World Health Organization delivered medical supplies to Tigray in February 2022, fuel shortages prevented it from making distributions to much of the region beyond Mekelle.⁴⁷²

By March 2022, UN OCHA said that food distribution in Tigray had “reached an all-time low since March 2021,” with food distributions reaching only 68,000 people during the reporting period,⁴⁷³ and humanitarian partner organizations were forced to distribute “partial food baskets of reduced ration size, instead of a balanced three-commodity basket” of cereals, oil, and pulses.⁴⁷⁴ UN OCHA reported

468 UN Office for the Coordination of Humanitarian Affairs, *Northern Ethiopia Situation Report, Apr. 7, 2022*, see above note 335, p. 3. Humanitarian agencies have consistently indicated that the Ethiopian government's refusal of access was the most important factor limiting the delivery of humanitarian fuel supplies. On December 9, 2021, OCHA reported that fuel had not arrived in Tigray through the Afar route since August 2, 2021, and that eight tankers of fuel were waiting in Semera, pending government clearance. See UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 3 (Dec. 9, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-9-dec-2021>. In November 2021, the Ethiopian Federal Police denied clearance to sixteen fuel tankers, which returned to Addis Ababa and Adama. UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 3 (Nov. 11, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-11-nov-2021>.

469 This calculation is based on the UN estimate that humanitarian organizations in Tigray need at least 150,000 liters of fuel per week. See above note 466.

470 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 8 (Oct. 22, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-22-oct-2021>.

471 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 7 (Dec. 16, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-16-dec-2021>.

472 World Health Organization, *Lack of fuel prevents distribution of critically-needed medical supplies in Tigray region* (Feb. 14, 2022), <https://www.who.int/news/item/14-02-2022-lack-of-fuel-prevents-distribution-of-critically-needed-medical-supplies-in-tigray-region>.

473 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 1 (Mar. 25, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-25-mar-2022>. In the same situation report, OCHA said: “To date, 221.8 MT of medical supplies have been airlifted to Tigray which represents only four per cent of the total medications required to meet health needs in Tigray.” *Id.*

474 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 5 (Mar. 31, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-31-mar-2022>. The World Food Programme uses the term “pulses” to refer to beans, chickpeas, lentils, cowpeas, split peas, and peas. See World Food Programme, *Why pulses are soaked in goodness* (Feb. 10, 2020), <https://www.wfp.org/stories/why-pulses-are-soaked-in-goodness>.

that, in total, as of March 30, 2022, “almost half a year since the start of Round 3 of food distribution in Tigray in mid-October 2021,” humanitarian organizations had assisted “slightly more than 1.2 million people with food ... out of the targeted 5.2 million in need of food assistance.”⁴⁷⁵

In April 2022, as part of a humanitarian truce between the Ethiopian federal government and the regional government of Tigray, the Ethiopian federal government began to allow the movement of a more substantial amount of humanitarian aid into Tigray. Between April 1 and August 1, 6,105 trucks carrying more than 1.4 million metric tons of aid arrived in Mekelle from neighboring Afar.⁴⁷⁶ Throughout the period of the humanitarian truce, however, Ethiopia’s siege of the Tigray region remained in place, including the federal government’s shutdown of electricity, banking, and telecommunications services and severe restrictions on supplies of fuel and cash to Tigray. As of August 1, the United Nations said that humanitarian agencies had received less than a quarter of the fuel required to bring life-saving aid from warehouses in Mekelle to affected people in other parts of Tigray, and only 15% of the cash needed for humanitarian operations.⁴⁷⁷

The months-long ceasefire ended on August 24, 2022, when Tigray forces and Ethiopian and allied forces fought around the towns of Bisober and Kobo.⁴⁷⁸ By the end of October, the resumption of hostilities had displaced hundreds of thousands of civilians⁴⁷⁹ and severely constrained distributions of humanitarian aid. On October 21, the World Food Programme said that humanitarian supplies had not entered Tigray by road since August 22;⁴⁸⁰ WFP also reported that the Ethiopian federal government had suspended clearances for humanitarian cargo flights since August 23.⁴⁸¹ On November 1, UN OCHA reported that “road convoys to Tigray remain suspended,” leaving aid organizations in

475 UN Office for the Coordination of Humanitarian Affairs, *Northern Ethiopia Situation Report*, Apr. 7, 2022, see above note 335, p. 5.

476 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Situation Report*, Aug. 5, 2022, see above note 30, p. 2. As of June 2022, the United Nations said that aid had reached an estimated 1.2 million civilians in Tigray – a fraction of Tigray’s total population. See UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 2 (Jun. 16, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-16-june-2022>. At the time, according to the UN, “extreme food insecurity [was still] leading some IDPs [internally displaced people] to resort to eating wild plants to survive.” *Id.*

477 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Situation Report*, Aug. 5, 2022, see above note 30, p. 2.

478 “Fighting erupts along border of Ethiopia’s northern Tigray region,” *Reuters* (Aug. 24, 2022), <https://www.reuters.com/world/africa/fighting-resumes-along-border-ethiopias-northern-tigray-region-resident-tigray-2022-08-24/>; “News: Fed. Government, Tigrayan forces exchange blame for resumption of military hostilities,” *Addis Standard* (Aug. 24, 2022), <https://addisstandard.com/news-fed-govt-tigrayan-forces-exchange-blame-for-resumption-of-military-hostilities/>. As of September 2022, large-scale hostilities between Tigray forces and Ethiopian federal and allied forces, reportedly including the Eritrean government’s compulsory mass-mobilization of military reservists, were ongoing. See “Eritrea issues army mobilisation call as Ethiopia fighting resumes, Canada says,” *Reuters* (Sept. 17, 2022), <https://www.reuters.com/world/eritrea-issues-army-mobilisation-call-ethiopia-fighting-resumes-canadian-2022-09-17/> (“One Eritrean exile told Reuters that two family members inside Eritrea had said the government was sending citizens under 60 to fight [in Tigray] and that authorities had warned that deserters would have their houses confiscated.”).

479 “News: Over half a million people newly displaced in Tigray, Afar and Amhara since militarized conflict resumed in August: UN,” *Addis Standard* (Oct. 31, 2022), <https://addisstandard.com/news-over-half-a-million-people-newly-displaced-in-tigray-afar-and-amhara-since-militarized-conflict-resumed-in-august-unicef/>.

480 World Food Programme, *Northern Ethiopia Emergency Response Situation Report #8* (Oct. 21, 2022), <https://reliefweb.int/report/ethiopia/northern-ethiopia-emergency-response-situation-report-08>.

481 *Id.*



Projected levels of food insecurity in Tigray from February to May 2022. Source: *The Economist*, 2022.

the region unable to meet the needs of internally displaced persons or treat at least 25,500 severely malnourished children.⁴⁸²

The Ethiopian government has said repeatedly that TPLF attacks were the most important factor preventing the overland delivery of food aid and that Tigray forces were seizing WFP trucks.⁴⁸³ Jour-

482 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Situation Report*, p. 3 (Nov. 1, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-situation-report-1-nov-2022>.

483 See “Redwan says TPLF’s Latest Aggression against Afar Obstructing Aid Delivery,” *Ethiopian Monitor* (Jan. 21, 2022), <https://ethiopianmonitor.com/2022/01/21/redwan-says-tplfs-latest-aggression-against-afar-obstructing-aid-delivery/>; Peter Mwai, “Ethiopia’s Tigray crisis: Why it’s hard getting aid into the region,” *BBC News* (Apr. 7, 2022), <https://www.bbc.com/news/57929853>; Peter Mwai, “Ethiopia’s Tigray crisis: Why are hundreds of aid trucks stranded?,” *BBC News* (Sept. 27, 2021), <https://www.bbc.com/news/58681797> [“Aid trucks stranded”]. However, the fact that Ethiopian authorities have, in public statements, conditioned the delivery of aid on certain conduct by Tigray forces suggests a substantial degree of federal governmental control over the amount of aid entering Tigray. See, e.g., Nick Schiffrin & Ali Rogin, “U.N. says Ethiopia to ease blockade of aid for Tigray, but no official agreement in sight,” *PBS NewsHour* (Nov. 12, 2021), <https://www.pbs.org/newshour/show/u-n-says-ethiopia-to-ease-blockade-of-aid-for-tigray-but-no-official-agreement-in-sight>.

nalists and other independent investigators have found little evidence to support either allegation.⁴⁸⁴ Humanitarian organizations have indicated that delays and shortfalls were chiefly the product of Ethiopian government policy.⁴⁸⁵ For example, on September 2, 2021, the United Nations said that there were “172 trucks stranded in Semera and substantial supplies ... stockpiled in Djibouti, Adama and Kombolcha due to federal and regional administrative constraints.”⁴⁸⁶

The obstruction and denial of humanitarian assistance by Ethiopia and its allies, along with the Ethiopian government’s siege, had a disastrous impact on civilian food security in Tigray. As OCHA summarized in March 2022:

As the flow of humanitarian and commercial supplies into Tigray remains severely restricted and insufficient, the prices of basic goods continue to increase while people[’s] purchasing power has significantly decreased[,] having a direct impact on livelihoods. Diets, for instance, are increasingly impoverished as food items become unavailable and families rely almost exclusively on cereals while limiting portion sizes. Furthermore, the number of meals consumed each day [is] being stretched further.⁴⁸⁷

In November 2021, a senior USAID official summarized the Ethiopian government’s conduct affecting aid to areas held by Tigray forces as “perhaps the most egregious humanitarian obstruction in the world.”

Statements by Ethiopian government officials at the federal and regional level indicate that the obstruction and denial of relief to Tigray have been deliberate. As reported by the International Commission of Human Rights Experts on Ethiopia: “The Head of the Regional Government of Afar stated, ‘the road [going from Addis Ababa to Tigray through the Afar region] is their oxygen There is no way we will allow aid to get to Tigray and they know that.’”⁴⁸⁸ Prime Minister Abiy has, according to the UN investigators, “denied that there is hunger in Tigray, claiming that Tigray authorities are exploiting humanitarian

484 See, e.g., James Okong’o, “Photo of World Food Programme trucks shows aid delivery, not transport of rebels,” *AFP Fact Check* (Sept. 14, 2021), <https://factcheck.afp.com/http%253A%252F%252Fdoc.afp.com%252F9MU4MW>; WFP Ethiopia (@WFP_Ethiopia), Twitter (May 23, 2022, at 10:16 AM EST), https://twitter.com/WFP_Ethiopia/status/1528741704836255744; Mwai, “Aid trucks stranded,” see above note 483.

485 See above notes 435-436, 465; see below note 490.

486 United Nations, *Statement by Acting Humanitarian Coordinator*, see above note 333.

487 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 3 (Mar. 25, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-25-mar-2022>. In the same report, OCHA said: “To date, 221.8 MT of medical supplies have been airlifted to Tigray which represents only four per cent of the total medications required to meet health needs in Tigray.” *Id.*

488 UN Human Rights Council, *Report of the International Commission of Human Rights Experts on Ethiopia*, see above note 111, para. 83. The Commission’s report also said: “The former Head of the Regional Government of Amhara, now current speaker of the Ethiopian House of Federation, called for a ‘siege on Tigray from all four sides to turn Tigray into Biafra.’” *Id.*

aid in an effort to overthrow his government.”⁴⁸⁹ In November 2021, a senior USAID official summarized the Ethiopian government’s conduct affecting aid to areas held by Tigray forces as “perhaps the most egregious humanitarian obstruction in the world.”⁴⁹⁰

(b) Attacking humanitarian aid workers

In 2021, Ethiopia was one of the deadliest countries in the world for humanitarian aid workers.⁴⁹¹ As of May 2021, armed forces and militia had killed at least seven aid workers in Tigray,⁴⁹² and by the start of September 2021, that number had risen to twenty-three.⁴⁹³ Responsibility for many of these killings has yet to be definitively established. Throughout the armed conflict, the Ethiopian government’s shutdown of telecommunications in Tigray has made it difficult for aid organizations to keep their employees safe, document and investigate attacks, and contact the families of employees who were murdered.⁴⁹⁴

Most humanitarian aid workers killed in Tigray were Tigrayan staff members of local or international aid agencies, including at least eleven aid workers from the Relief Society of Tigray (REST),⁴⁹⁵ seven employees of the Ethiopian Red Cross,⁴⁹⁶ and staff members of international organizations, including the Danish Refugee Council, the International Rescue Committee, and Médecins Sans Frontières (MSF/Doctors Without Borders).⁴⁹⁷

In 2021, Ethiopia was one of the deadliest countries in the world for humanitarian aid workers.

⁴⁸⁹ *Id.*

⁴⁹⁰ Cara Anna, “Ethiopia declares state of emergency as Tigray forces threaten move on capital,” *Associated Press* (Nov. 2, 2021), <https://apnews.com/article/africa-kenya-ethiopia-abiy-ahmed-7340b987e8677740764d9e4cf9d51e9b> (“We’re seeing a campaign of systematic, bureaucratic obstruction blocking assistance into areas occupied by (the Tigray forces) affecting not just Tigray but areas in the neighboring Amhara and Afar regions now held by the Tigray fighters, the official said.”).

⁴⁹¹ Aid Worker Security Database, <https://aidworkersecurity.org/> (last visited Sept. 27, 2022).

⁴⁹² UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 1 (May 19, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-19-may-2021>.

⁴⁹³ UN Office for the Coordination of Humanitarian Affairs, *HC a.i. statement on the killing of 23 aid workers in the Tigray region since the start of the crisis* (Sept. 1, 2021), <https://reliefweb.int/report/ethiopia/hc-ai-statement-killing-23-aid-workers-tigray-region-start-crisis> [*HC a.i. statement on the killing of 23 aid workers*].

⁴⁹⁴ See, e.g., Lizzy Davies, “Tigray ceasefire: aid workers demand telecoms be restored,” *The Guardian* (Jul. 2, 2021), <https://www.theguardian.com/global-development/2021/jul/02/tigray-ceasefire-aid-workers-demand-telecoms-be-restored>; “Four aid workers killed in Ethiopia’s Tigray, sources say,” *Reuters* (Dec. 2, 2020), <https://www.reuters.com/article/uk-ethiopia-conflict-aidworkers-idUKKBN28C2MV>.

⁴⁹⁵ UN Office for the Coordination of Humanitarian Affairs, *HC a.i. statement on the killing of 23 aid workers*, see above note 493.

⁴⁹⁶ Marks & Walsh, “Finish Them Off,” see above note 407; see also Desta Haileselassie Hagos, “War on Tigray and the Relentless Attack on Humanitarian Workers,” *Tghat* (Oct. 6, 2021), <https://www.tghat.com/2021/10/06/war-on-tigray-and-the-relentless-attack-on-humanitarian-workers/> [“Relentless Attack on Humanitarian Workers”].

⁴⁹⁷ “Ethiopia: Aid agencies say four staff killed in Tigray fighting,” *Al Jazeera* (Dec. 11, 2020), <https://www.aljazeera.com/news/2020/12/11/aid-agencies-say-four-staff-killed-in-ethiopia-fighting>; Marks & Walsh, “Finish Them Off,” see

Ethiopian federal government and allied forces have repeatedly harassed, threatened, attacked, detained, and killed humanitarian relief workers in Tigray.⁴⁹⁸ On December 8, 2020, Ethiopian government forces shot at a vehicle carrying four UN workers and detained them for trying to pass a checkpoint near Sheraro. Redwan Hussien, State Minister of Foreign Affairs and spokesperson for the Ethiopian federal government’s emergency task force for the Tigray crisis,⁴⁹⁹ confirmed that Ethiopian soldiers had shot at the UN vehicle, saying that the UN workers were trying to go “where they were not supposed to go.”⁵⁰⁰ On March 24, 2021, Ethiopian soldiers attacked a clearly marked MSF vehicle.⁵⁰¹

In June 2021, Ethiopian soldiers executed three MSF team members near Sheweate Hugum, a village in Abergele *woreda*, Central Tigray.⁵⁰² Soldiers who witnessed the attack told the *New York Times* that the aid workers, who were wearing MSF uniforms and traveling in a clearly marked MSF vehicle,⁵⁰³

In March 2021, the head of the Ethiopian Red Cross in Tigray told the New York Times that Eritrean soldiers had killed seven Red Cross employees, including “a driver who was dragged from his ambulance and shot.”

had their hands over their heads when they were shot.⁵⁰⁴ According to the soldiers, an ENDF colonel ordered his troops to fire on the MSF vehicle and then, as the aid workers walked toward the ENDF troops, to “finish them off.”⁵⁰⁵ ENDF troops then destroyed the MSF vehicle with a rocket-propelled grenade.⁵⁰⁶

Eritrean forces, too, have attacked and killed aid workers in Tigray. In March 2021, the head of the Ethiopian Red Cross in Tigray told the *New York Times* that Eritrean soldiers had killed seven Red

Cross employees, including “a driver who was dragged from his ambulance and shot.”⁵⁰⁷ On April 28, 2021, Aman Desta Abay, an inventory control officer working for REST, was shot and killed in Kola Tembien; the US Embassy later attributed responsibility to Ethiopian and Eritrean soldiers.⁵⁰⁸

above note 407.

498 Marks & Walsh, “Finish Them Off,” *see above* note 407.

499 Reuters (@Reuters), Twitter (Nov. 30, 2020, at 6:42 AM EST), <https://twitter.com/reuters/status/1333375944682180608>.

500 Cara Anna, “Ethiopia’s forces shoot at, detain UN staffers in Tigray,” *Associated Press* (Dec. 8, 2020), <https://apnews.com/article/africa-ethiopia-united-nations-kenya-f945a81239325a418ee22f123058f39f>.

501 Médecins Sans Frontières, *Ethiopia: MSF staff attacked after witnessing killings by soldiers in Tigray* (Mar. 24, 2021), <https://www.doctorswithoutborders.org/what-we-do/news-stories/news/ethiopia-msf-staff-attacked-after-witnessing-killings-soldiers-tigray>.

502 Marks & Walsh, “Finish Them Off,” *see above* note 407.

503 Médecins Sans Frontières, *Ethiopia: MSF urges investigation into staff killings* (Jul. 7, 2021), <https://msf.org.uk/article/ethiopia-msf-urges-investigation-staff-killings>.

504 Marks & Walsh, “Finish Them Off,” *see above* note 407.

505 *Id.*

506 *Id.*

507 *Id.* *See also* Hagos, “Relentless Attack on Humanitarian Workers,” *see above* note 496.

508 US Embassy in Ethiopia, *Deaths of Humanitarian Workers in Ethiopia* (May 20, 2021), <https://et.usembassy.gov/deaths-of-humanitarian-workers-in-ethiopia/>.

In other parts of Ethiopia, Ethiopian security forces have arrested humanitarian relief workers during unlawful mass detentions of ethnic Tigrayans. On November 9, 2021, at least 16 United Nations staff and dependents, all reportedly Tigrayans, were detained in Addis Ababa amidst a wave of ethnically targeted mass arrests.⁵⁰⁹ Police forces in Addis Ababa accused the detainees of “directly or indirectly” supporting the TPLF.⁵¹⁰ That same week, in Semera, Ethiopian authorities arrested and detained 72 truck drivers with whom UN WFP had contracted to deliver humanitarian aid.⁵¹¹

The Ethiopian government has publicly questioned the impartiality of humanitarian relief efforts and has accused aid workers of violating their humanitarian mandate.⁵¹² For example, in July 2021, State Minister Redwan Hussien said that the government had “encountered and caught certain aid organizations delivering weapons and equipment to the rebel groups.”⁵¹³ The government did not identify the organizations in question or provide any evidence of arms transfers. State Minister Redwan said, without providing any specific examples or proof, that UN officials were “disrespecting and defaming Ethiopia.”⁵¹⁴

The Ethiopian government has also suspended humanitarian relief efforts and expelled humanitarian officials. In August 2021, the Ethiopian Agency for Civil Society Organizations, a federal government body, announced a three-month suspension of MSF Holland, the Norwegian Refugee Council, and the Al-Maktoume Foundation.⁵¹⁵ According to the *Addis Standard*, the Agency accused the organizations of “disseminating misinformation on social media ... , employing foreign nationals without the appropriate work permit ... , [and] illegally importing and using satellite radio equipment which was not authorized by the relevant authority.”⁵¹⁶ At the end of September 2021, the Ministry of Foreign

509 “Ethiopia rounds up high-profile Tigrayans, UN staff,” *Reuters* (Nov. 10, 2021), <https://www.reuters.com/world/africa/ethiopian-authorities-detain-more-than-70-un-drivers-un-email-2021-11-10/>.

510 *Id.*

511 “Ethiopia conflict: Tigray aid lorry drivers arrested, UN says,” *BBC News* (Nov. 10, 2021), <https://www.bbc.com/news/world-africa-59233516>. Humanitarian officials have said that “many truck drivers [in Semera] were Tigrayan and had faced ethnically motivated harassment at checkpoints” in Afar. “Hundreds of aid trucks have failed to return from Tigray, UN says,” *Al Jazeera* (Sept. 17, 2021), <https://www.aljazeera.com/news/2021/9/17/hundreds-aid-trucks-not-returned-ethiopia-tigray-un>.

512 Dawit Endeshaw, “Ethiopia expels seven UN officials, accusing them of ‘meddling,’” *Reuters* (Oct. 6, 2021), <https://www.reuters.com/world/africa/ethiopia-expels-seven-senior-un-officials-2021-09-30/> [“Ethiopia expels seven UN officials”]; Michelle Nichols, “U.N. says at least 16 staff, dependents detained in Ethiopia,” *Reuters* (Nov. 10, 2021), <https://www.reuters.com/world/africa/un-says-least-nine-staff-dependents-detained-ethiopia-2021-11-09/>.

513 Ministry of Foreign Affairs of Ethiopia (@MFAEthiopia), Twitter (Jul. 16, 2021, at 11:35 PM EST), <https://twitter.com/mfaethiopia/status/1416240002753875969> [Ministry of Foreign Affairs Tweet]; *see also* Philip Kleinfeld, “Aid neutrality under fire in Ethiopia’s widening conflict,” *The New Humanitarian* (Jul. 22, 2021), <https://www.thenewhumanitarian.org/news/2021/7/22/Ethiopian-government-accuses-aid-Tigray-rebels-disinformation> [“Aid neutrality under fire”].

514 Minister of Foreign Affairs Tweet, *see above* note 513; “Aid neutrality under fire,” *see above* note 513.

515 “News: Fed government suspends operations of three humanitarian organizations,” *Addis Standard* (Aug. 4, 2021), <https://addisstandard.com/news-fed-government-suspends-operations-of-three-humanitarian-organizations/> [“Fed. government suspends operations”]. *See also* Médecins Sans Frontières, *Amid enormous needs in Ethiopia, MSF forced to suspend majority of healthcare* (Sept. 10, 2021), <https://www.msf.org/msf-forced-suspend-majority-healthcare-activities-ethiopia-despite-enormous-needs>.

516 “Fed. government suspends operations,” *see above* note 515.

Affairs announced that it was expelling seven senior officials working for UN humanitarian agencies in Ethiopia, declaring the officials “persona non grata” for “meddling” in Ethiopia’s “internal affairs.”⁵¹⁷

⁵¹⁷ Ministry of Foreign Affairs of Ethiopia (@mfaethiopia), Twitter (Sept. 30, 2021, at 11:19 AM EST), <https://twitter.com/mfaethiopia/status/1443596419068305408>; Endeshaw, “Ethiopia expels seven UN officials,” *see above* note 512.

LEGAL ANALYSIS

1. INTERNATIONAL HUMANITARIAN LAW: PROHIBITION ON STARVATION AS A METHOD OF COMBAT

International humanitarian law – the law of armed conflict – recognizes two types of armed conflict: international armed conflict (IAC) and non-international armed conflict (NIAC).⁵¹⁸ An armed conflict is international when at least two opposing states are carrying out hostilities.⁵¹⁹ Other forms of armed conflict that do not involve opposing states, including civil war, are considered non-international armed conflicts if they meet certain threshold criteria.⁵²⁰ The International Committee of the Red Cross, in discussing when violence within a state constitutes armed conflict, has explained, “In order to distinguish an armed conflict ... from other serious forms of violence, such as internal disturbances ... or acts of banditry, the situation must reach a certain threshold of confrontation.”⁵²¹

Two criteria are commonly used to evaluate this threshold question. First, according to the ICRC, “the hostilities must reach a certain level of intensity. This may be the case, for example, when the hostilities are of a collective character or when the government is obliged to use military force against the insurgents,” instead of police forces.⁵²² The fighting in Ethiopia, which has involved hundreds of thousands of combatants – including the military forces of several states⁵²³ – conducting hostilities across three of the country’s regional states, has certainly satisfied this criterion.

Second, as explained by the ICRC, “non-governmental groups involved in the conflict must be considered ‘parties to the conflict’, meaning that they possess organized armed forces. This means for example that these forces have to be under a certain command structure and have the capacity to sustain military operations.”⁵²⁴ The principal non-state armed group in the present conflict, the TDF, operates under a clear command structure and possesses weaponry sufficient to mount effective military operations and control territory.⁵²⁵

518 Médecins Sans Frontières, *The Practical Guide to Humanitarian Law: Noninternational Armed Conflict (NIAC)*, <https://guide-humanitarian-law.org/content/article/3/non-international-armed-conflict-niac/> (last visited Sept. 27, 2022) [*Practical Guide to Humanitarian Law: NIAC*].

519 International Committee of the Red Cross, *How is the Term “Armed Conflict” Defined in International Humanitarian Law?*, p. 1 (Mar. 2008), <https://www.icrc.org/en/doc/assets/files/other/opinion-paper-armed-conflict.pdf> [*The Term “Armed Conflict”*].

520 Médecins Sans Frontières, *Practical Guide to Humanitarian Law: NIAC*, see above note 518.

521 International Committee of the Red Cross, *The Term “Armed Conflict,”* see above note 519, p. 3.

522 *Id.*

523 See “Factbox: The forces fighting in Ethiopia’s Tigray conflict,” *Reuters* (Nov. 13, 2020), <https://www.reuters.com/article/us-ethiopia-conflict-military-factbox-idUSKBN27T14J>.

524 International Committee of the Red Cross, *The Term “Armed Conflict,”* see above note 519, p. 3.

525 See, e.g., Chothia, “Ethiopia’s Tigray conflict,” see above note 46.

The war in Tigray is, therefore, most likely a non-international armed conflict, even though it has involved another state, Eritrea, from the start.⁵²⁶ Publicly available information indicates that Eritrea intervened in the conflict on the side of the Ethiopian government and, reportedly, at its invitation.⁵²⁷ The presence of Eritrean troops in Tigray does not, in itself, change the classification of the conflict under international humanitarian law;⁵²⁸ if, however, further investigations conclude that Eritrean forces were not always acting in support of the Ethiopian government, the conflict could be deemed international.

It is well established that IHL governs war-ring-party conduct during non-international armed conflicts.⁵²⁹ Common Article 3 (CA3) of the Geneva Conventions of 1949 (the Geneva Conventions) applies to all “armed conflicts not of an international character occurring on the territory of one of the High Contracting Parties.”⁵³⁰ The armed conflict in Ethiopia also meets the slightly narrower definition of a NIAC found in Additional Protocol II (APII) to the Geneva Conventions. Under APII, where a government is fighting armed groups that have a responsible command structure and “exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol,”⁵³¹ the conflict is a NIAC. Ethiopia is fighting an armed

Both treaty law and customary international humanitarian law prohibit starvation of civilians as a method of warfare during international and non-international armed conflicts.

⁵²⁶ See, e.g., Ayenat Mersie, Giulia Paravicini & Katharine Houreld, “Dual Agenda: In Ethiopia’s civil war, Eritrea’s army exacted deadly vengeance on old foes,” *Reuters* (Nov. 1, 2021), <https://www.reuters.com/investigates/special-report/ethiopia-conflict-eritrea/>. The reported presence of Somali troops, as well as Turkish drone operators, similarly reflect a degree of international involvement that does not change the legal classification of the conflict.

⁵²⁷ See generally “Fact check: Are other nations involved in the war in Tigray?,” *DW News* (Mar. 19, 2021), <https://www.dw.com/en/fact-check-are-other-nations-involved-in-the-war-in-tigray/a-56891431>; Morris Kiruga, “Former enemies, Ethiopia and Eritrea are fighting on the same side in Tigray war,” *The Africa Report* (Oct. 7, 2021), <https://www.theafricareport.com/130363/former-enemies-ethiopia-and-eritrea-are-fighting-on-the-same-side-in-tigray-war/>; Seeye Abraha Hagos, “Why Eritrea Won’t Leave Ethiopia,” *Foreign Policy* (May 4, 2021), <https://foreignpolicy.com/2021/05/04/eritrea-wont-leave-ethiopia-abi-ahmed-isaias-afwerki/>; Declan Walsh & Simon Marks, “Refugees Come Under Fire as Old Foes Fight in Concert in Ethiopia,” *New York Times* (Dec. 28, 2020, updated Jun. 29, 2021), <https://www.nytimes.com/2020/12/28/world/africa/Ethiopia-Eritrea-Tigray.html>.

⁵²⁸ Dapo Akande, “Classification of Armed Conflicts,” in *The Oxford Guide to International Humanitarian Law* p. 48 (2021) (“Where there is intervention by a foreign state in a NIAC on the side of the government (or at its invitation) against a non-state group, such intervention will not transform the NIAC into an IAC. As noted above ... , the ICRC’s proposal in the 1970s, that all conflicts involving foreign intervention are to be regarded as international, was rejected by states.”). See also Prosecutor v. Bemba, ICC-01/05-01/08-3343, Judgment, paras. 649-66 (Mar. 21, 2016); Prosecutor v. Bemba, ICC-01/05-01/08, Confirmation of Charges Decision, para. 246 (Jun. 15, 2009).

⁵²⁹ International Committee of the Red Cross, *The Term “Armed Conflict,”* see above note 519.

⁵³⁰ High Contracting Parties are the states that have signed – and have therefore given their explicit consent to be bound by – the Geneva Conventions. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention), 12 August 1949, 75 U.N.T.S. 31 (1950), art. 3 [GC Common Article 3]. For an explanation of why this term is used instead of “governments” or “states,” see Médecins Sans Frontières, *The Practical Guide to Humanitarian Law: High Contracting Parties*, <https://guide-humanitarian-law.org/content/article/3/high-contracting-parties/> (last visited Sept. 27, 2022).

⁵³¹ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), adopted June 8, 1977, at art. 1(1).

group that meets these APII criteria. Ethiopia is a party to the Geneva Conventions and APII.⁵³² Eritrea is a party to the Geneva Conventions but not APII.⁵³³ All warring parties are also bound by customary international humanitarian law, which, as defined by the ICRC, “consists of rules that come from ‘a general practice accepted as law’ and exist independent of treaty law.”⁵³⁴

Both treaty law and customary international humanitarian law prohibit starvation of civilians as a method of warfare during international and non-international armed conflicts.⁵³⁵ Article 14 of Additional Protocol II to the Geneva Conventions, which is applicable to the non-international armed conflict in Ethiopia, specifically prohibits using starvation as a method of combat. It states:

Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.⁵³⁶

The commentary to Additional Protocol II, an authoritative text by the ICRC that provides guidance on how to interpret and apply the provisions of APII,⁵³⁷ notes that the purpose of Article 14 is to create a prohibition on “the deliberate provocation” of starvation and to preserve a way for civilians to maintain sustenance.⁵³⁸

The commentary explains that Article 14 is a “specific application” of Common Article 3 of the 1949 Geneva Conventions, imposing on warring parties the obligation to guarantee humane treatment for all persons not participating in hostilities and, in particular, prohibiting violence to life and person.⁵³⁹ Article 14 also codifies customary IHL prohibitions against starvation as a method of warfare⁵⁴⁰ and against attacks on objects indispensable to the survival of civilians.⁵⁴¹

532 International Committee of the Red Cross, *Treaties, State Parties, and Commentaries: Ethiopia*, https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=ET&nv=4 (last visited Sept. 27, 2022).

533 International Committee of the Red Cross, *Treaties, State Parties, and Commentaries: Eritrea*, https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=ER (last visited Sept. 27, 2022).

534 International Committee of the Red Cross, *Customary law*, <https://www.icrc.org/en/war-and-law/treaties-customary-law/customary-law> (last visited Sept. 27, 2022).

535 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), adopted 8 June 1977, at art. 54 [Additional Protocol I]; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), adopted June 8, 1977, at art. 14 [Additional Protocol II]; International Committee of the Red Cross Rules of Customary International Humanitarian Law, Rule 53 [ICRC Customary IHL Rule 53].

536 Additional Protocol II, *see above* note 535, at art. 14.

537 ICRC, *Updated Commentary brings fresh insights on continued relevance of Geneva Conventions for treatment of prisoners of war* (Jul. 10, 2010), <https://www.icrc.org/en/document/updated-commentary-third-geneva-convention>.

538 Yves Sandoz, Christophe Swinarski & Bruno Zimmermann (eds.), *Commentary on the Additional Protocols*, ICRC, Geneva, 1987, at para. 4791 [Commentary].

539 *Id.*, at para. 4794.

540 ICRC Customary IHL Rule 53, *see above* note 535.

541 International Committee of the Red Cross Rules of Customary International Humanitarian Law, Rule 54 [ICRC Customary IHL Rule 54].

To find that conduct leading to starvation constitutes a “method of combat” requires more than just determining that actions occurring during an armed conflict contribute to starvation. Rather, for a situation of starvation to constitute a violation of Article 14, starving civilians must have been a tactic that a party to the conflict used to achieve military ends. The commentaries to the Additional Protocol state that “starvation is prohibited as a method of combat, i.e., when it is used as a weapon to destroy the civilian population.”⁵⁴² Two humanitarian-law experts writing about the application of this principle in other contexts have concluded that using starvation to effect the ethnic cleansing of an area, to punish perceived supporters of opposition forces, “or simply to annihilate or weaken the population would fall within the [Article 14] prohibition.”⁵⁴³

The second sentence of Article 14 prohibits warring parties from using specific actions to bring about starvation; in particular, Article 14 prohibits “attack[ing], destroy[ing], remov[ing], or render[ing] useless” objects indispensable to the survival of the civilian population. This prohibition also includes deliberate inaction.⁵⁴⁴ The commentary states, “Starvation can also result from an omission. To deliberately decide not to take measures to supply the population with objects indispensable for its survival ... would become a method of combat by default, and would be prohibited under this article.”⁵⁴⁵

The analysis finds, on the basis of available information, that Ethiopia and its allies, in systematically looting food, water, and health systems, using siege, and obstructing humanitarian relief, almost certainly violated the prohibition on starvation.

The precise content of “objects indispensable to the survival of the civilian population” depends on context. The drafters of APII intended the term to cover “the infinite variety of needs of the populations of different geographical areas throughout the world.”⁵⁴⁶ In most circumstances, and certainly in an agrarian and food-insecure society like Tigray, “foodstuffs, agricultural areas for the production of foodstuffs, [and] crops” are indispensable to the survival of the civilian population.⁵⁴⁷ Article 14 also explicitly protects “drinking water installations and supplies and irrigation works,”⁵⁴⁸ which, in water-scarce Tigray, are crucial to sustaining civilian life.

Article 14 prohibits warring parties from committing the acts described above for the purpose of starving civilians. Because neither Article 14 nor the commentary to APII provide guidance on how

⁵⁴² Sandoz et al., *Commentary*, see above note 538, at para. 4799.

⁵⁴³ Akande & Gillard, “Conflict-Induced Food Insecurity,” see above note 146, p. 765; see also Commission on Human Rights in South Sudan, “There is nothing left for us”: starvation as a method of warfare in South Sudan, para. 7 (Oct. 5, 2020), https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_45_CRP_o.pdf.

⁵⁴⁴ Sandoz et al., *Commentary*, see above note 538, at para. 4800.

⁵⁴⁵ *Id.*

⁵⁴⁶ *Id.*, at para. 4805.

⁵⁴⁷ Additional Protocol II, see above note 535, at art. 14.

⁵⁴⁸ *Id.*

to make determinations of “purpose,” legal scholars have, in other contexts, looked to international criminal law, which includes standards of intent for crimes that are serious violations of IHL.⁵⁴⁹ Conduct satisfying ICL standards on criminal intent would also meet the purpose requirement of Article 14. As set out in the Rome Statute of the International Criminal Court, the intent requirement for finding the war crime of starvation as a method of warfare can be met by finding that the perpetrator either directly intended the outcome or knew that the outcome was likely, *e.g.*, where a “person means to cause that consequence or is aware that it will occur in the ordinary course of events.”⁵⁵⁰

The following analysis applies IHL’s prohibition on starvation of civilians as a method of combat and the closely related IHL rules on humanitarian relief to the conduct of the Ethiopian government and its allied forces. The analysis finds, on the basis of available information, that Ethiopia and its allies, in systematically looting food, water, and health systems, using siege, and obstructing humanitarian relief, almost certainly violated the prohibition on starvation.

As discussed above, although Eritrea has not ratified APII, the Eritrean government and its military forces have binding obligations under the Geneva Conventions⁵⁵¹ and customary IHL.⁵⁵² Since Article 14 is, according to the ICRC, a specific application of Common Article 3 and a codification of customary IHL,⁵⁵³ much of the above analysis also applies to Eritrea. Eritrean forces’ extensive looting of food, water, and health-care systems,⁵⁵⁴ obstruction of humanitarian relief operations,⁵⁵⁵ and attacks on humanitarian relief workers,⁵⁵⁶ particularly when considered jointly, likely violate the customary law prohibition on the starvation of civilians as a method of warfare. Further investigations are needed into the role of Eritrean government or military officials in conceptualizing, planning, and implementing the siege of Tigray.

549 *See, e.g.*, Rome Statute of the International Criminal Court, adopted Jul. 17, 1998, UN Doc. A/CONF.183/9, at arts. 6, 7, 8, 25, 30 [Rome Statute].

550 *Id.*, at art. 30(2)(b).

551 Common Article 3 applies to all parties to a non-international armed conflict, not only the state in which the conflict is occurring. GC Common Article 3, *see above* note 530, at art. 3(2). Eritrea must also, under Article 1, “respect and ensure respect for” IHL “in all circumstances.” *Id.*, at art 1.

552 ICRC Customary IHL Rules 53 and 54, *see above* notes 535 and 541.

553 Sandoz et al., *Commentary*, *see above* note 538, at para. 4794.

554 *See above* Warring-Party Conduct, section 1(a-c).

555 *See above* Warring-Party Conduct, section 3(a). Although Article 18(2) of AP II refers to “the High Contracting Party concerned” in the singular, and thus only applies to Ethiopia, customary IHL rules require all parties to the conflict to allow and facilitate rapid and unimpeded passage of humanitarian relief and to respect and protect humanitarian relief workers. International Committee of the Red Cross Rules of Customary International Humanitarian Law, Rule 55 [ICRC Customary IHL Rule 55].

556 *See above* Warring-Party Conduct, section 3(b).

(a) *Prohibition on the use of siege tactics for the purpose of starving civilians*

The term “siege” is not explicitly defined in international law.⁵⁵⁷ The essential elements of siege, as explained in various national military manuals, are the control of movement into and out of a particular area and the isolation of enemy forces from reinforcements and logistical supplies.⁵⁵⁸

International humanitarian law does not prohibit siege warfare in and of itself, but warring parties must conduct sieges according to the relevant rules of treaty law and customary international law.⁵⁵⁹ According to the commentary to APII, sieges must be “directed exclusively against combatants,”⁵⁶⁰ and IHL does “not allow the argument of military necessity to be used to justify starving the civilian population.”⁵⁶¹ Since the isolation of a besieged area will inevitably harm civilians – often more immediately and to a greater extent than it harms the armed forces against whom the siege is directed – legal experts have expressed concern over whether siege warfare is compatible with the modern laws of war.⁵⁶²

Under IHL, to be lawful, a siege may be directed only against combatants. A siege targeted at combatants may, as a permissible consequence, deny essential goods to the civilian population in the area. However, as discussed below, Article 18(2) of APII requires a state – including a state conducting a siege of an area within its territory, as Ethiopia is doing in Tigray – to give consent to the provision of humanitarian relief to civilians when the conduct of armed conflict threatens civilian starvation.⁵⁶³ Thus, according to the commentary, “[a]s soon as there is a lack of indispensable objects, the international relief actions provided for in Article 18 should be authorized to enable the obligation following from Article 14 to be respected.”⁵⁶⁴

The Ethiopian government used siege tactics to encircle Tigray, a region home to more than six million people.⁵⁶⁵ When the conflict started on November 4, 2020, the government shut down access to cash, electricity, and telecommunications throughout Tigray.⁵⁶⁶ Between November 2020 and June 2021, the Ethiopian government only partially restored some services to areas where the Ethiopi-

557 Emanuela-Chiara Gillard, *Sieges, the Law and Protecting Civilians (Briefing)*, p. 3 (Jun. 2019), https://www.chathamhouse.org/sites/default/files/publications/research/2019-06-27-Sieges-Protecting-Civilians_o.pdf

558 *Id.*

559 Independent International Commission of Inquiry on the Syrian Arab Republic, *Sieges as a Weapon of War: Encircle, starve, surrender, evacuate*, p. 3 (May 29, 2018), https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/CoISyria/PolicyPaperSieges_29May2018.pdf [*Sieges as a Weapon of War*].

560 Sandoz et al., *Commentary*, see above note 538, at para. 4796.

561 *Id.*, at para. 4798.

562 *Id.* See also UN Human Rights Council, *Conference Room Paper of the Independent International Commission of Inquiry on the Syrian Arab Republic: The Siege and Recapture of Eastern Ghouta*, UN Doc A/HRC/38/CRP.3 (Jun. 20, 2018).

563 Additional Protocol II, see above note 535, art. 18(2) (“If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.”).

564 Sandoz et al., *Commentary*, see above note 538, at para. 4798.

565 See USAID, *Ethiopia – Tigray Conflict Fact Sheet #11 Fiscal Year (FY) 2021* (Sept. 30, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-conflict-fact-sheet-11-fiscal-year-fy-2021>.

566 See above *Warring-Party Conduct*, section 2(a-c).

an-government-appointed interim administration exercised authority.⁵⁶⁷ When Tigrayan forces took control of parts of Tigray in June 2021, the Ethiopian government blocked the region's access to cash, electricity, fuel, and telecommunications.⁵⁶⁸ In the 21st century, these goods and services are essential to life, and their intentional deprivation can be central to a modern siege.

The Ethiopian government's siege tactics contributed to mass hunger in Tigray. When the Ethiopian government tightened its siege in late June 2021, the Tigrayan population was already facing extreme hardship. The United Nations estimated that 400,000 people were experiencing famine conditions in Tigray.⁵⁶⁹ The Ethiopian government nevertheless chose to cut off basic services in areas controlled by Tigray forces.⁵⁷⁰ Even if the Ethiopian government's use of siege tactics alone did not violate Article 14 of APII, the government, to comply with Article 14, would have had to authorize humanitarian relief to prevent civilians from starving. Instead, as discussed below, the Ethiopian government blocked nearly all humanitarian aid from entering Tigray for the next nine months.⁵⁷¹

Available information indicates that the siege tactics of Ethiopia and its allies, especially combined with its deprivation of humanitarian relief, almost certainly meet the criteria for finding that the Ethiopian federal government, with its allies, violated the prohibition against starvation of civilians as a method of combat.

The Ethiopian government's actions satisfy the requirement that, to be found unlawful, a state must be shown to have deliberately caused civilian starvation to achieve a military end. Throughout the conflict, the Ethiopian government has consistently used siege tactics and denials of humanitarian relief against areas controlled by Tigray forces. The Ethiopian government first blocked cash, fuel, and electricity from entering Tigray at the start of the conflict, then slightly loosened restrictions in areas governed by the interim administration, and then re-instituted blanket restrictions once Tigrayan forces took control of Tigray in June 2021.⁵⁷² These shutdowns coincided with Ethiopian government decisions to block the delivery of humanitarian aid.⁵⁷³

The Ethiopian government's use of siege tactics also meets the criteria for finding that a party to a conflict attacked, destroyed, removed, or rendered useless objects indispensable to the survival of the civilian population. Fuel, cash, and electricity are so necessary to civilians' ability to obtain food, water, and life-saving health care that by denying civilians access to these items, the Ethiopian government's siege has removed or rendered essential objects useless.

567 *Id.*

568 *Id.*

569 United Nations, "400,000 in Tigray cross 'threshold into famine'", *see above* note 421. *See also* Integrated Food Security Phase Classification, *Risk of Famine in Tigray*, *see above* note 125.

570 *See above* Warring-Party Conduct, section 2(a-c).

571 *See above* Warring-Party Conduct, section 3(a).

572 *See above* Warring-Party Conduct, section 2(a-c).

573 *See above* Warring-Party Conduct, section 3(a).

For example, electricity is an important part of civilian life in Tigray, particularly because many Tigrayans depend on mechanized grain mills and motorized water infrastructure.⁵⁷⁴ By blocking electricity to much of Tigray for extended periods of time, the Ethiopian government rendered mechanized grain mills⁵⁷⁵ and many water sources in Tigray useless.⁵⁷⁶ The lack of electricity has also reduced the capacity for Tigray’s health-care facilities to manage severe acute malnutrition in infants and children.⁵⁷⁷

The Ethiopian government’s near-total ban on the transport of commercial or humanitarian fuel supplies into Tigray further limited access to food, water, and health care during the war. Fuel-powered generators are an important complement to the electrical grid in Tigray; without fuel, civilians in Tigray have been unable to use mills or water sources that run on generators.⁵⁷⁸ Fuel shortages have also prevented hospitals in Tigray from operating ambulances or generators.⁵⁷⁹ In addition, the lack of fuel has severely restricted vehicular travel in Tigray, preventing even the limited food and medicine present in certain parts of the region from being transported by commercial entities and humanitarian organizations to other areas where civilians are in need.⁵⁸⁰ Even when humanitarian food aid reached Mekelle, for example, a lack of fuel or cash frequently prevented it from being delivered to civilians living in rural areas.⁵⁸¹

Fuel, cash, and electricity are so necessary to civilians’ ability to obtain food, water, and life-saving health care that by denying civilians access to these items, the Ethiopian government’s siege has removed or rendered essential objects useless.

The Ethiopian government’s restrictions on cash and banking have also served to deprive civilians of objects indispensable to their survival. Without cash, market systems in Tigray have partially or completely broken down.⁵⁸² As a result, many civilians have been unable to obtain food even when it has been available for purchase.⁵⁸³ Although cash is not itself an object indispensable to the survival of civilians, the Ethiopian government’s restrictions on cash and banking are, in this context, a means of undermining or eliminating civilians’ ability to purchase food or water, pay for medical care, or buy

574 See above Warring-Party Conduct, section 2(a-b).

575 See above Warring-Party Conduct, section 2(b).

576 *Id.*

577 *Id.*

578 See above Warring-Party Conduct, section 2(c).

579 See, e.g., Tesfa-Alem Tekle, “Health crisis looms in Tigray as main hospital closes,” *The East African* (Jun. 5, 2022), <https://www.theeastafrican.co.ke/tea/rest-of-africa/health-crisis-looms-in-tigray-as-main-hospital-closes-3837886>.

580 *Id.* See also Warring-Party Conduct, section 3(a). See also Harter, “Tigray’s health system,” see above note 403.

581 See above Warring-Party Conduct, section 3(a).

582 See above Warring-Party Conduct, section 2(a).

583 *Id.* See also World Food Programme, *Tigray Emergency Food Security Assessment, August 2022*, see above note 16, p. 5 (“Over 75 percent of the households reported that they do not have access to markets and 85 percent reported that they do not use markets due to lack of cash to purchase food.”).

medicine. Throughout the war, banking restrictions significantly contributed to rendering food, water, and health-care systems useless.

The Ethiopian government's conduct has also satisfied the purpose requirement of Article 14, as its conduct was certain to lead to starvation of civilians in the ordinary course of events. The Ethiopian government was aware, soon after the conflict began, of severe and widespread hunger in Tigray. Throughout the conflict, the Ethiopian government and its allies deprived civilians of objects essential to their survival⁵⁸⁴ and subjected enormous areas, in which millions of civilians lived, to siege tactics.⁵⁸⁵ When, as a result, supplies of food and water in Tigray became inadequate to meet civilian needs, the Ethiopian government and its allies blocked and withheld consent for the passage of humanitarian aid.⁵⁸⁶ In June 2021, when at least 400,000 people were estimated to be experiencing famine conditions, the Ethiopian government chose to tighten its siege. The unlawful denial of humanitarian aid by the Ethiopian government and its allies, discussed below, cemented the near certainty of the civilian population's starvation, especially after June 2021. The commentary to Protocol II and the customary law prohibition on starvation as a method of warfare both suggest that the unlawful denial of humanitarian aid is a key indicator of deliberate starvation of civilians.⁵⁸⁷

(b) Prohibition on destroying or removing essential objects for the purpose of starving civilians

The systematic looting of food, water, and health systems by Ethiopian government and allied forces, especially between November 2020 and June 2021, almost certainly violated the IHL prohibition on starvation of civilians as a method of combat.

In Tigray, Ethiopian and allied forces routinely, in the language of APII, “attack[ed], destroy[ed], remove[d] or render[ed] useless” the food, water, and health systems that civilians relied on to survive.⁵⁸⁸ According to the ICRC's study on customary IHL: “Attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population is prohibited.”⁵⁸⁹ This rule is a corollary to the Article 14 prohibition on such conduct when done for the purpose of starving

⁵⁸⁴ See above Warring-Party Conduct, sections 1(a-c), 2(a-c).

⁵⁸⁵ See above Warring-Party Conduct, section 2(a-c).

⁵⁸⁶ See above Warring-Party Conduct, section 3(a).

⁵⁸⁷ The commentary states: “Protocol II is conceived in such a way that this humanitarian rule [against purposive starvation of civilians] can be respected whatever the circumstances. Article 18 (Relief societies and relief actions), paragraph 2, actually provides for the organization of international relief actions in favour of the civilian population when the latter is suffering undue hardship owing to a lack of supplies essential for its survival. Between them [Article 14 and Article 18] these two provisions, which are closely linked, do not allow the argument of military necessity to be used to justify starving the civilian [population].” Sandoz et al., Commentary, see above note 538, at para. 4798. Similarly, customary law requires that “the besieging party must allow the free passage of foodstuffs and other essential supplies, in accordance with [ICRC] Rule 55.” ICRC Customary IHL Rule 53, see above note 535.

⁵⁸⁸ Additional Protocol II, see above note 535, at art. 14.

⁵⁸⁹ ICRC Customary IHL Rule 54, see above note 541. The ICRC does not comment directly on whether customary IHL prohibits such attacks categorically or only when done for the purpose of starving civilians as a method of combat. The study says that, in non-international armed conflicts, “objects indispensable to the survival of the civilian population are civilian objects and may not be attacked as such.” *Id.* In international armed conflicts, the study notes that such attacks are permissible when the objects in question “are used as sustenance solely for combatants or otherwise in direct support of military action.” *Id.* The study finds it “doubtful” that “this exception also applies to non-international armed conflicts, because Article 14 of Additional Protocol II does not provide for it and there is no practice supporting it.” *Id.*

civilians. Article 14's prohibition extends to destroying or attacking objects indispensable for survival even if opposing armed forces might have been able to benefit from those objects. The commentary to Protocol II explains:

The text [of Article 14] does not distinguish between objects intended for the armed forces and those intended for civilians. Except for the case where supplies are specifically intended as provisions for combatants, it is prohibited to destroy or attack objects indispensable for survival, even if the adversary may benefit from them. The prohibition would be meaningless if one could invoke the argument that members of the . . . armed opposition might make use of the objects in question. Of course, the possibility cannot be excluded that, for example, a source of drinking water might at some point be used by soldiers.⁵⁹⁰

Many reports have confirmed that looting by Ethiopian federal and allied forces in Tigray between November 2020 and June 2021 extended far beyond items intended exclusively as provisions for combatants.⁵⁹¹ Ethiopian federal government and allied forces killed and appropriated livestock, burned crops, appropriated foodstuffs and key household items, and looted and destroyed medical facilities and water supplies throughout Tigray on an enormous scale.⁵⁹² Ethiopian federal government and allied forces also looted humanitarian food aid that was expressly intended for civilians.⁵⁹³

By engaging in this looting, Ethiopian federal government and allied forces extensively attacked, destroyed, removed, and rendered useless objects that sustain civilian life and that were not specifically intended as provisions for combatants. Such actions by Ethiopian and allied forces, including Eritrean forces, almost certainly constitute attacks against objects indispensable to the survival of the civilian population.

The enormous scale of Ethiopian and allied forces' looting of food, water, and health systems supports the conclusion that, in doing so, the Ethiopian government and allied forces employed starvation as a method of combat. Witnesses, human rights investigations, humanitarian aid workers, and former government officials have consistently reported that looting and destruction by Ethiopian federal government and allied forces was extensive, systematic, and coordinated.⁵⁹⁴ The Eritrean military's systematic looting and destruction of food, water, crops, livestock, and household items has been a consistent component of its military advances.⁵⁹⁵

By attacking, destroying, removing, and rendering useless objects essential to the survival of civilians, the conduct of the Ethiopian government and allied forces likely satisfies the purpose requirement of Article 14, although further investigation is required to reach an authoritative conclusion. Even if

590 Sandoz et al., *Commentary*, see above note 538, at para. 4806.

591 See above Warring-Party Conduct, section 1(a-c).

592 See above Warring-Party Conduct, section 1(a-b).

593 See above Warring-Party Conduct, section 3(a).

594 See above Warring-Party Conduct, section 1(a-c).

595 *Id.*

Statements by soldiers to civilians in Western Tigray and elsewhere suggested that they were aware of the likelihood that their conduct would deprive civilians of food but that they believed the civilians deserved this outcome because of their perceived support for, or participation in, the “junta.”

some acts of looting and destruction of essential food, water, and health systems by Ethiopian and allied forces might not have been done with the intention of starving civilians, these acts of looting and destruction, in their totality, almost certainly made the starvation of civilians inevitable in certain areas.⁵⁹⁶ Acts of deliberate destruction, like burning crops or filling water pumps with sand, also present strong evidence of the intent to starve.⁵⁹⁷

Ethiopian federal government and allied forces have made statements that suggest that the systematic looting, destruction, and deprivation of basic necessities was intended to weaken

Tigrayan civilians’ support for the Tigray regional government. For example, available information indicates that, in at least some instances, these forces sought to starve Tigrayans to punish them for their perceived support for the TPLF.⁵⁹⁸ Statements by soldiers to civilians in Western Tigray and elsewhere suggested that they were aware of the likelihood that their conduct would deprive civilians of food but that they believed the civilians deserved this outcome because of their perceived support for, or participation in, the “junta.”⁵⁹⁹

Amnesty International and Human Rights Watch also documented how, in Western Tigray, Amhara forces and officials, with support from Ethiopian federal forces and Eritrean troops, used starvation as part of a deliberate campaign of ethnic cleansing against Tigrayan civilians.⁶⁰⁰ In Western Tigray, Amhara and allied forces and militias forcibly displaced hundreds of thousands of civilians, some of whom expressly cited hunger as a cause of their displacement.⁶⁰¹

(c) Prohibition on obstructing or denying humanitarian aid to civilians suffering undue hardship

IHL requires the provision of impartial humanitarian aid to civilians who, due to conflict, are unable to meet their needs, including civilians encircled in an area under siege. The second paragraph of Article 18 of Additional Protocol II provides:

596 As discussed above, if further investigations establish that some objects indispensable to the survival of civilians were used exclusively to supply Tigray forces, then attacks on those objects by Ethiopia and its allies would be lawful. Similarly, some individual soldiers might simply have wanted to obtain the food, water, or health supplies in question for personal use, with the ensuing harms to civilians as a secondary, or even unintended, consequence. However, evidence suggests that these exceptions, although not impossible, are implausible in most areas of Tigray, where Ethiopian and allied forces attacked protected items systematically and on a massive scale. See *above* Warring-Party Conduct, section 1(a-c).

597 Muhumuza, “Our season,” see *above* note 168.

598 See *above* Warring-Party Conduct, sections 2(a), 3(a).

599 See *above* Warring-Party Conduct, section 3(a).

600 Amnesty International & Human Rights Watch, “We Will Erase You,” see *above* note 26.

601 *Id.*, pp. 150-51.

If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.⁶⁰²

By imposing prolonged bureaucratic delays, obstructing and denying impartial relief operations at military checkpoints, severely restricting supplies of fuel and cash, and attacking and harassing humanitarian aid workers, Ethiopia has violated the prohibition on obstructing or denying humanitarian relief to civilians suffering undue hardship.

As described in detail above, the civilian population in Tigray suffered undue hardship due to a lack of essential supplies, satisfying the condition, set out in Article 18, for requiring relief actions. The principles of impartiality and non-discrimination referred to in Article 18 require humanitarian organizations to provide aid solely on the basis of need, without making any distinctions based on a person's nationality, race, gender, religious beliefs, or political opinions.⁶⁰³ The “exclusively humanitarian” nature of aid activities, as explained by the Red Cross, requires humanitarian action to aim “to prevent and alleviate human suffering, and to protect life and health and to ensure respect for the human being.”⁶⁰⁴

As outlined above in the Warring-Party Conduct section, the Ethiopian government has repeatedly alleged, without evidence, that aid organizations, including MSF and several UN agencies, violated their humanitarian mandate.⁶⁰⁵ Ethiopian federal government officials have not publicly shared credible evidence to substantiate its allegations that humanitarian organizations have been delivering weapons to rebel groups or spreading misinformation online. The United Nations has indicated that no such evidence has been shared privately, either. The head of UN OCHA characterized the Ethiopian government's statements as “blanket accusations” that “need to be backed up by evidence, if there is any.”⁶⁰⁶

Despite Article 18's inclusion of the phrase “subject to the consent of the High Contracting Party concerned,” the Ethiopian government may not reject relief operations at will.⁶⁰⁷ The ICRC has stated, in its study of customary international humanitarian law, “Consent must not be refused on

602 Additional Protocol II, *see above* note 535, at art. 18(2).

603 Médecins Sans Frontières, *Practical Guide to Humanitarian Law: The Right of Access*, <https://guide-humanitarian-law.org/content/article/3/right-of-access/> (last visited Sept. 27, 2022). *See also* UN Office of the Coordination of Humanitarian Affairs, *Humanitarian Principles*, https://www.unocha.org/sites/unocha/files/OOM_Humanitarian%20Principles_Eng.pdf (last visited Sept. 27, 2022).

604 Denise Plattner, “ICRC neutrality and neutrality in humanitarian assistance,” *International Review of the Red Cross* (Apr. 30, 1996), <https://www.icrc.org/en/doc/resources/documents/article/other/57jn2z.htm>.

605 *See above* Warring-Party Conduct, section 3(a).

606 Sally Hayden, “Our people are starving’: Tigray is quickly becoming Africa’s latest forgotten war,” *Irish Times* (Sept. 25, 2021), <https://www.irishtimes.com/opinion/our-people-are-starving-tigray-is-quickly-becoming-africa-s-latest-forgotten-war-1.4682721> (quoting Martin Griffiths, UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator).

607 Sandoz et al., *Commentary*, *see above* note 538, at para. 4885.

arbitrary grounds.”⁶⁰⁸ As the commentary to APII explains, Article 18 must be read in conjunction with Article 14. Where “the survival of the population is threatened and a humanitarian organization fulfilling the required conditions of impartiality and non-discrimination is able to remedy this situation, relief actions must take place. In fact, they are the only way of combating starvation when local resources have been exhausted.”⁶⁰⁹ A state’s withholding of consent to impartial humanitarian relief that is necessary to prevent civilian starvation is inherently arbitrary.⁶¹⁰

In June 2021, when the Ethiopian government began preventing nearly all humanitarian aid from entering Tigray, the survival of the Tigrayan population was already threatened.

Impartial humanitarian organizations were prepared to deliver humanitarian aid to Tigrayan civilians, but the Ethiopian government prevented nearly all humanitarian aid from reaching them.⁶¹¹ The commentary to APII states, “If a state refuses such relief operations for the purpose of starving civilians, such a refusal would be equivalent to a violation of the rule prohibiting the use of starvation as a method of combat as the population would be left deliberately to die of hunger.”⁶¹²

As parties to the conflict, Ethiopia and Eritrea also had the obligation, under customary IHL, to “allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need.”⁶¹³ As with Article 18, customary law requires aid efforts to be “impartial in character and conducted without any adverse distinction,” and distributions are “subject to [warring parties’] right of control.”⁶¹⁴ The right of control does not, however, permit arbitrary denial of humanitarian access.

As described above, the delivery of humanitarian relief to civilians in Tigray was not rapid at any point in the conflict. Between November 2020 and February 2021, the Ethiopian federal government used bureaucratic processes to withhold clearances for humanitarian relief personnel for weeks at a time, in violation of its contractual agreement with the United Nations.⁶¹⁵ Armed forces under or allied with

By imposing prolonged bureaucratic delays, obstructing and denying impartial relief operations at military checkpoints, severely restricting supplies of fuel and cash, and attacking and harassing humanitarian aid workers, Ethiopia has violated the prohibition on obstructing or denying humanitarian relief to civilians suffering undue hardship.

608 ICRC Customary IHL Rule 55, *see above* note 555.

609 Akande & Gillard, “Conflict-Induced Food Insecurity,” *see above* note 146, p. 771.

610 *Id.*, p. 770.

611 *See above* Warring-Party Conduct, section 3(a).

612 Sandoz et al., *Commentary*, *see above* note 538, at para. 4885.

613 ICRC Customary IHL Rule 55, *see above* note 555.

614 *Id.*

615 *See above* Warring-Party Conduct, section 3(a). *See also* UN Office for the Coordination of Humanitarian Affairs, *Ethiopia—Tigray Region Humanitarian Update Situation Report*, p. 2 (Jan. 25, 2021), <https://reliefweb.int/report/ethiopia/>

Journalists, humanitarian aid workers, and former government officials have said that the principal barrier to the rapid distribution of food supplies in Tigray has not been the unavailability of aid or the actual fighting between armed forces, but, rather, the bureaucratic hurdles, military checkpoints, and siege tactics used by Ethiopia and its allies.

the Ethiopian government, including Eritrean forces, routinely delayed or denied the passage of humanitarian aid at military checkpoints.⁶¹⁶ Five months into the conflict, nearly half of Tigray’s population had received no assistance.⁶¹⁷ From late June to late September 2021, Ethiopian officials allowed only 606 truckloads of humanitarian aid supplies to reach Tigray,⁶¹⁸ an amount insufficient for even a single week.⁶¹⁹ Throughout the conflict, Ethiopian officials and allied armed forces, including Eritrean troops, heavily restricted the movement of aid outside of areas controlled by the federal government and its allies.⁶²⁰

Journalists, humanitarian aid workers, and former government officials have said that the principal barrier to the rapid distribution of food

supplies in Tigray has not been the unavailability of aid or the actual fighting between armed forces, but, rather, the bureaucratic hurdles, military checkpoints, and siege tactics used by Ethiopia and its allies.⁶²¹ Despite the Ethiopian government’s repeated allegations of humanitarian agencies’ miscon-

ethiopia-tigray-region-humanitarian-update-situation-report-25-january-2021.

616 See, e.g., Paravicini & Houreld, “UN official accuses Eritrean forces of deliberately starving Tigray,” *see above* note 188. Other warring parties, in addition to Ethiopian armed forces, and other factors have also delayed aid distributions. In some cases, UN OCHA has cited “insecurity” as an obstacle to the transport of supplies. See, e.g., UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (May 20, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-20-may-2021>. The Ethiopian government has repeatedly blamed Tigray forces for obstructing the rapid and unimpeded passage of humanitarian relief supplies. However, the fact that other warring parties have impeded aid access and aid delivery does not negate the Ethiopian government’s responsibilities. Ethiopia has also implied that Eritrean troops, acting independently from Ethiopia and its allies, were impeding aid supplies. Ethiopian security officials reportedly told CNN, for example, that “the Ethiopian government has no control over Eritrean soldiers operating in Ethiopia,” despite the extensive coordination between Ethiopian federal government and allied forces in many localities across Tigray. Nima Elbagir, Barbara Arvanitidis & Eliza Mackintosh, “Eritrean troops disguised as Ethiopian military are blocking critical aid in Tigray,” *CNN* (May 13, 2021), <https://www.cnn.com/2021/05/12/africa/tigray-axum-aid-blockade-cmd-intl/index.html> [“Eritrean troops blocking critical aid”].

617 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Apr. 13, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-13-april-2021>.

618 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 3 (Sept. 30, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-30-sept-2021>.

619 As discussed above, the United Nations has estimated that, to meet needs in Tigray, humanitarian organizations required the delivery of 100 truckloads of supplies per day, or, extrapolating from the UN estimate, 700 per week. *Id.*

620 See, e.g., UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 2 (Feb. 4, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-4-february-2021>.

621 *See above* Warring-Party Conduct, section 3(a) (citing, for example, USAID statements about bureaucratic delays, UN OCHA condemnations of warring parties’ obstruction of humanitarian relief at military checkpoints, and UN OCHA figures about fuel shortages).

duct, all available evidence indicates that relief efforts in Tigray were impartial, humanitarian, and conducted without any adverse distinction.⁶²² The conduct of Ethiopian and Eritrean forces appears to have violated the obligation, under customary IHL, to allow and facilitate rapid and unimpeded passage of humanitarian relief to civilians in need in Tigray.

Customary IHL also requires that parties to a conflict “ensure the freedom of movement of authorized humanitarian relief personnel” who are “essential” to the exercise of the functions of humanitarian relief organizations.”⁶²³ Although the movement of humanitarian personnel may be limited for military necessity, such limitations must “only be limited and temporary.”⁶²⁴ In Tigray, as discussed above, Ethiopia and its allies often imposed categorical restrictions on the movement of humanitarian personnel into or out of particular areas and withheld necessary clearances for unduly long periods of time.⁶²⁵ Ethiopian federal and allied forces have also attacked, detained, and killed humanitarian aid workers in Tigray.⁶²⁶ Through their categorical restrictions of and unlawful attacks on humanitarian aid workers, Ethiopia and Eritrea have violated the customary IHL obligation to ensure the freedom of movement humanitarian relief personnel.

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2. INTERNATIONAL HUMAN RIGHTS LAW

Under international human rights law (IHRL), states have an obligation to respect, protect, and fulfill a number of basic human rights that relate to food security, including the right to adequate food, the right to water, the right to the highest attainable standard of health, the right to life, and, within the African regional human rights system, the right to sustainable development. Ethiopia and Eritrea have ratified many international treaties that protect these and other essential human rights, including the International Covenant on Civil and Political Rights (ICCPR),⁶²⁷ the International Covenant

622 *Id.*

623 International Committee of the Red Cross, *Rules of Customary International Humanitarian Law*, Rule 56.

624 *Id.*

625 *See above* Warring-Party Conduct, section 3(a).

626 Paravicini & Houreld, “UN official accuses Eritrean forces of deliberately starving Tigray,” *see above* note 188.

627 UN General Assembly, *International Covenant on Civil and Political Rights*, 19 December 1966, 999 UNTS 171, Can TS 1976 No 47 (entered into force 23 March 1976) [ICCPR]. Ethiopia ratified the ICCPR in 1993. *See* United Nations, *UN Treaty Collection: Chapter IV, Human Rights*, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=_en#EndDec; Eritrea ratified the ICCPR in 2002. *See* United Nations, *UN Treaty Collection: Chapter IV, Human Rights*, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=_en#EndDec.

on Economic, Social and Cultural Rights (ICESCR),⁶²⁸ and the African Charter on Human and Peoples' Rights (the African Charter).⁶²⁹ Both states are also parties to various international human rights treaties that set out specific protections for the economic, social, and cultural rights of women,⁶³⁰ children,⁶³¹ persons with disabilities,⁶³² and others.⁶³³

IHRL continues to apply during periods of emergency and armed conflict, albeit with some important differences from its application during peacetime.⁶³⁴ Some human rights treaties permit governments to limit or suspend certain human right obligations during periods of public emergency that threaten the life of the nation.⁶³⁵ However, any such exceptions – called “derogations” in international law – must conform to certain requirements, including being proportionate to the crisis at hand and non-discriminatory.⁶³⁶ Other rights are non-derogable, regardless of the circumstances.⁶³⁷ States are also obligated to ensure that, at the very least, the minimum essential components of economic, social, and cultural rights are protected in any circumstance, including in the context of natural disaster or armed conflict.⁶³⁸ These obligations, termed “minimum core obligations” by the Committee on Economic, Social and Cultural Rights (CESCR), the body established by the ICESCR to monitor

628 UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, [ICESCR]. Ethiopia ratified the ICESCR in 1993. See United Nations, *UN Treaty Collection: Chapter IV, Human Rights*, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&clang=_en; Eritrea ratified the ICESCR in 2001. See United Nations, *UN Treaty Collection: Chapter IV, Human Rights*, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&clang=_en.

629 Organization of African Unity (OAU), African Charter on Human and Peoples' Rights (“Banjul Charter”), 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982) [African Charter].

630 UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13.

631 UN Commission on Human Rights, *Convention on the Rights of the Child*, 7 March 1990, E/CN.4/RES/1990/74.

632 UN General Assembly, *Convention on the Rights of Persons with Disabilities*, adopted by the General Assembly, 24 January 2007, A/RES/61/106.

633 UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, United Nations, Treaty Series, vol. 660, p. 195; UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85.

634 See generally UN Office of the High Commissioner for Human Rights, *International Legal Protection of Human Rights in Armed Conflict* (Nov. 2011) [*Human Rights in Armed Conflict*]; Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons, 1996 I.C.J. 226, 265-67, para. 25 (Jul. 8) [Nuclear Weapons Opinion]. See also UN Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, UN Doc. CCPR/C/21/Rev.1/Add. 13, para. 11 (May 26, 2004), <https://undocs.org/CCPR/C/21/Rev.1/Add.13>; Advisory Opinion on Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 2004 I.C.J. 136, paras. 111-114, 130 (Jul. 9) [Wall Opinion]; Armed Activities on the Territory of the Congo (New Application: 2002) (Dem. Rep. Congo v. Rwanda), 2006 I.C.J., para. 216 (Feb. 3) [Congo v. Uganda Judgment].

635 UN Human Rights Committee, *General Comment No. 29: Article 4 (States of Emergency)*, para. 1 (Oct. 24, 2001) [*General Comment No. 29*]. See also ICESCR, see above note 628, at arts. 2(1), 4.

636 UN Human Rights Committee, *General Comment No. 29*, see above note 635, at para. 4. See also Guidelines on the Right to Water in Africa, Adopted during the 26th Extra-Ordinary Session of the African Commission on Human and Peoples' Rights held from 16 to 30 July 2019, in Banjul, The Gambia, para. 6.3, <https://www.achpr.org/legalinstruments/detail?id=71> (last visited May 18, 2022) [ACHPR Guidelines on the Right to Water].

637 Article 4(2) of the ICCPR, for example, specifies: “No derogation from articles 6 [right to life], 7 [prohibition on torture and cruel, inhuman or degrading treatment], 8 (paragraphs 1 and 2) [freedom from slavery and servitude], 11 [freedom from imprisonment for inability to fulfill a contractual obligation], 15 [prohibition against the retrospective operation of criminal laws], 16 [right to recognition before the law] and 18 [freedom of thought, conscience and religion] may be made,” even during a public emergency. ICCPR, see above note 627, at art. 4(2).

638 Committee on Economic, Social and Cultural Rights, *General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant)*, UN Doc. E/1991/23, para. 10 (Dec. 14, 1990) [*General Comment No. 3*].

compliance with its provisions, are meant to establish a minimum level of protection for basic human needs from which states can never derogate, even in times of crisis.⁶³⁹

The African Commission on Human and Peoples' Rights (the African Commission) has also recognized the doctrine of minimum core obligations.⁶⁴⁰ According to the Commission, for economic, social, and cultural rights, states have a minimum core obligation "to ensure that no significant number of individuals is deprived of the essential elements of a particular right. This obligation exists regardless of the availability of resources and is non-derogable."⁶⁴¹ For example, under the African Commission's guidelines on the implementation of economic, social and cultural rights, states, in order to satisfy the minimum core obligations for the right to food, must, under all circumstances and at all times:

- take the necessary action to guarantee the right of everyone to be free from hunger and to mitigate and alleviate hunger even in times of natural or other disasters;
- refrain from and protect against destruction or contamination of food sources; [and]
- refrain from using access to food as a political tool to reward supporters, punish opponents, or recruit militias.⁶⁴²

When states are unable to meet their minimum core obligations on their own, they are required to seek assistance and, in some cases, to permit humanitarian relief operations.⁶⁴³ Human rights treaties recognize that states face budget constraints and need to work progressively to fully realize the content of economic and social rights over time, rather than all at once.⁶⁴⁴ The CESCR has established, though, under the doctrine of minimum core obligations, that in times of crisis, if "any significant number of individuals is deprived of essential foodstuffs, of essential primary health care," or of other basic rights,⁶⁴⁵ the burden is on the state to demonstrate that it has used every available resource, including international aid, to attempt to satisfy its minimum core obligations.⁶⁴⁶ Accordingly, the

639 *Id.*

640 African Commission on Human and Peoples' Rights, *Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights*, para. 17 (2010), <https://archives.au.int/handle/123456789/2063> [*Implementation of Economic, Social and Cultural Rights*].

641 *Id.*

642 *Id.*, para. 86.

643 Simone Hutter, "Starvation in Armed Conflicts: An Analysis Based on the Right to Food," *Journal of International Criminal Justice*, vol. 17(4), p. 729 (2019) ["Starvation in Armed Conflicts"]. See also UN General Assembly, *Interim Report of the Special Rapporteur on the Right to Food*, UN Doc. A/72/188, 21 July 2017, para. 56.

644 African Commission on Human and Peoples' Rights, *Implementation of Economic, Social and Cultural Rights*, see above note 640, paras. 13-15.

645 Committee on Economic, Social and Cultural Rights, *General Comment No. 3*, see above note 638, para. 10.

646 *Id.* See also Committee on Economic, Social and Cultural Rights, *General Comment No. 8: The relationship between economic sanctions and respect for economic, social and cultural rights*, UN Doc. E/C.12/1997/8, para. 7 (Dec. 12, 1997). As discussed below, in addition to the territorial state, other states and non-state armed groups likely also have human rights obligations to meet minimum core aspects of the right to food during conflict. See Hutter, "Starvation in Armed Conflicts," see above note 643, p. 723; Annyssa Bellal, "Human Rights Obligations of Armed Non-State Actors: An Exploration of the Practice of the UN Human Rights Council," *Geneva Academy of International Humanitarian Law and Human Rights*, p. 3 (2016).

CESCR has instructed conflict-affected states to do “everything possible” to satisfy at least the core aspects of the Covenant’s provisions during armed conflict, including by accepting foreign aid.⁶⁴⁷

The human rights obligations in the context of the conflict in Ethiopia vary significantly among the various actors engaged in the fighting. Ethiopia’s obligations are, broadly speaking, the most straightforward: The Ethiopian state has engaged in the armed conflict, the armed conflict has taken place on Ethiopian territory, and Ethiopia has ratified several human rights treaties that apply to food insecurity.⁶⁴⁸ Ethiopia continues to have binding human rights obligations during armed conflict to respect, protect, and fulfill the human rights of all people within its territory.⁶⁴⁹ Ethiopia has a duty to make every appropriate effort to realize, to the extent possible, the rights of those living in areas of its territory that are under the control of opposing armed groups.⁶⁵⁰

This analysis treats conduct by sub-national armed actors like Amhara and Afar Special Forces as attributable, in most cases, to the Ethiopian state, since the Ethiopian federal government exercises formal control over these regional actors within the Ethiopian federal system.⁶⁵¹ Conduct by Amhara and Afar militias, which are fighting alongside Ethiopian state forces, is also likely attributable to the Ethiopian government. In determining whether acts of armed groups can be attributed to a state, international criminal tribunals have considered it sufficient to determine whether the group was “under the overall control of the State.”⁶⁵²

Ethiopia continues to have binding human rights obligations during armed conflict to respect, protect, and fulfill the human rights of all people within its territory.

647 UN General Assembly, *Report of the United Nations High Commissioner for Human Rights*, UN Doc. E/2015/49, para. 14.

648 See above notes 627-629.

649 See generally International Law Commission, Memorandum by the Secretariat, *The Effect of Armed Conflict on Treaties: An Examination of Practice and Doctrine*, A/CN.4/550, para. 34 (Feb. 1, 2005).

650 Since human rights obligations are, as explained by the CESCR, “of a continuous nature and ... [applicable to] all persons within its [a state party’s] territory without discrimination on any ground,” states have binding human rights obligations to people who live in its territory, even where armed groups control parts of that territory. See Committee on Economic, Social and Cultural Rights, “Concluding Observations: on the fourth periodic report of Iraq,” UN Doc. E/C.12/IRQ/CO/4 (Oct. 27, 2015), para. 5. The ICESCR requires a state that has armed groups active in or controlling parts of its territory to “strive to the extent possible to meet its obligations under the Covenant by resorting to all measures compatible with international law.” *Id.* See also UN Human Rights Committee, “Concluding Observations: Republic of Moldova,” UN Doc. CCPR/C/MDA/CO/2 (Nov. 4, 2009), para. 5; Committee on Economic, Social and Cultural Rights, “Concluding Observations on Moldova,” UN Doc E/C.12/1/Add.91 (Dec. 12, 2003), para. 10; Committee on Economic, Social and Cultural Rights, “Concluding Observations on Cyprus,” UN Doc E/C.12/CYP/CO/5 (Jun. 12, 2009), para. 8. See generally Global Rights Compliance, *International Law and Defining Russia’s Involvement in Crimea and Donbas*, p. 83 (Feb. 13, 2022), <https://globalrightscpliance.com/wp-content/uploads/2022/05/International-Law-and-Russia-Involvement-in-Crimea-and-Donbas.pdf>.

651 See generally European Institute of Peace, *Special Police in Ethiopia*, see above note 43; Adugna, “Regional Special Forces,” see above note 43.

652 See International Committee of the Red Cross, *How Does Law Protect in War? ICTY, The Prosecutor v. Tadić*, available at: <https://casebook.icrc.org/case-study/icty-prosecutor-v-tadic> (last visited Sept. 27, 2022); *The Prosecutor v. Thomas Lubanga Dyilo*, Case No. ICC-01/04-01/06, Decision on the confirmation of charges, Pre-Trial Chamber I, para. 211 (Jan. 29, 2007). For a more general discussion, see Antonio Cassese, “The Nicaragua and Tadić Tests Revisited in Light of the ICJ Judgment on Genocide in Bosnia,” *European Journal of International Law* v. 18(4) (Sept. 2007).

The application of IHRL to Eritrea is more complicated. UN treaty bodies have emphasized that a state operating outside of its national territories has obligations to respect, protect, and fulfill human rights – including economic, social and cultural rights – in situations over which that state exercises authority or effective control over territory or persons.⁶⁵³ Major human rights institutions, including the European Court of Human Rights, the UN Human Rights Committee, and the Inter-American Commission on Human Rights, agree that human rights obligations extend extraterritorially in situations in which a state exercises effective control over foreign territory or persons⁶⁵⁴ and that those obligations continue to apply during armed conflict.⁶⁵⁵ In its case law and its general comments interpreting the African Charter, the African Commission has recognized the extraterritorial human rights obligations of states that exercise effective control over territory or persons,⁶⁵⁶ as well as, in certain circumstances, over conduct that could reasonably be foreseen to jeopardize the enjoyment of basic human rights in a foreign jurisdiction.⁶⁵⁷

Precise determinations of where and when Eritrea has exercised effective control over territory or persons are beyond the scope of this analysis. However, given the significant extent of Eritrea's reported

653 See Maastricht University & the International Commission of Jurists, *Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights*, adopted Sept. 28, 2011, http://www.etoconsortium.org/nc/en/main-navigation/library/maastricht-principles/?tx_drblob_pi1%5BdownloadUId%5D=23 [*Maastricht Principles*]; Committee on Economic, Social and Cultural Rights, *General Comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities*, para. 10, UN Doc. E/C.12/GC/24 (2017) [*General Comment No. 24*]. See also UN Human Rights Committee, *General Comment No. 31 (80), The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, para. 10, UN Doc. CCPR/C/21/Rev.1/Add.13 (“This means that a State party [to the ICCPR] must respect and ensure the rights laid down in the Covenant to anyone within the power or effective control of that State Party, even if not situated within the territory of the State Party.”); O. De Schutter et al., “Commentary to the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights,” *Human Rights Quarterly* 34, pp. 1084–169 (2012).

654 See, e.g., *Loizidou v. Turkey (Preliminary Objections)* Application No. 40/1993/435/514, European Court of Human Rights (Mar. 23, 1995); *Sergio Euben Lopez Burgos v. Uruguay*, UN Human Rights Committee, Communication No. R.12/52, adopted on Jul. 29, 1981.

655 The precise contents of a state's extraterritorial obligations regarding economic, social, and cultural rights are not comprehensively defined under international law. See Fons Coomans, “The Extraterritorial Scope of the International Covenant on Economic, Social and Cultural Rights in the Work of the United Nations Committee on Economic, Social and Cultural Rights,” *Human Rights Law Review* 11:1 (2011); Robert K. Goldman, “Extraterritorial Application of the Human Rights to Life and Personal Liberty, including Habeas Corpus, During Situations of Armed Conflict,” in *Research Handbook on Human Rights and Humanitarian Law* (2013) [“Extraterritorial Application”]. On the co-applicability of human rights law and IHL, see *Nuclear Weapons Opinion*, see above note 634, para. 25; *Wall Opinion*, see above note 634, paras. 104-8; *Congo v. Uganda Judgment*, see above note 634, para. 216.

656 See 227/99 Democratic Republic of Congo / Burundi, Rwanda, Uganda, African Commission on Human and Peoples' Rights Decision (May 29, 2003) [*ACHPR Communication 227/99*]; 157/96 : Association pour la sauvegarde de la paix au Burundi / Kenya, Uganda, Rwanda, Tanzania, Zaire (DRC), Zambia, African Commission on Human and Peoples' Rights Decision (May 29, 2003) [*ACHPR Communication 157/96*]; 383/10 Mohammed Abdullah Saleh Al-Asad v. the Republic of Djibouti, African Commission on Human and Peoples' Rights Decision (Oct. 14, 2014) [*ACHPR Communication 383/10*]; African Commission on Human and Peoples' Rights, *General Comment No. 3 on the African Charter on Human and Peoples' Rights: The Right to Life (Article 4)*, 18 November 2015 [*General Comment No. 3*]; see also Anne Oloo & Wouter Vandenhoe, “Enforcement of extraterritorial human rights obligations in the African human rights system,” in *The Routledge Handbook on Extraterritorial Human Rights Obligations*, p. 142 (2021).

657 African Commission on Human and Peoples' Rights, *General Comment No. 3*, see above note 656, para. 14 (“A State shall respect the right to life of individuals outside its territory. A State also has certain obligations to protect the right to life of such individuals. The nature of these obligations depends for instance on ... whether the State engages in conduct which could reasonably be foreseen to result in any unlawful deprivation of life.”); see also Lilian Chenwi & Takele Soboka Bulto, *Extraterritorial Human Rights Obligations from an African Perspective*, p. 38 (Sept. 2018).

military involvement in Tigray after November 2020,⁶⁵⁸ this analysis seeks to assess the likelihood, as a general matter, that Eritrean forces have engaged in conduct that violated its extraterritorial obligations to respect basic human rights in Tigray.⁶⁵⁹ The goal of this assessment is to identify areas that need further, fact-specific investigation of Eritrea's involvement. Particularly in parts of Eastern, Central, and North Western Tigray, Eritrean troops have reportedly controlled territory for extended periods of time since November 2020⁶⁶⁰ and may have exercised government-like authority over civilians.⁶⁶¹ Journalists have described Irob *woreda* of Eastern Tigray, for example, as "under total control of Eritrean forces who crossed into Ethiopia"⁶⁶² and as "effectively ... annexed by Eritrea, which is treating it [Irob] as part of its territory."⁶⁶³

Given disagreement about the extent to which states have positive obligations to individuals under their effective control when acting extraterritorially,⁶⁶⁴ the analysis in this study focuses on Eritrea's obligations to refrain from arbitrarily depriving people of life⁶⁶⁵ and to refrain from interfering with the enjoyment of economic rights, especially the minimum core elements of those rights, while its forces are in Ethiopia.⁶⁶⁶ As the CESCR set out in its General Comment No. 24, the extraterritorial

658 See generally "US, EU warn of influx of Eritrean troops in Ethiopia's Tigray," *Al Jazeera* (Aug. 25, 2021), <https://www.aljazeera.com/news/2021/8/25/us-eu-influx-eritrea-troops-ethiopia-tigray>; Mesfin Hagos, "Eritrea's Role in Ethiopia's Conflict and the Fate of Eritrean Refugees in Ethiopia," *World Peace Foundation* (Dec. 4, 2020), <https://sites.tufts.edu/reinventingpeace/2020/12/04/eritreas-role-in-ethiopia-conflict-and-the-fate-of-eritrean-refugees-in-ethiopia/>.

659 See above notes 653-657.

660 See, e.g., Emma Farge, "U.N. expert says Eritrea has 'effective control' in parts of Tigray," *Reuters* (Jun. 22, 2021), <https://www.reuters.com/world/africa/un-expert-says-eritrea-has-effective-control-parts-tigray-2021-06-22/>; Elbagir, Arvanitidis & Mackintosh, "Eritrean troops blocking critical aid," see above note 616. A report by the Dutch government also said that Eritrea controlled Hitsats and Shimelba refugee camps and found that Ethiopian federal forces had little influence over areas controlled by Eritrean troops, who "[took] no notice of anyone and [did] things their own way." Ministerie van Buitenlandse Zaken, Thematic Country of Origin Information Report on Tigray 2021 (Aug. 2021), <https://www.government.nl/binaries/government/documenten/reports/2021/08/31/thematic-country-of-origin-information-report-on-tigray-2021/Thematic+Country+of+Origin+Information+Report+on+Tigray+2021.pdf>.

661 The criteria used to evaluate whether armed forces exercise government-like authority over an area typically include control over movement, the use of force, and the provision of public services. See Antal Berkes, "The Human Rights Obligations of Non-state Actors," in Berkes, *International Human Rights Law Beyond State Territorial Control* (2021).

662 "News: Tigray opposition party pleads for release of chairman detained for over fifteen months," *Addis Standard* (Apr. 14, 2022), <https://addisstandard.com/news-tigray-opposition-party-pleads-for-release-of-chairman-detained-for-over-fifteen-months/>.

663 "Tiny ethnic group fears extinction as Tigray war enters 6th month," *Al Jazeera* (May 4, 2021), <https://www.aljazeera.com/news/2021/5/4/tiny-ethnic-group-fears-extinction-as-tigray-war-enters-6th-month>. However, other reports have indicated that "Ethiopian authorities" continued to perform at least some administrative functions, like the distribution of humanitarian relief, in Irob after November 2020. See Cara Anna, "'We'll be left without families': Fear in Ethiopia's Tigray," *Associated Press* (Feb. 11, 2021), <https://apnews.com/article/world-news-eritrea-ethiopia-kenya-e84fo72e2fo8e542652b8f4daco9a3f8>.

664 Gilles Giacca, *Economic, Social, and Cultural Rights in Armed Conflict*, p. 129 (2014), <https://oxford.universitypressscholarship.com/view/10.1093/acprof:oso/9780198717447.001.0001/acprof-9780198717447-chapter-4>. See also Sigrun I. Skogly & Mark Gibney, "Economic Rights and Extraterritorial Obligations," in *Economic Rights: Conceptual, Measurement, and Policy Issues*, pp. 277-9 (2009).

665 See above notes 656-657.

666 African Commission on Human and Peoples' Rights, *Implementation of Economic, Social and Cultural Rights*, see above note 640, para. 86. See also Sigrun I. Skogly & Mark Gibney, "Economic Rights and Extraterritorial Obligations," in *Economic Rights: Conceptual, Measurement, and Policy Issues*, p. 278 (2009) (discussing the CESCR's recognition of extraterritorial obligations to respect the minimum core contents of economic rights in its General Comments Nos. 12, 14, and 8, as well as states' implied duty, as part of the obligation to promote universal respect for human rights under Articles 55 and 56 of the UN Charter, to refrain from adversely affecting the enjoyment of economic rights in other states).

obligation to respect economic rights requires, at a minimum, that parties to the ICESCR “refrain from interfering directly or indirectly with the enjoyment of the Covenant rights by persons outside their territories.”⁶⁶⁷

As part of its international legal obligation to ensure that human rights are continuously respected⁶⁶⁸ and to protect the rights of everyone within its territory,⁶⁶⁹ Ethiopia must investigate, punish, and ensure redress for human rights violations committed on its territory.⁶⁷⁰ These obligations extend to conduct by its own forces, allied forces, and private individuals or non-state actors within Ethiopia’s jurisdiction.⁶⁷¹

(a) *Right to life*

The ICCPR and the African Charter guarantee the right to life.⁶⁷² The right to life is non-derogable⁶⁷³ and applies to states acting extraterritorially when they have effective control over territory or persons.⁶⁷⁴

People cannot survive without food, and the right to life entails an obligation to protect and respect the right to food.⁶⁷⁵ In its General Comment No. 36 on the right to life, the UN Human Rights Committee, the body established by the International Covenant on Civil and Political Rights to monitor compliance with and interpret the treaty, said that, as part of the duty to protect life, “States parties should take appropriate measures to address the general conditions in society that may give rise to

667 Committee on Economic, Social and Cultural Rights, *General comment No. 24*, see above note 653.

668 See generally Geneva Academy, *State Responsibility for Human Rights Violations Committed in the State’s Territory by Non-State Actors*, p. 10 (Dec. 2018) (“As subjects of international law, states are under an obligation to ensure that the treaties to which they are a party, and customary international law, are respected. Failure to do so will engage that state’s responsibility.”).

669 See generally Stephanie Farrior & Brice Clagett, “State Responsibility for Human Rights Abuses by Non-State Actors,” *Proceedings of the Annual Meeting (American Society of International Law)* 92, p. 301 (Apr. 1998).

670 See generally UN General Assembly, Resolution 60/147: UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, UN Doc. A/RES/60/147 (Mar. 21, 2006); UN Special Procedures, *Joint Statement by independent United Nations human rights experts* on human rights responsibilities of armed non-State actors* (Feb. 25, 2021), <https://www.ohchr.org/en/press-releases/2021/02/joint-statement-independent-united-nations-human-rights-experts-human-rights>.

671 UN Office of the High Commissioner for Human Rights, *Human Rights in Armed Conflict*, see above note 634, p. 17.

672 ICCPR, see above note 627, at art. 6; Organization of African Unity (OAU), African Charter on Human and Peoples’ Rights (“Banjul Charter”), 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58, art. 4 (1982).

673 ICCPR, see above note 627, at art. 4(2).

674 See generally Goldman, “Extraterritorial Application,” see above note 655.

675 Committee on Economic, Social, and Cultural Rights, *General Comment No. 12: The Right to Adequate Food (Art. 11)*, UN Doc. E/C.12/1999/5 (1999) [*General Comment No. 12*]. See also UN General Assembly, “Interim report of the Special Rapporteur on the right to food,” UN Doc. A/72/188 (Oct. 23, 2017), para. 52, <https://reliefweb.int/report/world/interim-report-special-rapporteur-right-food-a72188>; Office of the High Commissioner for Human Rights, *Fact Sheet No. 34: The Right to Adequate Food*, p. 5 (2010), <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet34en.pdf> [*Right to Adequate Food*].

direct threats to life ... [including] hunger and malnutrition.”⁶⁷⁶ In at least some circumstances, then, the right to life can give rise to a binding obligation to respect and protect the right to food.⁶⁷⁷

The African Commission has specifically said that security forces’ destruction of the “land and farms” that sustain individuals and communities, especially with “the direct involvement of the govern-

As part of its international legal obligation to ensure that human rights are continuously respected and to protect the rights of everyone within its territory, Ethiopia must investigate, punish, and ensure redress for human rights violations committed on its territory.

ment,” constitutes a violation of the right to life under the African Charter.⁶⁷⁸ Various international human rights mechanisms have found that intentionally inflicting starvation upon a person or group violates the right to life – in particular, but not only, if a person dies as a result⁶⁷⁹ – as well as the right to freedom from cruel or inhuman treatment.⁶⁸⁰

The UN Human Rights Committee has explained, in its General Comment No. 36, that the human right to life, while non-derogable, is not absolute.⁶⁸¹ International law requires that no one be arbitrarily deprived of the right to life. In general, the use of lethal force consistent with IHL

is not arbitrary. According to the Human Rights Committee, “a deprivation of life that lacks a legal basis or is otherwise inconsistent with life-protecting laws and procedures is, as a rule, arbitrary in nature”⁶⁸² and, therefore, a violation of the right to life.

Ethiopia and its allies have violated the right to life in Tigray, an agrarian society in which millions of people depend on agriculture to survive.⁶⁸³ After the war began on November 4, 2020, members of the ENDF, EDF, and other allied forces extensively attacked crops, food stores, and other important food sources throughout Tigray.⁶⁸⁴ Deaths resulting from Ethiopian and allied forces’ violations of IHL prohibitions – which, as discussed above, included looting and destroying objects indispensable

676 UN Human Rights Committee, *General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life*, UN Doc. CCPR/C/GC/36, para. 10 (2018) [*General comment No. 36*].

677 Stuart Casey-Maslen & Christof Heyns, “Poverty and Starvation,” in *The Right to Life under International Law: An Interpretative Manual* (2021) [“Poverty and Starvation”].

678 155/96 : Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) / Nigeria, ACHPR Decision, para. 67 [SERAC v. Nigeria]. The SERAC communication did not require the Commission to analyze attacks on food sources in the context of armed conflict.

679 Casey-Maslen & Heyns, “Poverty and Starvation,” *see above* note 677, at 294.

680 *See, e.g.*, Yekaterina Pavlovna Lantsova v. Russia Views, UN doc. CCPR/C/74/D/763/1997 (Apr. 15, 2002), para. 9.2; Yakye Axa Indigenous Community v. Paraguay, Merits, Reparations and Costs, Judgment, Inter-American Court of Human Rights, paras. 176, 177, 178 (Jun. 17, 2005); Nencheva and others v. Bulgaria, Judgment (Fourth Section), European Court of Human Rights (Jun. 18, 2013) (as rendered final on Dec. 16, 2013).

681 UN Human Rights Committee, *General Comment No. 36*, *see above* note 676.

682 *Id.* at para. 11.

683 As noted earlier in this report, this analysis discusses warring-party conduct only as it relates to food security and starvation. The report does not comment on other potential violations of the right to life in Tigray.

684 *See above* Warring-Party Conduct, section 1(a-c).

to the survival of civilians, using unlawful siege tactics, and obstructing humanitarian aid⁶⁸⁵— are arbitrary, and, thus, constitute violations of the right to life under the African Charter and the ICCPR. In cases where Eritrean troops effectively controlled the territory or persons in question, such deaths would constitute violations of Eritrea’s obligation to respect the right to life in Tigray.⁶⁸⁶ Where the conduct of Eritrean troops outside its own territory could have been reasonably expected to cause the arbitrary deprivation of life, Eritrea likely violated its obligation to respect the right to life under the African Charter.⁶⁸⁷

(b) *Right to food*

Several international human rights instruments protect the right to food, a term that encompasses both the right to adequate food⁶⁸⁸ and the fundamental right to be free from hunger.⁶⁸⁹ The 1948 Universal Declaration of Human Rights recognizes the right to food as part of the right to an adequate standard of living.⁶⁹⁰ Article 11 of the International Covenant on Economic, Social and Cultural Rights enshrines “the right of everyone to an adequate standard of living for himself and his family, including adequate food” (Article 11.1) and “the fundamental right of everyone to be free from hunger” (Article 11.2).⁶⁹¹

In the African regional system, although the African Charter does not explicitly protect the right to food, the African Commission on Human and Peoples’ Rights explained in *SERAC & CESR v. Nigeria* that the right to food is inherent in the Charter’s protection of the rights to life (Article 4), health (Article 16), and economic, social and cultural development (Article 22).⁶⁹² The African

Commission has also said that, under Article 4 of the African Charter, articulating the right to life, states must take “preventive steps” and provide “humanitarian responses” to avert famine.⁶⁹³

Deaths resulting from Ethiopian and allied forces’ violations of international humanitarian law prohibitions are arbitrary, and, thus, constitute violations of the right to life under the African Charter and the ICCPR.

685 See above Legal Analysis, section 1(a-c).

686 See generally Goldman, “Extraterritorial Application,” see above note 655.

687 African Commission on Human and Peoples’ Rights, see above note 657 (explaining that the nature of a state’s obligations to respect the right to life of individuals outside its territory depends on the state’s effective control of territory or persons, “or whether the State engages in conduct which could reasonably be foreseen to result in an unlawful deprivation of life” (emphasis added)).

688 Committee on Economic, Social, and Cultural Rights, *General Comment No. 12*, see above note 675, para. 1.

689 ICESCR, see above note 628, at art. 11.1.

690 Universal Declaration of Human Rights, adopted by General Assembly Resolution 217 A(III) of Dec. 10, 1948, UN Doc. A/RES/217(III), at art. 25. See also UN Office of the High Commissioner for Human Rights, *Right to Adequate Food*, see above note 675, p. 1.

691 ICESCR, see above note 628, at art. 11.2.

692 *SERAC v. Nigeria*, see above note 678, at paras. 64–66.

693 African Commission on Human and Peoples’ Rights, *General Comment No. 3*, see above note 656, para 3.

Like any other human right, the right to food imposes three obligations on states: the obligations to *respect*, to *protect*, and to *fulfill* the right to food.⁶⁹⁴ The obligation to respect the right to food prohibits states from taking any measures that disrupt existing access to adequate food.⁶⁹⁵ The obligation to protect obliges states to ensure that private actors, including corporations, individuals, and non-state armed groups, do not deprive individuals of their access to adequate food.⁶⁹⁶ The obligation to fulfill requires that states take positive measures to ensure that food is available and accessible.⁶⁹⁷ During armed conflicts and other emergencies, governments have a duty to use all available resources, including humanitarian assistance, to feed people who are unable to feed themselves.⁶⁹⁸ States might, therefore, violate the right to food under the ICESCR through direct action, including any actions that “unduly hinder” the exercise of economic activities,⁶⁹⁹ or through omissions, such as failing to make adequate efforts to fulfill the right to food or insufficiently regulating non-state entities.⁷⁰⁰

Attacks by the ENDF and its allies on crops, agricultural areas, household food stores, and other important food sources represent likely violations by Ethiopia of its legal obligation to respect the right to food.

Even in times of crisis, states must provide access to minimum levels of nutritionally adequate food and must ensure freedom from hunger. As explained above, both the African Commission and the Committee on Economic, Social and Cultural Rights have set out minimum core obligations that every state must satisfy, in all circumstances, for everyone in its territory or under its effective control. By ratifying the ICESCR and the African Charter, Ethiopia has formally recognized its legal duty to respect, protect, and fulfill the human rights of every person within its jurisdiction during times of armed conflict or emergency.

The relationship between humanitarian law and human rights law in a non-international armed conflict is complex. They apply concurrently, but legal scholars and practitioners debate how and to what extent IHL, which provides the specialized rules applicable to situations of armed conflict, and IHRL, which is not displaced by IHL, operate together during armed conflict.⁷⁰¹ The analysis in this section principally concerns abuses of the minimum core contents of the right to food that states are obli-

694 See, e.g., Hutter, “Starvation in Armed Conflicts,” *see above* note 643.

695 African Commission on Human and Peoples’ Rights, *Implementation of Economic, Social and Cultural Rights*, *see above* note 640, at para. 86.

696 *Id.*

697 Hutter, “Starvation in Armed Conflicts,” *see above* note 643, p. 743.

698 *Id.*

699 UN Office of the High Commissioner for Human Rights, *Right to Adequate Food*, *see above* note 675, p. 17.

700 *Id.*

701 See generally International Committee of the Red Cross, *How Does Law Protect in War? Lex specialis*, <https://casebook.icrc.org/glossary/lex-specialis> (last visited Sept. 27, 2022). See also Amrei Müller, *The Relationship between Economic, Social and Cultural Rights and International Humanitarian Law* (2013); Deborah Perlstein, “IHL and International Human Rights Law in Non-International Armed Conflict,” *Opinio Juris* (May 31, 2011), <http://opiniojuris.org/2011/05/31/ihl-and-international-human-rights-law-in-non-international-armed-conflict/>.

gated to satisfy at all times, including during emergencies and armed conflict. In addition, attacks on foodstuffs and other essential items that would jeopardize civilians' freedom from hunger are justified by IHL only in exceptional circumstances, if at all.⁷⁰²

Publicly available information clearly suggests that, in Tigray, the Ethiopian government has violated its obligations to respect, protect, and fulfill the minimum core contents of the right to food. First, the African Commission has clarified that states must, under the minimum core obligations doctrine, “refrain from and protect against destruction and/or contamination of food sources.”⁷⁰³ Similarly, the ICESCR prohibits any action by a state party to directly interfere with people's enjoyment of the right to food.⁷⁰⁴ Attacks by the ENDF and its allies on crops, agricultural areas, household food stores, and other important food sources thus represent likely violations by Ethiopia of its legal obligation to respect the right to food.⁷⁰⁵

Under IHRL, Ethiopia is obligated to respect *and* protect the rights of all people within its jurisdiction. This obligation compels Ethiopia to prevent other actors within its territory, including Eritrean troops, Fano militias, and private individuals, from violating the right to food.⁷⁰⁶

By failing to make every effort to use existing resources, including international assistance, to ensure that civilians in Tigray remain free from hunger, the Ethiopian government has also likely violated its obligation to fulfill the right to food.⁷⁰⁷ Under IHRL, when, for reasons beyond their control, people are unable to feed themselves, states have an obligation to directly provide individuals in need with

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702 See the discussion of Article 14's “for that purpose” requirement in Legal Analysis 2(a). Federica D'Alessandra & Matthew Gillett, *The war crime of starvation in non-international armed conflict*, p. 11 (2019); Sandoz et al., *Commentary*, see above note 538, at para. 4806.

703 African Commission on Human and Peoples' Rights, *Implementation of Economic, Social and Cultural Rights*, see above note 640, at para. 86.

704 Hutter, “Starvation in Armed Conflicts,” see above note 643, p. 737. See also Committee on Economic, Social, and Cultural Rights, *General Comment No. 12*, see above note 675, at para. 15.

705 In the African regional system, warring parties' alleged use of indiscriminate shelling, air strikes, or land mines—which can cause environmental degradation and health problems—could also represent violations of the obligation not to contaminate food, although any such technical determinations are beyond the scope of this analysis. *SERAC v. Nigeria*, see above note 678, at para. 65.

706 Maastricht University & the International Commission of Jurists, *Maastricht Principles*, see above note 653, at paras. 9, 23, 25. In cases where Eritrean troops “act[ed] on the instructions or under the direction or control of” the Ethiopian state, the ensuing violations could be attributable to Ethiopia as a failure to respect, rather than protect, the right to food. *Id.*, para. 12. States may be held responsible for the “result[s] of conduct attributable to a State, acting separately or jointly with other States or entities, that constitutes a breach of its international human rights obligations” (emphasis added). *Id.*, at para. 11.

707 See above Warring-Party Conduct, section 3(a).

access to adequate food.⁷⁰⁸ As the Committee on Economic, Social and Cultural Rights has explained, wherever people lack access to the minimum essential elements of a particular right, a state “must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.”⁷⁰⁹ The African Commission has said that, as a minimum core obligation of the right to food, states must “take the necessary action to guarantee the right of everyone to be free from hunger and to mitigate and alleviate hunger even in times of natural or other disasters.”⁷¹⁰

In Tigray, armed conflict and forced displacement have left more than 90% of the civilian population in need of emergency food assistance.⁷¹¹ Determining whether the Ethiopian government has met its obligation to fulfill the right to food requires evaluating whether it has taken the necessary action to try to provide access to food to all people in Tigray who are unable to feed themselves. There is overwhelming evidence that Ethiopia has violated its obligation to fulfill the right to food.

First, although the Ethiopian government made use of some of its available domestic resources to attempt to meet its minimum core obligations to people in Tigray, federal emergency aid was never sufficient to meet humanitarian need in Tigray. Between December 2020 and June 2021, the Ethiopian government provided food aid to Tigray via the National Disaster Risk Management Commission (NDRMC). In December 2020, the NDRMC worked jointly with the United Nations to assess humanitarian need in Southern Tigray. The federal government appointed an interim administration in Tigray that took limited actions to meet peoples’ basic needs.⁷¹² But, as of mid-March 2021, people in rural areas of Tigray had not received any food aid, whether federal or international, in five months,⁷¹³ and some 75% of internally displaced people in Mekelle had not received any food assistance.⁷¹⁴ From June 2021 until the end of 2022, the Ethiopian government stopped providing food aid directly to civilians in Tigray.⁷¹⁵

Rather than attempting to justify its actions or omissions on the basis of resource constraints, the Ethiopian government has chosen to deny the existence and severity of the crisis in Tigray and to offer inflated claims about the federal government’s response. On March 17, 2021, for example, a

708 Hutter, “Starvation in Armed Conflicts,” *see above* note 643, p. 737.

709 Committee on Economic, Social and Cultural Rights, *General Comment No. 3*, *see above* note 638, para. 10.

710 African Commission on Human and Peoples’ Rights, *Implementation of Economic, Social and Cultural Rights*, *see above* note 640, para. 86(a).

711 *See above* Overview, section 2.

712 Lowenstein Clinic interview with a former interim administration official, April 2022.

713 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 4 (Mar. 8, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-8-march-2021>.

714 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, pp. 2, 5 (Feb. 20, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-19-february-2021>. *See also* Jan Nyssen et al., “Atlas of the humanitarian situation,” *see above* note 276, p. 49; UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Tigray Region Humanitarian Update Situation Report*, p. 4 (May 20, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-20-may-2021>.

715 *See above* Warring-Party Conduct, section 3(a). *See also above* A Note on the Cessation-of-Hostilities Agreement.

Ministry of Foreign Affairs spokesperson announced that “about 4.2 million citizens [in Tigray] have been reached through the relief and the rehabilitation process” and that the government was covering 70% of food assistance from its own resources.⁷¹⁶ Prime Minister Abiy also claimed, at various times, that “there is no hunger in Tigray”⁷¹⁷ and that the federal government spent 100 billion *birr* – an enormous sum that would amount to approximately 20% of Ethiopia’s overall annual budget – on food aid and infrastructural projects in Tigray over eight months.⁷¹⁸

Second, even if the Ethiopian government could demonstrate that its own resources were insufficient to prevent hunger in Tigray, Ethiopia still almost certainly violated the right to food in Tigray, since the federal government has failed to make use of international assistance. As the CESCR

outlined in its General Comment No. 12, the burden is on the Ethiopian government to prove it had “unsuccessfully sought to obtain international support to ensure the availability and accessibility of the necessary food.”⁷¹⁹

It would be difficult for the Ethiopian government to demonstrate that it was unable, rather than unwilling, to obtain international support for its citizens in Tigray. Throughout the armed conflict, humanitarian organizations have made many requests, repeatedly denied, both by federal and regional government officials, to deliver aid.⁷²⁰ The federal government has suspended several widely respected international humanitarian organizations, expelled high-ranking UN officials, and publicly accused humanitarian relief workers of supplying Tigrayan armed forces.⁷²¹ In Afar region and throughout Tigray, Ethiopian and allied forces have actively obstructed the delivery of aid, including

Rather than attempting to justify its actions or omissions on the basis of resource constraints, the Ethiopian government has chosen to deny the existence and severity of the crisis in Tigray and to offer inflated claims about the federal government’s response.

716 Government of Ethiopia, *Gov’t reaches 4.2 million relief beneficiaries in Tigray* (Mar. 16, 2021), <https://reliefweb.int/report/ethiopia/gov-t-reaches-42-million-relief-beneficiaries-tigray>; see also “Amhara Region Places Two Billion Br in War Recompense,” *Addis Fortune* (May 30, 2021), <https://addisfortune.news/amhara-region-places-two-billion-br-in-war-recompense/>.

717 “Ethiopia’s Abiy Ahmed: ‘There is no hunger in Tigray,’” *BBC News* (Jun. 21, 2021), <https://www.bbc.com/news/av/world-africa-57551057>.

718 Vivienne Nunis, “Ethiopia’s Tigray crisis: Rebel resurgence raises questions for Abiy Ahmed,” *BBC News* (Jul. 3, 2021), <https://www.bbc.com/news/world-africa-57693784>. See also “Government Invests Over 100 Billion Birr For Rebuilding, Rehabilitation Efforts In Tigray: PM,” *Fana Broadcasting Corporate S.C.* (Jun. 30, 2021), <https://www.fanabc.com/english/government-invests-over-100-billion-birr-for-rebuilding-rehabilitation-efforts-in-tigray-pm/>.

719 Committee on Economic, Social, and Cultural Rights, *General Comment No. 12*, see above note 675, para. 17.

720 See above Warring-Party Conduct, section 3(a). See also Human Rights Watch, “*I Always Remember That Day*,” see above note 97.

721 See above Warring-Party Conduct, section 3(a).

at checkpoints or via airstrikes.⁷²² Ethiopian and allied forces have consistently harassed, attacked, or expelled humanitarian relief workers.⁷²³

Throughout its siege of Tigray, and especially after July 2021, the federal government has limited the provision of humanitarian assistance by international organizations to such a severe extent that, at various times – including in early October 2021 and early January 2022 – humanitarian organizations in Tigray were distributing food to just 1% of the estimated 5.2 million people in need.⁷²⁴ Human Rights Watch concluded in November 2021: “The [Ethiopian] government is unlawfully restricting and denying desperately needed food, medical supplies, and fuel to the population of Tigray.”⁷²⁵

The Ethiopian federal government’s denial of international humanitarian assistance has also likely violated the African Commission’s minimum core obligation to “refrain from using access to food as a political tool to reward supporters, punish opponents or recruit militias.”⁷²⁶ In January 2022, Prime Minister Abiy reportedly told members of an Ethiopian-American organization that the government needed time to “force” the people of Tigray to reconsider their alleged support for the TPLF: “They want the population to push the TPLF to negotiate,” the diaspora group’s chairperson reported.⁷²⁷ If further investigations substantiate the allegation that the Abiy government restricted humanitarian food aid as part of a calculated decision to punish supporters of its political opponents in Tigray, it would show that Ethiopia violated the African Charter’s prohibition on using food as a political tool.

Where Eritrea had obligations to respect the right to food in Tigray, there is substantial evidence indicating that Eritrea violated those obligations. Publicly available information demonstrates that Eritrea has repeatedly failed, in the words of the African Commission, to “refrain from and protect against [the] destruction and/or contamination of food sources” while its forces have been present in Ethiopia.⁷²⁸ As outlined above in the Warring-Party Conduct section, many of the aforementioned attacks on food sources in Tigray were committed by Eritrean forces, who reportedly acted in concert with the ENDF and other allied forces, including Fano militias, in some circumstances and independently in others.⁷²⁹ Although states’ extraterritorial obligations to respect the right to food in territory in

722 *Id.* See also “U.N. plane aborts landing as air strike hits Ethiopia’s Tigray,” *Reuters* (Oct. 23, 2021), <https://www.reuters.com/world/africa/rebellious-tigrayan-forces-say-ethiopia-government-carried-out-air-strike-2021-10-22/>.

723 See above Warring-Party Conduct, section 3(a-b).

724 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 8 (Oct. 21, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-22-oct-2021>.

725 Human Rights Watch, “*I Always Remember That Day*,” see above note 97. See also UN Human Rights Council, *Report of the International Commission of Human Rights Experts on Ethiopia*, see above note 111, para. 96.

726 African Commission on Human and Peoples’ Rights, *Implementation of Economic, Social and Cultural Rights*, see above note 640, para. 86 (2011).

727 “Diaspora group: Ethiopia PM open to talks with Tigray,” *Associated Press* (Jan. 25, 2022), <https://apnews.com/article/middle-east-africa-kenya-ethiopia-abiy-ahmed-58a3cac735080e11aa48e1253980457f>. See also Jan Nyssen et al., “Atlas of the humanitarian situation,” see above note 276, p. 62 (citing reports that federally appointed authorities in Tigray used food aid as a political tool to incentivize membership in the Prosperity Party).

728 African Commission on Human and Peoples’ Rights, *Implementation of Economic, Social and Cultural Rights*, see above note 640, para. 86. See also Warring-Party Conduct, section 1(a).

729 See above Warring-Party Conduct, section 1(a).

which its forces operate are less firmly established than their duty to respect the right to life,⁷³⁰ Eritrea has likely violated the right to food of people in Tigray. The African Commission has yet to explain precisely when and to what extent states may be held responsible for extraterritorial violations of economic rights, like the right to food.⁷³¹ The Committee on Economic, Social and Cultural Rights has discussed states' extraterritorial obligations regarding the right to food under the ICESCR using only recommendatory, rather than binding, language.⁷³²

(c) *Right to water*

The right to water is both a right in and of itself⁷³³ and an essential requirement for the enjoyment of other rights, including the right to food, the right to the highest attainable standard of health, and the right to life.⁷³⁴ The Committee on Economic, Social and Cultural Rights has said that the right to water should be understood as inseparable from other fundamental human rights, including “the right to life and human dignity.”⁷³⁵ In the same way that governments must make every effort to ensure that, as a matter of priority, minimum essential levels of adequate food are accessible to everyone,⁷³⁶ governments have a core obligation to ensure access to minimum essential amounts of safe drinking water.

First, under the African Charter, states have a duty to refrain from any actions that deprive people of minimum essential amounts of safe water needed for survival. This duty is non-derogable: No circumstances, including armed conflict, can justify a state's non-compliance with its minimum core obligations.⁷³⁷ The African Commission stated categorically in its 2020 Guidelines on the Right to Water in Africa, “Under no circumstances may an individual be deprived of the minimum essential

730 See generally Ralph Wilde, “Socioeconomic Rights, Extraterritorially,” in *Community Interests Across International Law* p. 382 (2018) (“The push toward the affirmation and delineation of extraterritorial human rights treaty obligations can be seen perhaps to have been most prominent and developed in the field of civil and political rights, when this set of rights is compared with economic, social, and cultural rights.”).

731 In the DRC v. Burundi, Rwanda and Uganda case, the Commission's legal analysis of the “looting of the [Congolese] peoples' possessions” by members of the armed forces of Uganda, Rwanda, and Burundi was predicated on those states' “[territorial] occupation of the eastern provinces” of the DRC. *ACHPR Communication 227/99*, see above note 656, paras. 69, 72. In a case concerning Kenya, Uganda, Rwanda, Tanzania, and Zaire's economic sanctions on Burundi, the Commission implied that the imposition of an economic embargo could, in some circumstances, constitute a violation of a state's extraterritorial obligation to respect economic rights, but the Commission did not find such a violation in the Burundi case. *ACHPR Communication 157/96*, see above note 656, para. 75.

732 Committee on Economic, Social and Cultural Rights, *General Comment No. 12*, see above note 675, para. 32 (“States parties *should* take steps to respect the enjoyment of the right to food in other countries, to protect that right, to facilitate access to food and to provide the necessary aid when required.”) (emphasis added).

733 Resolution adopted by the General Assembly on 28 July 2010 [without reference to a Main Committee (A/64/L.63/Rev.1 and Add.1)] 64/292. The human right to water and sanitation.

734 See, e.g., Stuart Casey-Maslen & Christof Heyns, “Poverty and Starvation,” in *The Right to Life under International Law: An Interpretative Manual* (2012).

735 Committee on Economic, Social and Cultural Rights, *General Comment No. 15: The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights)*, UN doc. E/C.12/2002/11, para. 3 (2003) [*General Comment No. 15*].

736 Committee on Economic, Social and Cultural Rights, *General Comment No. 3*, see above note 638, para. 10.

737 African Commission on Human and Peoples' Rights, *Implementation of Economic, Social and Cultural Rights*, see above note 640, para. 17.

amount of water for basic human needs and survival.⁷³⁸ Moreover, under the African Commission’s jurisprudence, including in *SERAC v. Nigeria*, states also have a duty to protect people within their jurisdiction from any such acts of deprivation by others.⁷³⁹

Ethiopia has violated its minimum core obligation not to interfere with the enjoyment of the right to water in Tigray. Many of the acts of looting and destruction of hand pumps, mechanized pumps, and other water sources that were essential to meeting the needs of civilians, described above in the Warring-Party Conduct section, are attributable to Ethiopian and allied forces and likely constitute violations of the right to water.

Both by depriving people of access to water and by failing to facilitate the provision of water, Ethiopia has failed to meet its minimum core obligations regarding the right to water.

Second, as the CESCR set out in its General Comment No. 15, governments have an obligation, even in times of crisis, “[t]o ensure access to the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease.”⁷⁴⁰ The Committee has been quite clear: Whenever Covenant obligations are not met, the burden is on the state to prove “that every effort has nevertheless been made to use *all available resources at its disposal* in order to satisfy, as a matter of priority, the obligations outlined above” (emphasis added).⁷⁴¹ As with the right to food, this duty includes an obligation to make use of international assistance.⁷⁴² The Committee has stressed that, unless it can satisfy this very rigorous burden of persuasion, “a State party cannot justify its non-compliance” with its core obligations regarding the right to water, “which are non-derogable.”⁷⁴³

In its 2020 Guidelines on the Right to Water in Africa, the African Commission defined even more explicitly the obligations of states to provide, or facilitate the provision of, water in areas affected by armed conflict. The Commission stated:

Following an emergency situation such as a natural disaster or armed conflict, States shall adopt an effective response plan to ensure that people have access to minimum

738 To define “minimum,” the ACHPR Guidelines adopt the absolute minimum threshold, as determined by the WHO, of 20 liters per person per day. See ACHPR Guidelines on the Right to Water in Africa, *see above* note 636, p. 10.

739 *SERAC v. Nigeria*, *see above* note 678, para. 50.

740 Committee on Economic, Social and Cultural Rights, *General Comment No. 15*, *see above* note 735, para. 37(a).

741 *Id.*, para. 41.

742 *Id.*, para. 44(c) (“Violations of the obligation to fulfil occur through the failure of States parties to take all necessary steps to ensure the realization of the right to water. Examples include, inter alia: ... (v) failure to adopt mechanisms for emergency relief; (vi) failure to ensure that the minimum essential level of the right is enjoyed by everyone; (vii) failure of a State to take into account its international legal obligations regarding the right to water when entering into agreements with other States or with international organizations.”); *see also* Committee on Economic, Social and Cultural Rights, *General Comment No. 3*, *see above* note 638, para. 10; Committee on Economic, Social and Cultural Rights, *General Comment No. 8: The relationship between economic sanctions and respect for economic, social and cultural rights*, UN Doc E/C.12/1997/8 (Dec. 12, 1997), para. 14.

743 Committee on Economic, Social and Cultural Rights, *General Comment No. 15*, *see above* note 735, para. 40.

quantities of safe water and basic sanitation without discrimination and to facilitate the provision of aid to vulnerable and affected persons where necessary.⁷⁴⁴

Both by depriving people of access to water and by failing to facilitate the provision of water, Ethiopia has failed to meet its minimum core obligations regarding the right to water. In Tigray, the joint humanitarian needs assessments by the United Nations and the NDRMC make clear that the Ethiopian government was aware, as of December 2020, that significant numbers of civilians in Tigray had insufficient or no access to safe water and that many were forced to fetch water from unprotected sources.⁷⁴⁵ Yet the government continued to restrict access to water in Tigray by curtailing the delivery of humanitarian fuel supplies needed to operate mechanized pumps, deliver tanks of safe drinking water, and distribute water treatment systems.⁷⁴⁶ Fuel shortages have been so severe that at various points in the conflict, humanitarian organizations in Tigray had to halt operations entirely.⁷⁴⁷

Ethiopia also has a core obligation to ensure access to water facilities or services, including a sufficient number of water outlets that are at reasonable distances from people's households and that do not require prohibitive waiting times – as MSF teams reported witnessing, for example, in excessive queues at water sources in Adigrat.⁷⁴⁸ The reported attacks by Ethiopian and allied armed forces on water facilities and services in Tigray, including the looting and destruction of water facilities,⁷⁴⁹ almost certainly constitute violations of the core obligation to ensure access to water.

Where Eritrea had effective control over territory or persons in Tigray,⁷⁵⁰ Eritrea likely violated its obligation to respect the minimum core elements of the right to water by directly interfering, through the looting and destruction of household items and water points,⁷⁵¹ with the enjoyment of the right to water in Tigray.⁷⁵² The Committee on

Where Eritrea had effective control over territory or persons in Tigray, Eritrea likely violated its obligation to respect the minimum core elements of the right to water by directly interfering, through the looting and destruction of household items and water points, with the enjoyment of the right to water in Tigray.

744 ACHPR Guidelines on the Right to Water in Africa, *see above* note 636, para. 30.1.

745 Government of Ethiopia – National Disaster Risk Management Commission, *Joint Rapid Needs Assessment Mission*, *see above* note 28, pp. 4-5.

746 *See above* Warring-Party Conduct, sections 2(c), 3(a).

747 *See, e.g.*, UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report* (Jan. 20, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-20-january-2022>.

748 Committee on Economic, Social and Cultural Rights, *General Comment No. 15*, *see above* note 735, para. 37(c).

749 *See above* Warring-Party Conduct, section 1(b).

750 For a discussion of available information concerning the reported extent of Eritrea's effective control of territory or persons in Tigray, *see above* notes 658-663.

751 *See above* Warring-Party Conduct, section 1(b).

752 Acts of looting or destruction of water-supply systems and equipment by Eritrean forces could, depending on the circumstances in question, constitute violations of the right to water by Eritrea, by Ethiopia, or both. As explained in the

Economic, Social and Cultural Rights has indicated that states should interpret their obligations to respect, protect, and fulfill the right to water as applicable to “all persons residing in the State party’s territorial jurisdiction or under their control.”⁷⁵³ Similarly, the African Commission has clarified that a state party to the African Charter must ensure that the right to water is realized for all persons “within its jurisdiction,” rather than limiting the scope of a state’s obligations to its national territory.⁷⁵⁴

(d) *Right to the highest attainable standard of health*

As with other economic and social rights, Ethiopia has a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of the right to health, as enshrined in Article 12 the ICESCR⁷⁵⁵ and Article 16 of the African Charter.⁷⁵⁶ The minimum core obligations of the right to health are non-derogable and continue to apply during armed conflict.⁷⁵⁷ Moreover, the Committee on Economic, Social and Cultural Rights has specified that, in the event that a state is not able to realize the minimum core contents of the right to health, whether due to armed conflict or other constraints, “it is particularly incumbent on States parties and other actors in a position to assist, to provide international assistance.”⁷⁵⁸ The Committee has also clarified that “[t]o comply with their international obligations in relation to article 12, States parties have to respect the enjoyment of the right to health in other countries,”⁷⁵⁹ especially when the minimum essential elements of the right to health are at stake.⁷⁶⁰ In Tigray, the near-total collapse of the regional health system has plainly jeopardized civilians’ access to many core elements of the right to health.⁷⁶¹

The minimum core contents of the right to health are well defined.⁷⁶² Since many violations of the right to health in Tigray are beyond the scope of this analysis, this section discusses specific elements of the minimum core contents of the right to health that directly relate to starvation.

Maastricht Principles, such determinations depend, among other things, on the extent of Eritrea’s effective control in Tigray and the nature of Ethiopia’s authority over Eritrean troops, or vice versa. Maastricht University & the International Commission of Jurists, *Maastricht Principles*, see above note 653, paras. 9, 11, 12.

753 Committee on Economic, Social and Cultural Rights, *General Comment No. 15*, see above note 735, para. 53.

754 ACHPR Guidelines on the Right to Water in Africa, see above note 636, para. 11.1.

755 ICESCR, see above note 628, at art. 12; see also Committee on Economic, Social, and Cultural Rights, *General Comment No. 12*, see above note 675.

756 Organization of African Unity (OAU), African Charter on Human and Peoples’ Rights (“Banjul Charter”), 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), art. 16.

757 See UN Office of the High Commissioner for Human Rights, Human Rights in Armed Conflict, see above note 634, pp. 110-11. See also International Committee of the Red Cross, Respecting and Protecting Health Care in Armed Conflicts and in Situations Not Covered by International Humanitarian Law (2021), <https://www.icrc.org/en/doc/assets/files/2012/health-care-law-factsheet-icrc-eng.pdf>.

758 Committee on Economic, Social, and Cultural Rights, *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)*, UN Doc. E/C.12/2000/4 (2000), at paras. 38, 45 [General Comment No. 14].

759 *Id.*, at para. 39.

760 *Id.*

761 See above Warring-Party Conduct, section 1(c).

762 Committee on Economic, Social and Cultural Rights, *General Comment No. 14*, see above note 758, para. 43 (“[I]n the Committee’s view, these core obligations include at least the following obligations: (a) To ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups; (b) To ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone; (c) To ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable

As discussed in the Warring-Party Conduct section above, malnutrition and poor sanitation substantially increase a person’s risk of illness and death from hunger or disease.⁷⁶³ Accordingly, the Committee on Economic, Social and Cultural Rights has said that to meet their minimum obligations regarding the right to health, states must, at the very least, “ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone.”⁷⁶⁴ States must also “ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water.”⁷⁶⁵ The African Commission has also confirmed that, under Article 16 of the African Charter, states have a minimum duty “to desist from directly threatening the health and environment of their citizens.”⁷⁶⁶

Ethiopia’s abuses of the rights to food and water, described above, also constitute violations of its obligations to refrain from threatening the health of its citizens.

Ethiopia has violated its minimum core obligations regarding the right to health. Ethiopia’s abuses of the rights to food and water, described above, also constitute violations of its obligations to refrain from threatening the health of its citizens and to ensure the realization of the minimum essential elements of the right to health. By obstructing humanitarian relief,⁷⁶⁷ attacking and harassing humanitarian relief workers,⁷⁶⁸ and creating shortages of cash, fuel, and electricity,⁷⁶⁹ Ethiopia has denied civilians adequate nutrition and freedom from hunger.

Where Eritrea had effective control over territory or persons in Tigray,⁷⁷⁰ Eritrea’s likely violations of the rights to food and water in Tigray, discussed above, would also constitute violations of its duty to respect the minimum essential elements of the right to health.

(e) *Human rights of particular groups*

International human rights law creates specific protections for particular groups, including women, children, and persons with disabilities. The doctrine of minimum core obligations requires states to prioritize the needs of vulnerable groups, including children and pregnant or lactating women, in

water; (d) To provide essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs; [and] (e) To ensure equitable distribution of all health facilities, goods and services; (f) To adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the whole population; ... ”). The Committee also lists various other “obligations of comparable priority,” including to ensure reproductive, maternal (prenatal as well as post-natal) and child health care and to take measures to prevent, treat, and control epidemic and endemic diseases. *Id.*, at para. 44.

⁷⁶³ See above Warring-Party Conduct, section 1(c).

⁷⁶⁴ *Id.*, at para. 43(b).

⁷⁶⁵ *Id.*, at para 43(c).

⁷⁶⁶ SERAC v. Nigeria, see above note 676, para. 52.

⁷⁶⁷ See above Warring-Party Conduct, section 3(a).

⁷⁶⁸ See above Warring-Party Conduct, section 3(b).

⁷⁶⁹ See above Warring-Party Conduct, section 2(a-c).

⁷⁷⁰ For a discussion of available information concerning the reported extent of Eritrea’s effective control of territory or persons in Tigray, see above notes 658-663.

times of crisis.⁷⁷¹ Also, Ethiopia and Eritrea are parties to a number of international human rights treaties – including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD) – that articulate protections for particular groups. Ethiopia is also a party to the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).⁷⁷² Eritrea has signed but not ratified the Maputo Protocol and the Kampala Convention.

It is not within the scope of this legal analysis to evaluate the myriad human rights claims that people in Tigray could make under these various instruments. Nevertheless, the availability of additional collective and group-specific legal protections suggests a range of possible violations that warrant further investigation.

3. INTERNATIONAL CRIMINAL LAW

International criminal law (ICL) is a body of international law that defines certain serious violations of international law as international crimes, including genocide, war crimes, and crimes against humanity.⁷⁷³

Certain serious violations of IHL in the context of an armed conflict constitute war crimes, provided the perpetrator was aware of the armed conflict and acted with the requisite intent.⁷⁷⁴ Where any of a specified set of serious abuses are carried out as part of a widespread or systematic attack on a civilian population, whether during armed conflict or not, those acts constitute crimes against humanity if the perpetrator acted with the requisite intent and awareness of the wider attack.⁷⁷⁵ The crime of genocide refers to the commission of any of a set of specified acts with intent to destroy, in whole or

771 ESCR-Net, *Part Two: An Overview of Women’s ESC Rights Under ICESCR and CEDAW* (2013), <https://www.escr-net.org/sites/default/files/ESCR-NET-Manual-Booklet-2.pdf>.

772 Ethiopia made several reservations to the Maputo Protocol and the Kampala Convention. See Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa Ratification Proclamation No. 1082-2017 (Jun. 10, 2021), available at: <https://chilot.me/2021/06/10/protocol-to-the-african-charter-on-human-and-peoples-rights-on-the-rights-of-women-in-africa-ratification-proclamation-no-1082-2017/>; Proclamation No. 1187/2020 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa Ratification Proclamation (Mar. 3, 2020), available at: <https://chilot.me/wp-content/uploads/2020/08/PROCLAMATION-TO-RATIFY-THE-AFRICAN-UNION-CONVENTION-FOR-THE-PROTECTION-AND-ASSISTANCE-OF-INTERNALLY-DISPLACED-PERSONS-IN-AFRICA-KAMPALA-CONVENTION.pdf>.

773 International Committee of the Red Cross, *General principles of international criminal law – Factsheet*, <https://www.icrc.org/en/document/general-principles-international-criminal-law-factsheet> (last visited Feb. 20, 2022).

774 The exact mental element required of a perpetrator varies depending on the specific war crime at issue. International Committee of the Red Cross, *Rules of Customary International Humanitarian Law*, Rule 156. The Rome Statute of the International Criminal Court sets out a general standard for intent in Article 30. Rome Statute, see above note 549, at art. 30(2)(a)(b) (“1. Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge. 2. For the purposes of this article, a person has intent where: (a) In relation to conduct, that person means to engage in the conduct; (b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events. 3. For the purposes of this article, ‘knowledge’ means awareness that a circumstance exists or a consequence will occur in the ordinary course of events. ‘Know’ and ‘knowingly’ shall be construed accordingly.”).

775 *Id.*, at art. 7.

in part, a national, ethnic, racial, or religious group.⁷⁷⁶ Under ICL, individuals may be held criminally responsible for planning, attempting, assisting in, facilitating, aiding or abetting, or failing to prevent the commission of these international crimes.⁷⁷⁷

The Rome Statute of the International Criminal Court (ICC), which established the Court and defined the crimes within its jurisdiction, is the most authoritative and up-to-date source of ICL. Ethiopia has neither signed nor ratified the Rome Statute; Eritrea has signed but not ratified it.⁷⁷⁸ Nevertheless, the Rome Statute is relevant to the conflict in Ethiopia. In assessing whether warring parties have committed international crimes, the definitions in the Rome Statute are authoritative and provide a basis for determining whether international crimes have been committed, regardless of whether individual perpetrators eventually face charges.

There are several ways in which the ICC could obtain jurisdiction over international crimes committed during the conflict in Tigray. The UN Security Council could refer the situation to the ICC.⁷⁷⁹ Alternatively, Ethiopia or Eritrea could accept the jurisdiction of the ICC on an *ad hoc* basis without becoming full state parties to the Rome Statute.⁷⁸⁰ A domestic court in a country other than Ethiopia or Eritrea could, based on universal jurisdiction or another form of extraterritorial jurisdiction, hear a case against individuals involved in the conflict.⁷⁸¹

Although international criminal law applies to individuals, rather than states, the legal analysis in the present study does not seek to identify specific individuals who have or might have perpetrated international crimes over the course of the conflict in northern Ethiopia. Rather, through its preliminary assessment of various alleged violations that affect civilian food security, this analysis intends to assess whether international crimes were likely committed by Ethiopian and allied forces and to identify possible areas of focus for future investigations and accountability measures.

776 *Id.*, at art. 6.

777 International Committee of the Red Cross, *General principles of international criminal law – Factsheet*, p. 4 (May 21, 2021), <https://www.icrc.org/en/document/general-principles-international-criminal-law-factsheet>.

778 States that ratify a treaty agree to be legally bound by the obligations set out in that treaty. States that sign, but do not ratify, a treaty are not legally bound by its provisions but are prohibited from taking actions contrary to the object and purpose of the treaty. United Nations, *Vienna Convention on the Law of Treaties*, art. 18 (1969).

779 Rome Statute, *see above* note 549, at art. 13(b).

780 *Id.*, art. 12(3).

781 Universal jurisdiction, as defined in the Princeton Principles on Universal Jurisdiction, “is “criminal jurisdiction based solely on the nature of the crime, without regard to where the crime was committed, the nationality of the alleged or convicted perpetrator, the nationality of the victim, or any other connection to the state exercising such jurisdiction.” Princeton University Program in Law and Public Affairs, *The Princeton Principles on Universal Jurisdiction* 28 (2001). Universal jurisdiction allows domestic judicial systems to investigate and prosecute certain grave international offenses, like war crimes, genocide, torture, and crimes against humanity, no matter where they occur. See Human Rights Watch, *Basic Facts on Universal Jurisdiction* (Oct. 19, 2009), <https://www.hrw.org/news/2009/10/19/basic-facts-universal-jurisdiction>. These cases would likely rely on international criminal law as codified in the Rome Statute; a number of countries have enacted statutes implementing the Rome Statute into domestic law. *See, e.g.*, Mwatana for Human Rights & Global Rights Compliance, *Starvation Makers: The use of starvation by warring parties in Yemen*, p. 97 (Sept. 2021), <https://mwatana.org/wp-content/uploads/2021/09/Starvation-Makers-2021-En.pdf>.

(a) *War crimes*

Article 8(2)(e)(xix) of the Rome Statute defines the war crime of starvation in non-international armed conflicts as the act of “intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies.”⁷⁸²

Based on publicly available information, because Ethiopian government and allied forces have almost certainly used starvation of civilians as a method of warfare and deprived civilians of objects indispensable to their survival, their actions likely constitute the war crime of starvation, although further investigation is necessary to establish the requisite intent and identify specific individual perpetrators.

Using starvation of civilians as a method of warfare

To constitute the war crime of starvation, the perpetrator must have used the starvation of civilians as a method of warfare. According to the commentary to APII, the phrases “method of combat” in Article 14 and “method of warfare” are synonymous.⁷⁸³ As outlined in the IHL analysis above, publicly available information suggests that Ethiopian and allied forces used starvation tactically to weaken or punish the civilian population⁷⁸⁴ and, in some cases, possibly to pursue the objective of ethnic cleansing.⁷⁸⁵

Depriving civilians of objects indispensable to their survival

Actions by Ethiopian and allied forces almost certainly satisfy the act element of the war crime of starvation: depriving civilians of objects indispensable to their survival. Since the definition of the war crime of starvation was meant to make violating the relevant provision of IHL a crime, this category of indispensable objects should be understood as identical to the list provided in Article 14 of APII.⁷⁸⁶ The perpetrator must have deprived civilians of indispensable objects with knowledge that the objects were, in fact, essential to the survival of the civilian population.⁷⁸⁷ Based on publicly available information, the scale and systematic nature of the deprivation of essential food, water, and health supplies throughout Tigray⁷⁸⁸ suggests that, in many cases, at least, perpetrators acted with knowledge that the survival of civilians depended on the objects in question.⁷⁸⁹ Thus, Ethiopian and allied forces have satisfied the act element of the war crime of starvation by attacking, destroying, and removing essential food, water, and health supplies⁷⁹⁰ and rendering those supplies useless via unlawful siege

⁷⁸² Rome Statute, *see above* note 549, at art. 8(2)(e)(xix).

⁷⁸³ Sandoz et al., *Commentary*, *see above* note 538, at para. 4799.

⁷⁸⁴ *See above* Warring-Party Conduct, sections 1(a-c), 2(a-c), and 3(a).

⁷⁸⁵ *See above* Warring-Party Conduct, section 3(a). *See also* Amnesty International & Human Rights Watch, “*We Will Erase You*,” *see above* note 26.

⁷⁸⁶ *See above* Legal Analysis, section 1(a-b).

⁷⁸⁷ Rome Statute, *see above* note 549, at art. 30.

⁷⁸⁸ *See above* Warring-Party Conduct, section 1(a-c).

⁷⁸⁹ Documented statements by some perpetrators in Western Tigray represent particularly strong indications of intent. *See, e.g.*, Warring-Party Conduct, section 3(a).

⁷⁹⁰ *See above* Warring-Party Conduct, section 1(a-c).

tactics.⁷⁹¹ Ethiopian and allied forces also willfully impeded the delivery of relief supplies, including food aid, to civilians whose survival was threatened.⁷⁹²

Intent

To conclude that conduct constituted the war crime of starvation requires finding that the perpetrator satisfied the mental element of the crime. In the same way that Article 14 of APII requires the *purposeful* starvation of civilians, the war crime of starvation requires that the perpetrator intended to starve civilians.⁷⁹³ As discussed previously, this criminal intent element can be satisfied by either a direct intent standard, where the perpetrator meant to cause the civilian population to starve, or an indirect standard, which requires that the perpetrator had “an appreciation of a virtual certainty that starvation will result in the ordinary course of events.”⁷⁹⁴

Such determinations for particular perpetrators depend on the specific facts of the situation and are beyond the limited scope of this analysis. However, as explained in the discussion of the IHL prohibition on starvation, the widespread looting of essential food, health, and water systems and the subsequent obstruction of relief supplies, especially taken together, support the conclusion that Ethiopian government officials and members of Ethiopian and allied forces knew their actions would almost certainly cause the starvation of civilians in Tigray.⁷⁹⁵

The Ethiopian government’s near-complete shutdowns of banking, electricity, and fuel further deprived civilians of access to essential food, water, and health supplies needed to maintain their survival, further solidifying the virtual certainty that starvation would occur as a result.⁷⁹⁶ In the context of a siege, discerning the causal links between various acts of deprivation – the shutdown of electricity or banking, for example – and civilians’ ability to feed themselves is complex. However, considered in conjunction with Ethiopian and allied forces’ extensive acts of looting, attacks on food, water, and health-care systems, and obstruction of humanitarian relief, the continued use of siege tactics by Ethiopia and its allies was clearly going to lead to the starvation of civilians in Tigray.

Contextual elements – war

There is little doubt that the actions of Ethiopian and allied forces satisfy the contextual elements of the war crime of starvation in a non-international armed conflict. First, the conduct has taken place

791 See above Warring-Party Conduct, section 2(a-c).

792 See above Warring-Party Conduct, section 3(a-b).

793 This requirement does not necessitate a showing that the perpetrator acted with only one purpose. Global Rights Compliance & World Peace Foundation, *The Crime of Starvation and Methods of Prosecution and Accountability* para. 84, p. 15 (Jun. 2019), <https://starvationaccountability.org/wp-content/uploads/2019/06/Legal-Paper-Starvation.pdf> (“[T]here is no basis [in the jurisprudence of international criminal courts and tribunals] to conclude that the crime of starvation requires proof that the perpetrator pursued only that purpose.”).

794 Wayne Jordash et al., “Strategies for Prosecuting Mass Starvation,” *Journal of International Criminal Justice* vol. 17, p. 854 (2019).

795 See above Legal Analysis, sections 1(a), 2(b).

796 See above Legal Analysis, section 1(a).

in the context of a non-international armed conflict.⁷⁹⁷ Second, Ethiopian and allied forces were undeniably “aware of factual circumstances that established the existence of an armed conflict.”⁷⁹⁸ The Ethiopian government has acknowledged that an armed conflict exists.⁷⁹⁹

(b) *Crimes against humanity*

The Rome Statute defines a crime against humanity as “any of [a list of acts] when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”⁸⁰⁰ As set out in the Rome Statute, the enumerated acts that may qualify as crimes against humanity include murder, extermination, enslavement, forcible transfer of population, torture, rape, persecution, enforced disappearances, apartheid, and “[o]ther inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.”⁸⁰¹

There is a growing consensus among legal scholars that the intentional starvation of civilians can, in certain circumstances, be not only a war crime, but also a crime against humanity, specifically the crime of extermination or the crime of “other inhumane acts.”⁸⁰² Moreover, given Ethiopian and allied forces’ conduct involving discrimination against ethnic Tigrayans⁸⁰³ and the disproportionate levels of hunger among ethnic Tigrayans compared to other groups,⁸⁰⁴ the intentional starvation of civilians likely amounts, in this context, to the crime against humanity of persecution.

797 See above Legal Analysis, section 1, notes 516–526. See also Human Rights Watch, *Q&A: Conflict in Ethiopia and International Law* (Nov. 25, 2020), <https://www.hrw.org/news/2020/11/25/qa-conflict-ethiopia-and-international-law>.

798 International Criminal Court, *Elements of Crimes*, entered into force Sept. 9, 2002, ICC-ASP/1/3, art. 8(2)(b)(xxv), Element 4 [*Elements of Crimes*]. This knowledge requirement is quite minimal; there is no need to prove a perpetrator’s awareness of the legal classification of the conflict as international or non-international. In the opinion of the drafters of the ICC *Elements of Crimes*, “in most situations, it would be so obvious that there was an armed conflict that no additional proof as to awareness would be required.” See Knut Dörman, “Preparatory Commission for the International Criminal Court: the Elements of War Crimes,” *International Review of the Red Cross* 839 (2000).

799 See, e.g., “Ethiopia’s PM Abiy Ahmed vows to lead army ‘from the battlefield,’” *Al Jazeera* (Nov. 23, 2021), <https://www.aljazeera.com/news/2021/11/23/ethiopia-abiy-vows-to-lead-army-from-the-battlefront>; Pawlos Belete, “DPM, FM Demeke Mekonnen Calls for Significant Financing for Post Conflict Recovery in Ethiopia,” *Walta Media and Communication Corporate S.C.* (Jul. 8, 2022), <https://walmartainfo.com/dpm-fm-demeke-mekonnen-calls-for-significant-financing-for-post-conflict-recovery-in-ethiopia/>; Federal Democratic Republic of Ethiopia Government Communication Service (@FdreService), Twitter (Aug. 24, 2022, at 8:35 AM EST), <https://twitter.com/FdreService/status/1562418289162309632> (claiming that “[t]he federal government of [Ethiopia] has been taking steps to bring the war in the northern part of Ethiopia to a peaceful conclusion.”)

800 Rome Statute, see above note 549, at art. 7, para. 1.

801 *Id.*

802 See, e.g. David Marcus, “Famine Crimes in International Law,” *The American Journal of International Law* 97:2, p. 273 (2003) [“Famine Crimes”]; World Peace Foundation, *Tom Dannenbaum on international criminal law and starvation* (Sept. 4, 2018), <https://sites.tufts.edu/reinventingpeace/2018/09/04/tom-dannenbaum-on-international-criminal-law-and-starvation/> [*International criminal law and starvation*]; Manuel J. Ventura, “Prosecuting Starvation under International Criminal Law: Exploring the Legal Possibilities,” *Journal of International Criminal Justice*, vol. 17(4) (2019) [“Prosecuting Starvation”]; Independent International Commission of Inquiry on the Syrian Arab Republic, *Sieges as a Weapon of War*, see above note 559, p. 4.

803 See above Warring-Party Conduct, section 1(a).

804 See above Overview, section 2.

This section applies the law governing three possible crimes against humanity – extermination, persecution, and other inhumane acts – to conduct by the Ethiopian government and allied forces that has deprived civilians in Tigray of food and other objects indispensable to their survival.

Based on publicly available information, conduct by Ethiopian government officials and Ethiopian and allied forces, which deprived millions of civilians in Tigray of food and medicine, likely constitutes crimes against humanity, although further investigation is required to identify specific individual perpetrators and establish the requisite intent. Ethiopian government and allied forces inflicted conditions of life on Tigray that have brought about the destruction of part of the population and caused severe mental and physical harm to civilians, likely constituting the crimes of extermination and “other inhumane acts.” If further investigation confirms specific intent to discriminate, this conduct likely also amounts to the crime of persecution.

(i) *Specific acts constituting crimes against humanity*

Extermination

Under the Rome Statute, the act element of the crime of extermination consists of either the act of killing a large number of individuals or “the intentional infliction of conditions of life, *inter alia*, the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population.”⁸⁰⁵ Given the express mention of the deprivation of food and medicine as components of the act of the crime of extermination, legal scholars have suggested that the intentional starvation of civilians constitutes the crime against humanity of extermination.⁸⁰⁶

In existing jurisprudence from international criminal tribunals, including the International Criminal Tribunal for the former Yugoslavia (ICTY), a finding of extermination generally requires a determination that “a particular population was targeted and that its members were killed or otherwise subjected to conditions of life calculated to bring about the destruction of a numerically significant part of the population.”⁸⁰⁷ Criminal responsibility for extermination attaches not only to individuals responsible for a “large number of deaths,”⁸⁰⁸ but also to those who were responsible for or planned a single death, if the perpetrator had knowledge of the death’s connection to a “mass killing event.”⁸⁰⁹ In assessing the mass scale of the killing, relevant factors include, according to the ICTY, “the time and place of the killings, the selection of the victims and the manner in which they were

805 Rome Statute, *see above* note 549, at art. 7(2)(b).

806 *See, e.g.*, Marcus, “Famine Crimes,” *see above* note 802, p. 273; World Peace Foundation, *International criminal law and starvation*, *see above* note 802; Ventura, “Prosecuting Starvation,” *see above* note 802.

807 Prosecutor v. Krstić, Case No. ICTY-IT-98-33-T, Judgment, at para. 503 (Aug. 2, 2001).

808 Prosecutor v. Vasiljević, Case No. ICTY-IT-98-32-T, Judgment, at para. 227 (Nov. 29, 2002) [Vasiljević Judgment].

809 Prosecutor v. Kayishema and Ruzindana, Case No. ICTR-95-1-T, Judgment, at paras. 146-47 (May 21, 1999); *see also* Prosecutor v. Radovan Karadžić, Case No. ICTY-IT-95-5/18-T, Public Redacted Version of Judgement Issued on 24 March 2016 – Volume I of IV (TC), para. 483 (Mar. 24, 2016) [Karadžić Judgment].

targeted, and whether the killings were aimed at the collective group rather than victims in their individual capacity.”⁸¹⁰

The acts described above in the Warring-Party Conduct section indicate that “a particular population was targeted” by forces acting on behalf of Ethiopia in Tigray. The Ethiopian government deprived millions of civilians in the Tigray region of electricity, fuel, and cash throughout the conflict.⁸¹¹ Ethiopia and allied forces have repeatedly obstructed the passage of humanitarian aid and, between July 2021 and April 2022, blocked almost all humanitarian relief from entering Tigray.⁸¹² In addition, Ethiopian and allied armed actors committed widespread acts of looting of Tigrayan civilians’ food, water, and health supplies.⁸¹³ Across the country, tens of thousands of Tigrayans have been arbitrarily and indefinitely detained by national police forces, security forces, and Fano militia, mostly on account of their ethnicity.⁸¹⁴ Particularly when viewed alongside statements by high-level officials, including Prime Minister Abiy, that fail to distinguish between opposing armed forces and Tigrayan civilians⁸¹⁵ and, in some cases, indicate intent to punish the people of Tigray as a collective,⁸¹⁶ these acts strongly suggest the targeting of a particular group.

Ethiopian and allied forces, particularly through their use of siege tactics, subjected people in Tigray to conditions of life that were virtually certain to bring about the destruction of a numerically significant part of the population. Health-care professionals, humanitarian organizations, journalists, and members of the Tigray regional health bureau have repeatedly indicated that the deprivation of access to food and medicine has created conditions that would inevitably lead to death for a large number of

810 Karadžić Judgment, *see above* note 809, at para. 483. *See also* Prosecutor v. Milan Lukić and Sredoje Lukić, Case No. ICTY-IT-98-32/1, Appeal Judgement, para. 538 (Dec. 4, 2012).

811 *See above* Warring-Party Conduct, section 2(a-c).

812 *See above* Warring-Party Conduct, section 3(a).

813 *See above* Warring-Party Conduct, section 1(a-c).

814 Abdi Latif Dahir, “Mass Detentions of Civilians Fan ‘Climate of Fear’ in Ethiopia,” *New York Times* (Nov. 17, 2021), <https://www.nytimes.com/2021/11/17/world/africa/ethiopia-tigrayan-detention.html> [“Mass Detentions of Civilians”].

815 *See, e.g.*, United Nations, *Statement by Alice Wairimu Nderitu, United Nations Special Adviser on the Prevention of Genocide, on the continued deterioration of the situation in Ethiopia* (Jul. 30, 2021), https://www.un.org/en/genocideprevention/documents/2021-07-30_Statement-on-situation-in-Ethiopia.pdf (“The Special Adviser also condemned inflammatory statements used by top political leaders and associated armed groups. The use of pejorative and dehumanizing language like ‘cancer’, ‘devil’, ‘weed’ and ‘bud’ to refer to the Tigray conflict is of utmost concern.”); Cara Anna, “Ethiopia calls ‘all capable’ citizens to fight in Tigray war,” *Associated Press* (Aug. 11, 2021), <https://apnews.com/article/africa-ethiopia-bd70724f2d03bd57b4f0111efc111a11> (“The prime minister’s summons chilled Tigrayans, even those outside Tigray, with the statement calling on all Ethiopians to be ‘the eyes and ears of the country in order to track down and expose spies and agents’ of the Tigray forces.”); “Ethiopia rounds up high-profile Tigrayans, UN staff,” *Reuters* (Nov. 11, 2021), <https://www.reuters.com/world/africa/ethiopian-authorities-detain-more-than-70-un-drivers-un-email-2021-11-10/> (“[An] Addis Ababa police spokesman ... said last week those detained [in a wave of arbitrary, mass arrests] ‘directly or indirectly’ backed the TPLF”).

816 *See, e.g.*, Cara Anna, “Diaspora group: Ethiopia PM open to talks with Tigray,” *Associated Press* (Jan. 25, 2022), <https://apnews.com/article/middle-east-africa-kenya-ethiopia-abiy-ahmed-58a3cac735080e11aa48e1253980457f>; “US Blasts ‘Dangerous’ Rhetoric By Ally Of Ethiopia PM,” *Agence France Presse* (Sept. 20, 2021), <https://www.barrons.com/news/us-blasts-dangerous-rhetoric-by-ally-of-ethiopia-pm-01632159008> (“The United States on Monday condemned a recent speech by a prominent ally of Ethiopian Prime Minister Abiy Ahmed which compared Tigrayan rebels to the devil and said they should be ‘the last of their kind’”).

people in Tigray.⁸¹⁷ In many parts of Tigray, siege tactics have caused or contributed to deaths from starvation.⁸¹⁸

To find that acts of deprivation constituted the crime of extermination, the perpetrator must have intentionally inflicted conditions of life to bring about the destruction of part of a population. Conduct that would constitute such infliction of conditions includes the deprivation of access to food and medicine.⁸¹⁹ In addition, the acts must have been “calculated to bring about the destruction of part of a population.”⁸²⁰ The perpetrator must have intentionally engaged in the conduct in question and must have either intended to cause the consequence or have been aware that the consequence would reasonably occur in the ordinary course of events.⁸²¹ To assess whether the consequences were foreseeable, the ICC has adopted a virtual-certainty test:

The consequence must be understood to follow normally in the circumstances in which the acts were committed.⁸²²

Tigray is a predominantly agricultural and chronically food-insecure region, where, in the past, vast numbers of people have died in some of the world’s most infamous famines.⁸²³ As outlined above, the United Nations and the Ethiopian government jointly established, in December 2020, that entire households in Tigray had lost all of their assets and food stocks and thus depended heavily or entirely on humanitarian aid.⁸²⁴

Members of the Tigray regional health bureau also repeatedly alerted other actors, including in the Ethiopian federal government, to the intense human suffering in Tigray.⁸²⁵ Maintaining extreme restrictions on fuel, cash, and electricity and preventing the delivery of almost all humanitarian aid would certainly and clearly lead to a large number of deaths. That result, given the humanitarian and hunger crisis in Tigray, was foreseeable to those responsible for the conduct of the Ethiopian and allied forces engaging in these siege tactics. They acted with the objective knowledge that these acts

Ethiopian and allied forces, particularly through their use of siege tactics, subjected people in Tigray to conditions of life that were virtually certain to bring about the destruction of a numerically significant part of the population.

817 See *above* Overview, section 2. See also Warring Party Conduct, section 3(a); William Worley, “Exclusive: Russia, China foiled UN meetings on Tigray famine, says Lowcock,” *Devox* (Jun. 21, 2022), <https://www.devex.com/news/exclusive-russia-china-foiled-un-meetings-on-tigray-famine-says-lowcock-103473> (“‘The Ethiopians basically wanted to starve the Tigrayans into submission or out of existence,’ he [former head of UN OCHA] said. ‘That was objective one, but objective two was to do that without attracting the global opprobrium that is associated with deliberately causing a famine taking hundreds of thousands or millions of lives,’ [he] said.”).

818 Anna, “Ethiopia’s Tigray blockade,” *see above* note 32.

819 Rome Statute, *see above* note 549, at art. 7(2)(b).

820 International Criminal Court, *Elements of Crimes*, *see above* note 798, at art. 7(1)(b), Element 4.

821 Rome Statute, *see above* note 549, at art. 30.

822 Prosecutor v. Bemba, ICC-01/05-01/08, Confirmation of Charges Decision, para. 362 (Jun. 15, 2009).

823 See generally Alexander de Waal, *Evil Days*, *see above* note 132.

824 Government of Ethiopia – National Disaster Risk Management Commission, *Joint Rapid Needs Assessment Mission*, *see above* note 28.

825 Anna, “Ethiopia’s Tigray blockade,” *see above* note 32.

would deprive civilians of access to food and water and that this deprivation would bring about the destruction of part of the population.

Unlike the mental elements of persecution or genocide, the mental element for the crime of extermination does not require proof of specific intent to discriminate against or destroy the group.⁸²⁶ Rather, the mental element for extermination is the intent to perpetrate or to participate in mass killing,⁸²⁷ independent of the perpetrator's motives *vis-à-vis* the victims or the group as a whole.⁸²⁸ Finally, there is no requirement that the conduct in question, to be considered an act of extermination, had to have been pursuant to a pre-existing plan or policy.⁸²⁹

Persecution

Persecution is defined in the Rome Statute as “the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity,” including on political, racial, national, ethnic, cultural, religious, gender, or other grounds “that are universally recognized as impermissible under international law.”⁸³⁰

No single definition or list of acts that can constitute persecution exists in international law.⁸³¹ Violations of economic rights, including the right to adequate food, almost certainly constitute acts of persecution under ICL when committed against a group because of its members' ethnic identity.⁸³² Ethiopian and allied forces have unlawfully deprived Tigrayan civilians of basic public goods and life-saving humanitarian assistance for more than a year⁸³³ and violated Tigrayans' rights to food, water, health, and life.⁸³⁴

826 The Prosecutor v. Elizaphan Ntakirutimana and Gérard Ntakirutimana, Case Nos. ICTR-96-10-A & ICTR-96-17-A, Judgment, para. 495 (Feb. 21, 2003).

827 The Prosecutor v. Jean-Baptiste Gatete, Trial Judgment, Case No. ICTR-2000-61-T, para. 636 (Mar. 31, 2011). There is no numerical threshold for determining whether the killings in question constitute “mass killing;” the number of victims must be “large,” but precise determinations depend on context. Karadžić Judgment, *see above* note 809, at paras. 485-6.

828 Karadžić Judgment, *see above* note 809, at paras. 485-6.

829 *Id.*

830 Rome Statute, *see above* note 549, at arts. 7(2)(g) and 7(1)(h).

831 In the Vasiljević Judgment, the ICTY Trial Chamber found that the act or omission constituting the crime of persecution may assume various forms, and there is no comprehensive list of what acts can amount to persecution. Vasiljević Judgment, *see above* note 808, at para. 246.

832 *See* Prosecutor v. Dusko Tadić, Case No. ICTY-IT-94-1-A, Appeal Judgement, para. 707 (Jul. 15, 1999); Karadžić Judgment, *see above* note 809, at para. 597 (“(iii) the establishment and perpetuation of inhumane living conditions in detention facilities in Bijeljina, including the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities, as cruel or inhumane treatment”); Prosecutor v. Miroslav Kvočka et al., Case No. ICTY-IT-98-30/1-T, Judgment, para. 186 (Oct. 1, 2006) (finding that “comprehensive destruction of homes and property [or] the destruction of towns, villages, and other public or private property and the plunder of property,” may constitute persecution when committed with the requisite discriminatory intent”); Prosecutor v. Kupreškić et al., Case No. ICTY-IT-95-16-T, Judgment, para. 631 (Jan. 14, 2000) (finding that any “comprehensive” attack on property that “constitutes a destruction of the livelihood of a certain population” may constitute persecution); Prosecutor v. Krstić, Case No. ICTY-IT-98-33-T, Judgment, para. 537 (Aug. 2, 2001) (finding that “the causing of [a] humanitarian crisis” among a particular group satisfied, among other acts, the act element of persecution).

833 *See above* Warring-Party Conduct, sections 1(a-c), 2(a-c), 3(a).

834 *See above* Legal Analysis, section 2(a-d).

Although the exact contours of the groups against which persecution is prohibited are not well defined in international law, there are clear grounds for concluding that Tigrayans constitute a legally protected ethnic group. Tigrayans share a common language and many unique cultural attributes and traditions.⁸³⁵ Tigrayans themselves and Ethiopian authorities consider them to be a distinct ethnic group.⁸³⁶

To find that an act constituted the crime of persecution, the perpetrator must have willingly committed the act or omission and must have carried it out with specific intent to discriminate based on one of the internationally recognized grounds listed above.⁸³⁷ In other words, the perpetrator must have intended to discriminate; simply being aware of acting in a way that is discriminatory is not sufficient.⁸³⁸ As explained by the ICTY, “While the intent to discriminate need not be the primary intent with respect to the act, it must be a significant one.”⁸³⁹

This analysis, based on publicly available information alone, cannot determine whether particular actors in Tigray carried out acts that caused starvation with a specific intent to persecute Tigrayan civilians. Currently available information clearly indicates, though, that, while taking other actions,⁸⁴⁰ Ethiopian and allied forces acted with persecutory intent in depriving Tigrayans of their rights.⁸⁴¹ For example, in its surveillance and policing operations, the Ethiopian government has conducted extensive profiling and targeting of ethnic Tigrayans. It has put Tigrayan staff on leave and prevented Tigrayans from leaving the country,⁸⁴² asked employers⁸⁴³ and landlords⁸⁴⁴ to identify Tigrayan staff members and residents, and conducted mass arrests of Tigrayans in Addis Ababa, including on the basis of people’s names and use of language.⁸⁴⁵ Ethiopian government and allied forces have detained

835 See generally Nigussie Seboka Tadesse et al., “Traditional foods and beverages in Eastern Tigray of Ethiopia,” *Journal of Ethnic Foods* 7:16 (2020); John Young, “Ethnicity and Power in Ethiopia,” *Review of African Political Economy* 23:70 (Dec. 1996), p. 532.

836 See, e.g., Central Statistics Agency of Ethiopia, *Population and Housing Census 2007*, p. 74 (2007). See also Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Judgment, para. 122 (Sept. 2, 1998).

837 Prosecutor v. Kupreškić et al., Case No. ICTY-IT-95-16-T, Judgment, para. 636 (Jan. 14, 2000). This intent standard is higher than for other crimes against humanity but lower than the standard for genocide.

838 Prosecutor v. Krnojelac, Case No. ICTY-IT-97-25-T, Judgment, para. 435 (Mar. 15, 2002). See also Vasiljević Judgment, see above note 808, para. 248.

839 *Id.*

840 See above Warring-Party Conduct, sections 1(a), 3(a) (citing reports that armed guards in Western Tigray deliberately withheld food from ethnic Tigrayans and denied humanitarian organizations access to Tigrayan civilians on the basis of the civilians’ perceived support for “the [TPLF] junta”). See also Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26.

841 *Id.* See also Cara Anna, “‘Leave no Tigrayan’: In Ethiopia, an ethnicity is erased,” *Associated Press* (Apr. 7, 2021), <https://apnews.com/article/ethiopia-tigray-minority-ethnic-cleansing-sudan-world-news-842741eebf9bf0984946619c0fc15023> [“Leave no Tigrayan”]; Lucy Kassa, “‘A Tigrayan womb should never give birth’: Rape in Tigray,” *Al Jazeera* (Apr. 21, 2021), <https://www.aljazeera.com/news/2021/4/21/a-tigrayan-womb-should-never-give-birth-rape-in-ethiopia-tigray/>.

842 Zecharias Zelalem, “Ethiopia Airlines accused of ethnic profiling over civil war with Tigray,” *The Telegraph* (Dec. 4, 2020), <https://www.telegraph.co.uk/news/2020/12/04/ethiopia-airlines-accused-ethnic-profiling-civil-war-tigray/>.

843 “Ethiopian police seeking lists of ethnic Tigrayans – UN report,” *Reuters* (Nov. 13, 2020), <https://www.reuters.com/article/ethiopia-conflict-tigrayans/ethiopian-police-seeking-lists-of-ethnic-tigrayans-u-n-report-idINKBN27T1B7>.

844 “Foreign citizens caught up in crackdown on Tigrayans in Ethiopia,” *The Guardian* (Nov. 11, 2021), <https://www.theguardian.com/world/2021/nov/11/foreign-citizens-caught-up-crackdown-tigrayans-ethiopia>.

845 Dahir, “Mass Detentions of Civilians,” see above note 814.

tens of thousands of Tigrayans in overcrowded, informal detention camps in Western Tigray⁸⁴⁶ and elsewhere in Ethiopia.⁸⁴⁷

In Western Tigray, Ethiopian forces and allied militias have engaged in mass forced displacement of Tigrayans, pushing Tigrayan civilians out of Western Tigray and east of the Tekeze river, into areas of Tigray which were under siege.⁸⁴⁸ A resident of Western Tigray told the Associated Press that authorities said they would deport “pure” Tigrayans first before deporting “half” Tigrayans.⁸⁴⁹ Amhara authorities have also sought to remove Tigrayan identity from identity cards, discouraged the use of Tigrinya, and discriminated against ethnic Tigrayans in the provision of health care.⁸⁵⁰ In Dansha, Amhara forces reportedly killed an ethnic Oromo in a Tigrayan household and, upon realizing he was Oromo, buried him but left the Tigrayan victims unburied.⁸⁵¹ Eritrean forces have also singled out Tigrayans for attacks in ethnically diverse areas⁸⁵² and have committed widespread looting and attacks on Tigrayan civilians with no connection to the TDF or TPLF.⁸⁵³

Further investigation, including, for example, interviews with victims who could testify to the use of ethnic slurs or other statements indicative of intent⁸⁵⁴ by Ethiopian and allied forces who carried out actions that resulted in civilian starvation, is necessary to establish whether relevant actors satisfied the intent element of starvation as a crime of persecution.

Other inhumane acts

Ethiopian and allied forces who deprived Tigrayans of food, water, and medicine might be found to have committed the crime of inhumane acts if they met the other requisite elements of a crime against humanity and the acts in question inflicted great suffering or serious injury to the physical and mental health of civilians.⁸⁵⁵ The Rome Statute does not further define or provide examples of “inhumane acts of a similar character [to the enumerated acts] intentionally causing great suffering, or serious injury to body or to mental or physical health,” and there is no definitive list of acts that would fit this category of act. In one case that demonstrates the kind of analysis that could, however, lead to a finding of “inhumane acts,” the ICTY found that conditions of detention or forced labor were inhumane when they threatened the life or health of the victims.⁸⁵⁶

⁸⁴⁶ *Id.*

⁸⁴⁷ Dawit Endeshaw & Katharine Houreld, “In Ethiopia’s civil war, thousands of jailed Tigrayans endured squalor and disease,” *Reuters* (Jun. 17, 2022), <https://www.reuters.com/investigates/special-report/ethiopia-conflict-prisoners/>.

⁸⁴⁸ Amnesty International & Human Rights Watch, “*We Will Erase You*,” *see above* note 26.

⁸⁴⁹ Cara Anna, “‘I cannot escape’: New abuses alleged in Ethiopia’s Tigray,” *Associated Press* (Dec. 16, 2021), <https://apnews.com/article/africa-united-nations-kenya-ethiopia-amnesty-international-2888fb6db5cd58dd51ead0722d9d3af2>.

⁸⁵⁰ Anna, “‘Leave no Tigrayan,’” *see above* note 841.

⁸⁵¹ *Id.*

⁸⁵² *Id.*

⁸⁵³ *See above* Warring-Party Conduct, section 1(a-c).

⁸⁵⁴ *See, e.g.*, Amnesty International & Human Rights Watch, “*We Will Erase You*,” *see above* note 26. *See also* Muhumuza, “‘Our season,’” *see above* note 168 (reporting that a Tigrayan shopkeeper said that “Eritrean soldiers told Tigrayan elders that this [war] was revenge for the [1998-2000] border war.”).

⁸⁵⁵ Rome Statute, *see above* note 549, art. 7(1)(k).

⁸⁵⁶ Prosecutor v. Delalić et al., Case No. ICTY-IT-96-21-T, Judgment, paras. 554-58 (Nov. 16, 1998).

The Ethiopian government’s conduct, particularly cutting off essential services while continuing to obstruct humanitarian relief, was inhumane.

The Ethiopian government’s conduct, particularly cutting off essential services while continuing to obstruct humanitarian relief, was inhumane. Through its continued use of siege tactics on an area known to be experiencing a severe humanitarian crisis, the Ethiopian government deprived civilians of food, water, and medicine, threatened civilians’ life and health, and caused great suffering.⁸⁵⁷ Other acts of deprivation by Ethiopian and allied forces in Tigray, including depriving people

of humanitarian relief and water—and likely cash and electricity, as well—are sufficiently similar in nature and gravity to other crimes enumerated in the Rome Statute’s definition of acts that can constitute crimes against humanity to constitute “other inhumane acts.”

The deprivation of essential relief supplies and basic goods likely met the requirements for a finding of “other inhumane acts,” in particular that the victim suffered serious bodily or mental harm, that the suffering was the result of an act of the perpetrator or a subordinate, and that the offense was committed with intent to inflict serious bodily or mental harm.⁸⁵⁸ The deprivation of critical items created deplorable living conditions and caused serious deterioration of civilians’ physical and mental health.⁸⁵⁹ The acts that caused or contributed to sharply elevated rates of malnutrition and starvation among the population in Tigray inevitably caused many Tigrayans to experience serious physical and mental harm. Further investigation is required to establish whether relevant actors carried out these acts with the requisite intent.

(ii) Contextual element

To constitute crimes against humanity, any of the enumerated acts discussed above must have been committed as part of a “widespread or systematic attack directed against a civilian population.”⁸⁶⁰ The ICTY has explained what constitutes an attack for purposes of finding crimes against humanity.

In the context of crimes against humanity, an “attack” is distinct from the concept of “armed conflict” and not limited to the use of armed force. Rather, it may encompass any mistreatment of the civilian population. The attack may precede, outlast or continue during the armed conflict and need not be part of it.⁸⁶¹

The Ethiopian government’s siege of Tigray, as described in the Warring-Party Conduct section above, constitutes “mistreatment of the civilian population” and part of an attack.

857 See above Warring-Party Conduct, section 2(a-c).

858 International Criminal Court, *Elements of Crimes*, see above note 798, at art. 7(1)(k).

859 See above Overview, section 2. See also Warring-Party Conduct, sections 1(a-c), 2(a-c).

860 This is one of two nexus elements; the perpetrator must also have had knowledge of the attack, as will be discussed below.

861 Prosecutor v. Perišić, Case No. ICTY-IT-04-81-T, Judgment, para. 82 (Sept. 6, 2011).

To satisfy the contextual requirement for crimes against humanity, the act must have been part of an attack that was either widespread or systematic. The terms “widespread” and “systematic” have been elaborated in the jurisprudence of international tribunals and by scholars. The term “widespread” typically refers to the large-scale nature of the attack and the number of victims.⁸⁶² The term “systematic” refers to the existence of a policy or plan, as evidenced by “the organized nature of the acts of violence and the improbability of their random occurrence.”⁸⁶³ The conduct of Ethiopian and allied forces, especially their use of siege tactics, extensive looting and destruction of civilian property, cutting off civilian access to essential resources, and obstruction of humanitarian aid, were part of an attack that was widespread or systematic or, most likely, both.

The conduct of Ethiopian and allied forces, especially their use of siege tactics, extensive looting and destruction of civilian property, cutting off civilian access to essential resources, and obstruction of humanitarian aid, were part of an attack that was widespread or systematic or, most likely, both.

To constitute a crime against humanity, the widespread or systematic attack must have been “directed against a civilian population,” rather than against combatants. Many acts of looting of food, water, and health-care systems in Tigray targeted essential objects used primarily, or exclusively, by civilians.⁸⁶⁴ Ethiopian and allied forces also imposed a siege on the Tigray region, where millions of civilians live. It is firmly established in international law that a population retains its civilian character even if some non-civilians are present among the population.⁸⁶⁵ The presence of Tigrayan armed forces in Tigray cannot justify directing attacks against civilians and does not alter the analysis here.

The intentional starvation of civilians is, by its nature, a complex and coordinated act that, as a leading international law scholar has argued, will “almost always” satisfy the contextual element of crimes against humanity.⁸⁶⁶ This is almost certainly the case in Tigray, where Ethiopia and its allies’ extensive, coordinated attacks on objects indispensable to the survival of civilians, use of siege tactics, and obstruction of humanitarian relief, has resulted, predictably, in mass starvation among the civilian population.

862 See Prosecutor v. Augustin Ndindiliyimana, François-Xavier Nzuwonemeye and Innocent Sagahutu, Case No. ICTR-00-56-A, Judgment (AC), para. 260 (Feb. 11, 2014).

863 Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic, Case Nos. ICTY-IT-96-23 & ICTY-IT-96-23/1-A, Appeal Judgment, para. 94 (Feb. 22, 2001).

864 See above Warring-Party Conduct, section 1(a-c).

865 Karadžić Judgment, see above note 809, at para. 474.

866 World Peace Foundation, *International criminal law and starvation*, see above note 802.

(iii) *Knowledge requirement*

To determine whether there was knowledge of a widespread or systematic attack on a civilian population and that the perpetrators' conduct was part of that attack, either the principal perpetrators or "those at whose behest they were acting" – that is, individuals at higher levels in the chains of command – must have had the requisite knowledge. In order to satisfy the knowledge element, armed forces committing the crimes also must have been "acting in a concerted manner."⁸⁶⁷

Substantial evidence, both explicit or inferred from context, shows collaboration between Eritrean and Ethiopian armed forces, Amhara Special Forces, and Fano militia.⁸⁶⁸ There are clear chains of command within the Ethiopian federal government,⁸⁶⁹ the highly professionalized Ethiopian military⁸⁷⁰ and, to a somewhat lesser extent, allied Amhara Special Forces and Fano militias.⁸⁷¹ These forces acted in a concerted manner.⁸⁷² Further investigation, beyond the information publicly available, is necessary to establish that the relevant actors, whether the direct perpetrators or their superiors, had knowledge of the widespread or systematic attack.

(c) *Genocide*

Article 2 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) defines the crime of genocide. It states:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

867 Prosecutor v. Nikola Sainovic, Case No. ICTY-IT-05-87-A, Judgement (AC), para. 275 (Jan. 23, 2014).

868 See generally Goitom Gebreluel, "The tripartite alliance destabilizing the Horn of Africa," *Al Jazeera* (May 10, 2021), <https://www.aljazeera.com/opinions/2021/5/10/the-tripartite-alliance-that-is-destabilising-the-horn-of-africa>. Lowenstein Clinic interviews with former interim administration officials and academic experts who study Tigray corroborated this account.

869 Muhammad Habib & Abdulkader M. Yusuf, *The Ethiopian Federal System: The Formative Stage* (Jan. 2011).

870 See generally "Ethiopia restructures military, set to revive naval force – State Media," *Africanews* (Dec. 13, 2018), <https://www.africanews.com/2018/12/13/ethiopia-restructures-military-set-to-revive-naval-force-state-media/>; Mulugeta Gebrehiwot Berhe, "The Ethiopian post-transition security sector reform experience: building a national army from a revolutionary democratic army," *African Security Review*, vol. 26(2) (2017); "PM Abiy Reviews Joint Military Preparedness Drill of Western Command," *ENA* (May 7, 2022), <https://www.ena.et/en/?p=35507> (quoting Prime Minister Abiy as praising the ENDF as a "fully prepared army" that meets "international military science standards").

871 See generally European Institute of Peace, *Special Police in Ethiopia*, see above note 43; Adugna, "Regional Special Forces," see above note 43. For a discussion of the Ethiopian federal government's relationship to Fano militias, see "News: Gov't organizes, not disarm [sic] Fano members who fought for survival of country: Amhara state," *Addis Standard* (Jan. 17, 2022), <https://addisstandard.com/news-govt-organizes-not-disarm-fano-members-who-fought-for-survival-of-country-amhara-state/>; "News: Fano militia not informal, negotiations without public knowledge unhelpful: Balderas Party," *Addis Standard* (Feb. 5, 2022), <https://addisstandard.com/news-fano-militia-not-informal-negotiations-without-public-knowledge-unhelpful-balderas-party/>; Maggie Fick & Dawit Endeshaw, "Young men in Ethiopia's Amhara start to mobilise against Tigray forces," *Reuters* (Jul. 26, 2021), <https://www.reuters.com/article/uk-ethiopia-conflict-idUKKBN2EW1YP> ("The public is mobilizing but there is no formal structure," said a member of the part-time volunteer militia Fano, which has no formal command structure but sometimes works alongside the Amhara military.")

872 See, e.g., Dawit Endeshaw, "Three more regions reinforce Ethiopia army, Amhara against Tigray forces," *Reuters* (Jul. 16, 2021), <https://www.reuters.com/world/africa/three-more-regions-reinforce-ethiopia-army-amhara-against-tigray-forces-2021-07-16/>.

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.⁸⁷³

All states have a duty under the Genocide Convention, as well as under customary international law, to prevent and punish the crime of genocide.⁸⁷⁴

Although publicly available information suggests that conduct by Ethiopian and allied forces targeting Tigrayans likely satisfies the act and group elements of the crime of genocide, further investigation is necessary to determine whether genocide has occurred in Tigray. In particular, inquiry by an entity with investigative powers is necessary to more precisely differentiate responsibility among parties to the conflict for relevant genocidal acts, to determine if those acts were carried out with the requisite genocidal intent, and, for purposes of potential criminal accountability, to identify specific individual perpetrators.

Because this analysis focuses on starvation and warring-party conduct affecting objects indispensable to survival, it examines only the possible perpetration of genocide through the enumerated act of deliberately inflicting conditions of life calculated to bring about the physical destruction of a group and does not comment on other potential genocide claims.⁸⁷⁵

Inflicted certain conditions of life upon one or more persons

The first element of Article 6(c) of the Rome Statute, which sets out the particular act of “[d]eliberately inflicting on the group conditions of life calculated to bring about its physical destruction,” is that “the perpetrator inflicted certain conditions of life upon one or more persons.”⁸⁷⁶ As discussed in depth in the facts section above, the Ethiopian government and allied forces imposed severe restric-

⁸⁷³ Convention on the Prevention and Punishment of the Crime of Genocide, adopted Dec. 9, 1948, 78 U.N.T.S. 277, art. 2 (1951) [Genocide Convention]. This definition is identical to the one set out in the Rome Statute. *See* Rome Statute, *see above* note 549, at art. 6.

⁸⁷⁴ *See generally* International Commission of Jurists, Questions and Answers on the Crime of Genocide Legal Briefing Note (Aug. 2018), <https://www.icj.org/wp-content/uploads/2018/08/Universal-Genocide-Q-A-FINAL-Advocacy-analysis-brief-2018-ENG.pdf>.

⁸⁷⁵ Although the present report does not analyze the claim, the acts discussed in this section could also be used as the basis of a claim that Ethiopian and allied forces committed the genocidal act of causing serious bodily or mental harm under Article 6(b) of the Rome Statute. This provision has traditionally been associated with acts of torture or sexual violence. *See* Rome Statute, *see above* note 549, at art. 6(b).

⁸⁷⁶ International Criminal Court, *Elements of Crimes*, *see above* note 798, at art. 6(c), Element 1.

tions on the delivery of humanitarian aid between the beginning of the conflict and June 2021, after which point they prevented the delivery of almost all humanitarian relief to Tigray until April 2022.⁸⁷⁷

The Ethiopian government coupled this obstruction of humanitarian relief with deprivations of cash, electricity, and fuel.⁸⁷⁸ Members of the Ethiopian government and allied forces also carried out extensive looting and destruction of objects indispensable to survival.⁸⁷⁹ These acts, which have affected millions of people, have produced widespread malnutrition,⁸⁸⁰ famine-like conditions,⁸⁸¹ and preventable deaths due to a lack of health care.⁸⁸² This conduct inflicted devastating conditions of life on the Tigrayan civilian population, but further investigation is needed to determine whether perpetrators acted with the intent and knowledge required to satisfy Article 6(c).

Particular national, ethnical, racial, or religious group

The acts of Ethiopian government and allied forces targeting Tigrayans satisfy the group element of the crime: “Such person or persons belonged to a particular national, ethnical, racial or religious group.”⁸⁸³ Tigrayans are a distinct ethnic group with a common language, a shared religion, and distinct cultural traditions.⁸⁸⁴

Conditions of life calculated to bring about the physical destruction of the group, in whole or in part

The actions by Ethiopian government and allied forces that are described throughout this analysis likely meet the requirements for finding the act of “[d]eliberately inflicting . . . conditions of life calculated to bring about [the group’s] physical destruction in whole or in part.”⁸⁸⁵ As defined by the ICC, the term “conditions of life” may include “deliberate deprivation of resources indispensable for survival, such as food or medical services, or systematic expulsion from homes.”⁸⁸⁶ The term “deliberately” is a reference to the mental element of the crime of genocide, which requires intent to destroy the group.⁸⁸⁷ A leading academic commentary on the Rome Statute defines the term “calculated” as

877 See above Warring-Party Conduct, section 3(a).

878 See above Warring-Party Conduct, section 2(a-c).

879 See above Warring-Party Conduct, section 1(a-c).

880 See, e.g., United Nations, *Tigray’s children in crisis and beyond reach, after months of conflict: UNICEF* (Jan. 27, 2021), <https://news.un.org/en/story/2021/01/1083102>.

881 See, e.g., United Nations, “400,000 in Tigray cross ‘threshold into famine,’” see above note 421.

882 See, e.g., UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 4 (Nov. 11, 2021), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-11-nov-2021>.

883 International Criminal Court, *Elements of Crimes*, see above note 798, at art. 6(c), Element 2.

884 See above Legal Analysis, section 2(b).

885 International Criminal Court, *Elements of Crimes*, see above note 798, at art. 6(c), Element 4.

886 *Id.*, at note 4.

887 Prosecutor v. Zdravko Tolimir, Case No. IT-05-88/2-A, ICTY A. Ch., Judgment, para. 228 (Apr. 8, 2015).

The Ethiopian government and its allies deprived Tigrayan civilians, on a massive scale, of resources indispensable to their survival, creating the certainty of death and mass suffering.

a circumstantial element⁸⁸⁸ that, as explained by the ICTY, can be assessed based on “the objective probability of these conditions leading to the physical destruction of the group.”⁸⁸⁹

The Ethiopian government and its allies deprived Tigrayan civilians, on a massive scale, of resources indispensable to their survival, creating the certainty of death and mass suffering. Tigray is a food-insecure region that faced further setbacks after the onset of desert locusts and after

the conflict prevented many Tigrayans from planting crops.⁸⁹⁰ Looting and destruction of crops further depleted food supply.⁸⁹¹ In this context, the Ethiopian government almost entirely shut down access to fuel, electricity, and cash in Tigray.⁸⁹² This rendered a substantial part of water infrastructure inoperable, prevented the transport of critical goods, and left many civilians unable to grind grain to make it edible.⁸⁹³ These circumstances left many Tigrayan civilians unable to survive without humanitarian aid. But throughout much of the conflict, the Ethiopian government and its allies heavily restricted humanitarian aid to Tigray.⁸⁹⁴ Then, in June 2021, following the TDF’s capture of much of Tigray, the Ethiopian government almost entirely prevented the entry of humanitarian aid into Tigray until April 2022.⁸⁹⁵

The conditions of life that members of the Ethiopian government and military inflicted on Tigray created a certainty of death and mass suffering among the Tigrayan population. On July 2, 2021, the United Nations said that 400,000 people were facing conditions of famine in Tigray.⁸⁹⁶ Just before this announcement, the Ethiopian government began imposing siege conditions on Tigray and allowed in only a tiny fraction of the humanitarian aid needed to meet the minimum caloric needs of civilians.⁸⁹⁷ Despite the need for 100 food trucks to enter Tigray per day,⁸⁹⁸ as of September 24, 2021, just 482 trucks had entered in the previous 90 days, meeting approximately 6% of need.⁸⁹⁹ Further,

888 Mark Klamburg (ed.), *Commentary on the Law of the International Criminal Court*, Torkel Opsahl Academic EPublisher, 2017, pp. 69-70 [Commentary on the Law of the ICC].

889 Karadžić Judgment, *see above* note 809, at para. 548. According to the ICTY, key indicators of this objective probability include: “[t]he actual nature of the conditions of life, the length of time that members of the group were subjected to them, and the characteristics of the group such as its vulnerability.” *Id.*

890 *See above* Overview, section 3.

891 *See above* Warring-Party Conduct, section 1(a).

892 *See above* Warring-Party Conduct, section 2(a-c).

893 *Id.*

894 *See above* Warring-Party Conduct, section 3(a).

895 *Id.*

896 United Nations, “400,000 in Tigray cross ‘threshold into famine,’” *see above* note 421.

897 *See above* Warring-Party Conduct, section 3(a).

898 World Food Programme, *WFP delivers food to another 1 million people in Tigray during June and July but is only reaching half of those it should be* (Aug. 9, 2021), <https://www.wfp.org/news/wfp-delivers-food-another-1-million-people-tigray-during-june-and-july-only-reaching-half>.

899 World Peace Foundation, “See No Evil,” *see above* note 423.

from July 12 to September 2, 2021, only 4.2% of the money needed to sustain humanitarian operations had been cleared or dispatched to Tigray.⁹⁰⁰ In total, from July 12, 2021 to January 27, 2022, less than 10% of the humanitarian supplies needed by civilians and humanitarian organizations entered Tigray.⁹⁰¹ These conditions created a virtual certainty of starvation, and in more than twenty districts of Tigray, people have reportedly starved to death.⁹⁰²

Further investigation is needed to establish, not only that the Ethiopian government and military created conditions of life that could bring about the physical destruction of a substantial part of the Tigrayan people, but also that individual perpetrators acted with knowledge that the conditions were calculated to bring about that destruction.⁹⁰³ Such an investigation would need to take into account any countervailing evidence, including, for example, that after the tightening of the siege of Tigray in June 2021, the Ethiopian government still allowed a trickle of aid into the region.

Intent to destroy

Publicly available information strongly suggests that the Ethiopian government and its allied forces targeted the Tigrayan people.⁹⁰⁴ Further investigation is required to determine whether relevant officials acted with genocidal intent, meaning that they intended to destroy, in whole or in part, the Tigrayan people. Determinations of genocidal intent are closely related to the preceding analysis of whether Ethiopian and allied forces imposed conditions of life calculated to bring about the physical destruction of Tigrayans, in whole or in part.

Repeated statements from Prime Minister Abiy and others frequently included vague and overbroad references to “the junta” or to “internal and external enemies of the country” that collapse distinctions between the TDF, the TPLF, and all Tigrayans.

Prominent members of the Ethiopian government have repeatedly made inflammatory statements that could be interpreted as calls to destroy Tigrayans as a group, in whole or in part. Prime Minister Abiy referred to the TPLF as “weeds” and “a cancer”⁹⁰⁵ and called on Ethiopians to “bury this enemy with

900 United Nations Office for the Coordination of Humanitarian Affairs, *Statement by Acting Humanitarian Coordinator*, see above note 333.

901 UN Office for the Coordination of Humanitarian Affairs, *Ethiopia – Northern Ethiopia Humanitarian Update Situation Report*, p. 4 (Jan. 28, 2022), <https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-27-january-2022>.

902 Cara Anna, “‘I just cry’: Dying of hunger in Ethiopia’s blockaded Tigray,” *Associated Press* (Sept. 20, 2021), <https://apnews.com/article/africa-united-nations-only-on-ap-famine-kenya-ef9fe79ccocf35917fd190b6e9bdof46>. For a discussion of various estimates of excess mortality, see above note 87.

903 Klamberg, *Commentary on the Law of the ICC*, see above note 888, p. 70.

904 International Criminal Court, *Elements of Crimes*, see above note 798, at art. 6(c), Element 4.

905 Abiy Ahmed Ali (@AbiyAhmedAli), Twitter (Jul. 18, 2021, at 3:48 AM EST), <https://twitter.com/abiyahmedali/status/1416666228907728906>; see also “US warns Ethiopia of ‘dehumanizing rhetoric’ on Tigray,” *Associated Press* (Aug. 4, 2021), <https://apnews.com/article/middle-east-africa-ethiopia-b2084e1fac5444df00585b8f9ab561a0>.

... blood and bones.”⁹⁰⁶ He said that “this clique should not be allowed to live with us” and that “if this traitorous force which wants to extinguish us and leave us with nothing . . . isn’t removed, then this won’t be a bright year for Ethiopia.”⁹⁰⁷ Such repeated statements from Prime Minister Abiy and others frequently included vague and overbroad references to “the junta”⁹⁰⁸ or to “internal and external enemies of the country”⁹⁰⁹ that collapse distinctions between the TDF, the TPLF, and all Tigrayans.⁹¹⁰

Further, as described in detail above, Ethiopian federal government and allied forces have extensively looted food, water, and health-care systems in Tigray,⁹¹¹ imposed a siege that has decimated civilian life in Tigray,⁹¹² and denied the passage of humanitarian relief to civilians in need in Tigray.⁹¹³ Publicly available information indicates that Ethiopian and allied forces used these acts of looting, siege tactics, and the unlawful obstruction of humanitarian relief to inflict conditions of life calculated to bring about the physical destruction of Tigrayans as a group, as defined in the Rome Statute and the Genocide Convention. Considered together with statements by Ethiopian and allied officials calling for the destruction of the Tigray regional government, these actions depriving Tigrayans of access to food and water, while knowing the deprivation would cause massive starvation and death, provide clear reasons to believe that the Ethiopian government and its allies might have acted with intent to destroy the Tigrayan people, in whole or in part. Further investigation is vital to determine if this conduct was carried out with the requisite intent.

906 Cara Anna & Amanda Seitz, “Facebook removes Ethiopian PM’s post for inciting violence,” *Associated Press* (Nov. 3, 2021), <https://apnews.com/article/technology-africa-united-states-kenya-ethiopia-5ed0cbcoe65e5cfd3820123d8a252c33>; see also “Ethiopian leader, marking year of war, says he will bury foes ‘with our blood,’” *Reuters* (Nov. 3, 2021), <https://www.reuters.com/world/africa/ethiopian-leader-marking-year-war-says-he-will-bury-his-foes-with-our-blood-2021-11-03/> (“The pit which is dug will be very deep, it will be where the enemy is buried, not where Ethiopia disintegrates,” he [Abiy] said in a speech . . . at the military’s headquarters in Addis Ababa. ‘We will bury this enemy with our blood and bones and make the glory of Ethiopia high again,’ said Abiy.”).

907 “Ethiopia’s Abiy Ahmed sworn in amid dissenting voices,” *Africanews* (Oct. 4, 2021), <https://www.africanews.com/2021/10/04/ethiopia-s-abiy-ahmed-sworn-in-amid-dissenting-voices/>.

908 See, e.g., Abiy Ahmed Ali (@AbiyAhmedAli), Twitter (Jul. 18, 2021, at 3:48 AM EST), <https://twitter.com/abiyahmedali/status/1416666228907728906>; Jason Burke, “Ethiopia’s PM says airstrikes launched against targets in restive Tigray region,” *The Guardian* (Nov. 6, 2020), <https://www.theguardian.com/world/2020/nov/05/ethiopian-military-claims-to-be-at-war-with-tigray-leaders> (“The [military] operation in the northernmost of the nine regions of Ethiopia will continue ‘until the junta is made accountable by law,’ Abiy said.”).

909 Ministry of Foreign Affairs of Ethiopia, *Message from Prime Minister Abiy Ahmed on the Current Situation in Tigray* (Jul. 14, 2021), <https://www.ethiombassy.org.uk/message-from-prime-minister-abiy-ahmed-on-the-current-situation-in-tigray/>; see also “Enemies Working to Obstruct Ethiopia from Utilizing Its Resources: Chief Government Whip,” *ENA* (Jul. 9, 2022), <https://www.ena.et/en/?p=37058>.

910 Publicly available statements from victims in Tigray indicate that armed forces have repeatedly accused Tigrayan civilians of membership in or support for the “junta.” See, e.g., Amnesty International, *Rape and sexual violence in the conflict in Tigray*, see above note 97, p. 15 (“A man who is from the Amhara Special Force came and took me from my home; he said that I was one of the wanted Junta (TPLF/TDF). In detention they beat me . . . and . . . came every night to rape me. . . . They told me ‘You Junta! We will not get anything if you die. We would rather torture you,’ and they beat me, and raped me . . .”); Amnesty International & Human Rights Watch, “*We Will Erase You*,” see above note 2, p. 175. See also “News: Security forces burn civilians to death in Metekel, Benishangul Gumuz; gov’t says act ‘extremely horrific,’ pledges accountability,” *Addis Standard* (Mar. 12, 2022), <https://addisstandard.com/news-security-forces-burn-civilians-to-death-in-metekel-benishangul-gumuz-govt-says-act-extremely-horrific-pledges-accountability/>.

911 See above Warring-Party Conduct, section 1(a-c)

912 See above Warring-Party Conduct, section 2(a-c)

913 See above Warring-Party Conduct, section 3(a-b).

CONCLUSIONS AND RECOMMENDATIONS

This legal analysis has found, on the basis of publicly available information, that Ethiopia and its allies almost certainly committed grave, starvation-related violations of international law during the war in Tigray, including the use of starvation of civilians as a method of combat. As discussed above, other credible investigations – by the UN-established International Commission of Human Rights Experts on Ethiopia and by non-governmental organizations, including Human Rights Watch and Amnesty International – have documented serious violations by all warring parties, including Tigray forces, in Tigray, Amhara, and Afar that likely amount to war crimes or crimes against humanity.

Given the gravity of the acts documented by human rights investigators and assessed in this analysis, as well as the urgency of the crisis in Tigray, the Clinic presents the following recommendations as potential steps toward preventing further harms to civilians, providing remedies to people who have been harmed by warring parties' unlawful conduct, and holding accountable those responsible for violations.

Ethiopia and its allies must, as a matter of priority, take all available steps to implement the cessation-of-hostilities agreement and halt the starvation of civilians in Tigray.⁹¹⁴ The United Nations, the African Union, and officials at the highest levels of UN and AU member states' governments should apply sustained international pressure on all warring parties to implement the cessation-of-hostilities agreement and halt ongoing violations of international law. All warring parties have an obligation to provide effective remedies, including prompt, adequate, and effective reparations, to victims of serious international law violations in Tigray, as well as to victims in Amhara, Afar, and other areas of Ethiopia affected by the conflict.

TO ALL PARTIES:

- Immediately implement the cessation-of-hostilities agreement and cease all violations of international law.

TO THE ETHIOPIAN FEDERAL GOVERNMENT:

- Fully lift the siege of Tigray, including by:
 - › restoring telecommunications services, without censorship or unlawful surveillance, throughout Tigray;
 - › reconnecting Tigray, including areas controlled by Tigray forces, to the federal electrical grid and making all necessary technical repairs to electrical infrastructure in Tigray, Amhara, and Afar; and

⁹¹⁴ See above A Note on the Cessation-of-Hostilities Agreement.

- › reversing overly broad and discriminatory fiscal policies, like the directive to freeze all bank accounts opened in Tigray, and restoring, as a matter of priority, banking and microfinance services for civilians throughout Tigray.
- Facilitate the rapid and unimpeded passage of humanitarian relief supplies for civilians in Tigray, including by:
 - › allowing the unimpeded passage of commercial and humanitarian supplies of electricity, fuel, and cash to all parts of Tigray; and
 - › publicly condemning attacks on or harassment of humanitarian relief workers;
- Remedy the serious violations of international humanitarian law and international human rights law that Ethiopian and allied forces have committed, including in Tigray, by:
 - › supporting and contributing funding for the establishment of an independent, internationally administered redress mechanism mandated to provide adequate, effective, and prompt reparations to civilian victims of serious violations of international law, including civilians who have suffered the effects of starvation-related violations in Tigray, Amhara, Afar, and other parts of Ethiopia, regardless of whether it is possible to identify the perpetrator of each specific violation; and
 - › investigating, suspending, or prosecuting, in line with international due process standards, all those, including federal and regional government officials and members of Ethiopian and allied forces, credibly implicated in international crimes through planning or implementing unlawful siege tactics, looting humanitarian relief supplies, attacking or harassing humanitarian relief workers, and other conduct.
- Allow immediate and unrestricted access for humanitarian relief workers, journalists, and human rights investigators to Tigray and other parts of Ethiopia, including by cooperating fully with and offering a standing invitation to the International Commission of Human Rights Experts on Ethiopia, the African Commission's Commission of Inquiry on the Human Rights Situation in the Tigray Region of Ethiopia, and relevant UN special procedures, particularly the UN Special Rapporteur on the right to food, to visit Ethiopia with unrestricted investigative access to all regional states.

TO THE ERITREAN GOVERNMENT:

- Immediately withdraw Eritrean armed forces from all parts of Ethiopia.
- While Eritrean forces withdraw, do not impede humanitarian aid efforts in any areas of Ethiopia where Eritrean forces remain present.

- Allow immediate and unrestricted access for humanitarian relief workers, journalists, and human rights investigators to Eritrea and areas of Ethiopia where Eritrean forces are present, including by cooperating fully with the International Commission of Human Rights Experts on Ethiopia, the African Commission's Commission of Inquiry on the Human Rights Situation in the Tigray Region of Ethiopia, and relevant UN special procedures, particularly the UN Special Rapporteur on the right to food.
- Remedy the serious violations of international humanitarian law and international human rights law that Eritrean forces have committed, including in Tigray, by:
 - › supporting and contributing funding for the establishment of an independent, internationally administered redress mechanism mandated to provide adequate, effective, and prompt reparations to civilian victims of serious violations of international law, including civilians who have suffered the effects of starvation-related violations in Tigray, Amhara, Afar, and other parts of Ethiopia, regardless of whether it is possible to identify the perpetrator of each specific violation; and
 - › investigating, suspending, or prosecuting, in line with international due process standards, all those, including Eritrean government officials and members of Eritrean armed forces, credibly implicated in international crimes through planning or implementing unlawful siege tactics, looting humanitarian relief supplies, attacking or harassing humanitarian relief workers, and other conduct.

TO TIGRAY REGIONAL AUTHORITIES:

- Facilitate immediate, unrestricted, and sustained humanitarian access to all parts of Tigray.
- Allow immediate and unrestricted access for humanitarian relief workers, journalists, and human rights investigators to and within Tigray, including by cooperating fully with the International Commission of Human Rights Experts on Ethiopia, the African Commission's Commission of Inquiry on the Human Rights Situation in the Tigray Region of Ethiopia, and relevant UN special procedures, particularly the UN Special Rapporteur on the right to food.
- Remedy the serious violations of international law committed by Tigray forces, including in Tigray, Amhara, and Afar, by:
 - › supporting and contributing funding to the establishment of an independent, internationally administered redress mechanism mandated to provide adequate, effective, and prompt reparations to civilian victims of serious violations of international law, including civilians who have suffered the effects of starvation-related violations in Tigray, Amhara, Afar, and other parts of Ethiopia, regardless of whether it is possible to identify the perpetrator of each specific violation; and

- › investigating, suspending, or sanctioning, in line with international due process standards, all those, including regional government officials and members of Tigray forces, credibly implicated in international crimes through looting humanitarian relief supplies, attacking or harassing humanitarian relief workers, and other conduct.

TO THE UNITED NATIONS SECURITY COUNCIL:

- Support the rapid and complete implementation of the cessation-of-hostilities agreement by all parties to the conflict.
- Strongly condemn the use of starvation as a weapon of war during the conflict in Tigray and name the actors responsible.
- Demand prompt, transparent, and impartial investigations into and accountability for the use of starvation of civilians as a weapon of war during the conflict in Ethiopia.
- Support the establishment of an independent, internationally administered redress mechanism mandated to provide prompt, adequate, and effective reparations to civilian victims of serious violations of international law.
- Urge all parties, particularly Ethiopia, to take all appropriate steps to facilitate the efforts of the International Commission of Human Rights Experts on Ethiopia and the African Commission's Commission of Inquiry on the Human Rights Situation in the Tigray Region of Ethiopia and encourage cooperation between UN agencies and these commissions.
- Refer the situation in Ethiopia to the International Criminal Court for investigation of possible war crimes, crimes against humanity, and genocide.

TO THE UN HUMAN RIGHTS COUNCIL:

- Continue to support the UN International Commission of Human Rights Experts on Ethiopia until it has completely fulfilled its mandate, including by calling on Ethiopia and its allies to grant the Commission unrestricted access to all conflict-affected areas of Ethiopia and renewing the Commission's mandate while its investigations are ongoing.
- Commission a study of possible mechanisms for ensuring redress for serious violations of international law during the conflict in Tigray, including prompt, adequate, and effective reparations to civilian victims of starvation-related violations in Tigray, Amhara, Afar, and other parts of Ethiopia.

TO THE UN INTERNATIONAL COMMISSION OF HUMAN RIGHTS EXPERTS ON ETHIOPIA:

- Continue to investigate starvation-related violations of international law in Ethiopia.
- As part of the provision of guidance and technical assistance to Ethiopia to support accountability, reconciliation, and healing, recommend that Ethiopia support and contribute funding to the establishment of an independent, internationally administered redress mechanism mandated to provide prompt, adequate, and effective reparations to civilian victims of serious violations of international law, including civilians who have suffered the effects of starvation-related violations in Tigray, Amhara, Afar, and other parts of Ethiopia, regardless of whether it is possible to identify the perpetrator of each specific violation.

TO UN AGENCIES IN ETHIOPIA:

- Cooperate with the International Commission of Human Rights Experts on Ethiopia, including by sharing information relevant to humanitarian access and starvation in Tigray.

TO THE UN SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD:

- Issue a statement or a joint statement with other UN experts, particularly the UN Special Rapporteur on the situation of human rights in Eritrea, denouncing the starvation-related violations of international law committed during the conflict in Ethiopia, including those committed through the siege of Tigray.
- Immediately request a visit to Ethiopia.
- Call on the UN Human Rights Council to commission a study of possible mechanisms for ensuring redress for serious violations of international law during the conflict in Tigray, including prompt, adequate, and effective reparations to civilian victims of starvation-related violations in Tigray, Amhara, Afar, and other parts of Ethiopia.

TO THE AFRICAN UNION AND ITS MEMBER STATES:

- Support the rapid and complete implementation of the cessation-of-hostilities agreement by all parties to the conflict and take steps to support the African Union's monitoring, verification, and compliance mechanism.
- Demand prompt, transparent, and impartial investigations into and accountability for the use of starvation as a method of warfare during the conflict in Ethiopia.
- Support the establishment of an independent, internationally administered redress mechanism mandated to provide prompt, adequate, and effective reparations to civilian victims of serious violations of international law.

- Conduct and publish a review of the African Union’s failure to prevent, respond to, or condemn atrocity crimes, including the use of starvation as a method of warfare, in Ethiopia.

TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLES’ RIGHTS (ACHPR):

- Hold a public extraordinary session on the human rights situation in Ethiopia and request a preliminary briefing by the ACHPR Commission of Inquiry into the situation in the Tigray Region.
- When considering cases against Ethiopia and Eritrea related to serious human rights violations, including starvation-related violations of the rights to life, food, water, and the highest attainable standard of health, use provisional measures and reparations orders to prevent or repair starvation-related harms to civilians.

TO THE INTERGOVERNMENTAL AUTHORITY ON DEVELOPMENT (IGAD):

- Support the rapid and complete implementation of the cessation-of-hostilities agreement by all parties to the conflict and take steps to support the African Union’s monitoring, verification, and compliance mechanism.
- Use all available diplomatic means to urge the Ethiopian government, at the federal and regional levels, to cooperate with the investigative mechanisms established by the African Commission on Human and Peoples’ Rights and by the United Nations.
- Support the establishment of an independent, internationally administered redress mechanism mandated to provide adequate, effective, and prompt reparations to civilian victims of serious violations of international law, including those who have suffered the effects of starvation-related violations in Tigray, Amhara, Afar, and other parts of Ethiopia, regardless of whether it is possible to identify the perpetrator of each specific violation;
- Conduct a public review of IGAD’s systematic failure to protect food security in Tigray.

TO THE UNITED STATES:

- Use all available diplomatic means to support the rapid and complete implementation of the cessation-of-hostilities agreement by all parties to the conflict and take steps to support the African Union’s monitoring, verification, and compliance mechanism.
- Do not restore trade preferences for Ethiopia under the African Growth and Opportunity Act (AGOA) until Ethiopia ceases the use of starvation as a weapon of war, unlawful obstruction of humanitarian relief, and other gross rights violations, in line with AGOA’s requirement that eligible countries do not engage in “gross violations of internationally recognized human rights.”

TO ETHIOPIA'S OTHER INTERNATIONAL PARTNERS:

- Use all available diplomatic means to support the rapid and complete implementation of the cessation-of-hostilities agreement by all parties to the conflict and take steps to support the African Union's monitoring, verification, and compliance mechanism.

TO TRANSNATIONAL CIVIL SOCIETY ACTORS:

- Support the rapid and complete implementation of the cessation-of-hostilities agreement by all parties to the conflict and take steps to support the African Union's monitoring, verification, and compliance mechanism.
- Publicly condemn the use of starvation of civilians as a weapon of war in Tigray and call on the Ethiopian federal government and its allies to cooperate with and support credible, independent investigations of starvation-related violations of international law.

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