



Conflict-Related Sexual and Reproductive Violence in Tigray

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Contents

Foreword	3
Map of Tigray Region	4
I. Glossary	5
II. Executive Summary	6
III. Background to the Conflict in Tigray	9
A. The Tigray Conflict Context	9
B. Gender Norms and Structures Relevant to the Commission of Crimes in Tigray	11
i. Gender Norms in Ethiopia	11
ii. Institutionalized Militarized Masculinity	12
iii. The Continuum of Violence: Gendered Vulnerabilities to Conflict	13
IV. Conflict-Related Sexual and Reproductive Violence	15
A. Rape and Other Acts of Sexual Violence	16
B. Reproductive Violence	17
C. Access to Health Care and Its Impact on Survivors of Sexual and Reproductive Violence	19
D. Sexual and Reproductive Violence Committed by the TPLF and Allied Militia	20
E. Sexual and Reproductive Violence after the Conclusion of the Conflict	21
F. The Mental Health and Social Impacts of Sexual and Reproductive Violence on Survivors	21
G. The Commission of Other Crimes during the Conflict	22
V. Findings on the Commission of International Crimes Through Sexual and Reproductive Violence	24
A. Crimes Against Humanity	24
i. Underlying Acts of Crimes Against Humanity	24
ii. The Widespread and Systematic Basis of the Attack Against the Civilian Population	27
B. War Crimes	28
C. Genocide	28
D. Crimes Committed by the TPLF and Allied Militias	29
VI. Responsibility for Sexual and Reproductive Violence Committed in the Tigray Conflict	30
A. Individual Criminal Liability	30
B. State Responsibility under International Law	31
VII. Recommendations	33
Author Biographies	36
Acknowledgments	37
Endnotes	38



Foreword

Over two years after the formal cessation of hostilities in Ethiopia, the deep scars left on communities by the Tigray conflict remain. Since the beginning of the conflict in 2020, gender-based crimes have emerged as one of the most harrowing but under-addressed legacies of the war. Reports of widespread sexual and reproductive violence, including rape as a weapon of war, underscore the urgent need for survivor-centered approaches to documentation, accountability, and justice. This report by the New Lines Institute seeks to shed light on the gendered dimensions of the conflict and to ensure that the experiences of survivors are neither forgotten nor dismissed.

Building on New Lines' previous report "Genocide in Tigray: Serious Breaches of International Law in the Tigray Conflict, Ethiopia, and Paths to Accountability," and drawing on expert analysis, reported testimonies, and legal frameworks, this report provides a legal assessment of gender-based crimes in the Tigray war. Drafted in response to needs expressed by policymakers around the world, the authors situate these crimes within broader patterns of gender-based violence in conflict to examine both their immediate impact and the long-term consequences for survivors, families, and communities. By presenting this evidence and legal analysis, the report aims to break the silence and challenge the impunity that often surrounds such crimes, and to amplify the voices of survivors and front-line actors to support pathways to justice and accountability.

The resilience of the survivors who persist in using their voices to demand justice, despite facing societal shame and stigma, must be matched by global commitments to justice and accountability. While gender-based crimes, including sexual and reproductive violence, are often perceived as an "unfortunate but inevitable" reality of conflict and post-conflict settings, this report seeks to challenge that conception and to assert that adequate responses to gender-based violence are not only a matter of human rights but also an avenue to achieving sustainable peace and security.

It is the hope of the authors that the insights and recommendations presented here will bolster international efforts to end impunity for gender-based crimes, strengthen prevention initiatives, and provide survivors the justice and support they deserve.

Baroness (Fiona) Hodgson of Abinger, CBE

House of Lords





I. Glossary

ASF	Amhara Special Forces (regional paramilitary police force)
AU	African Union
CA3	Common Article 3 of the Geneva Conventions
CoHA	Cessation of Hostilities Agreement of 2 November 2022
CRSV	conflict-related sexual violence
EDF	Eritrean Defense Forces
ENDF	Ethiopian National Defense Force
EPRDF	Ethiopian People's Revolutionary Democratic Front
Fano	irregular militia from the Amhara ethnic group
GAM	global acute malnutrition
GBC	gender-based crimes
GBV	gender-based violence
ICHREE	International Commission of Human Rights Experts on Ethiopia (U.N.)
ICC	International Criminal Court
ICJ	International Court of Justice
IPC	Integrated Food Security Phase Classification
IDPs	internally displaced persons
MSF	Médecins Sans Frontières
NIAC	non-international armed conflict
NRC	Norwegian Refugee Council
OHCHR	Office of the High Commissioner for Human Rights (U.N.)
OLA	Oromo Liberation Army
PHR	Physicians for Human Rights
SAM	severe acute malnutrition
SGBV	sexual and gender-based violence
TPLF	Tigray People's Liberation Front
TSF	Tigray Special Forces (a regional paramilitary police force)
U.N.	United Nations



II. Executive Summary

Sexual and reproductive violence inflicted on women, girls, men, boys, and LGBTQI+ persons by all parties to the conflict in Tigray was brutal, leaving survivors with lifelong physical scars and mental trauma that will, in turn, affect generations to come. An investigation by the U.N. International Commission of Human Rights Experts on Ethiopia (ICHREE), mandated by the U.N. Human Rights Council, found that, in the context of the armed conflict between Ethiopian and allied forces and the Tigray People's Liberation Front and the commission of a wide range of other crimes, this violence constituted war crimes and crimes against humanity—including rape, sexual slavery, and torture—and may constitute genocide. Their investigation, and further widespread reporting by state and U.N. authorities and nongovernmental organizations, demonstrate the gravity, scale, and horrific nature of the sexual and reproductive violence and the gendered, ethnic, and political grounds upon which it was inflicted by perpetrators on the victims.

As set out in this report, various carefully documented reports allege that tens of thousands of women, girls, men, boys, and LGBTQI+ persons were subjected to rape, sexual torture, sexual and reproductive mutilation, forced nudity, sexual slavery, and other acts of sexual violence by all parties to the conflict. Rape and reproductive mutilation particularly appear to be intended to prevent women from giving birth to ethnic Tigrayan babies. These crimes were committed in the context of the mass killing and inflicting of other crimes on civilians in Tigray, Amhara, and Afar. Many survivors were prevented from accessing necessary somatic and mental health care services, and some victims who initially survived later died due to their lack of access to medical treatment. Such violence has left survivors with the prospect of facing social stigmatization that would put them at risk and affect their ability to maintain meaningful intimate relationships and ensure community inclusion. These effects are also often compounded by the lack of recognition or adequate redress for survivors, who have been continuously retraumatized as they have attempted to have their voices heard and to get justice for the crimes committed against them, since the formal cessation of hostilities.

Gender norms, which shape the intentions and capacities of the perpetrators and the experiences of affected individuals and communities, provide a critical lens through which to understand these crimes. Deeply rooted patriarchal norms remain embedded within Ethiopia's economic, political, and cultural spaces at all levels and cause gender discrimination in practice, despite the formal enshrinement of gender equality in Ethiopia's Constitution. The result is a hierarchical system dominated by men, in which women are subordinated and relegated to the traditional roles of wife and mother and in which gender-based violence has been normalized. Survivors of sexual violence face stigma; they often are either forced to marry their attacker to preserve their family's honor or are shamed and exiled.

The norms and values ascribed to gender also mean that militarized masculine values have become deeply intertwined with political decision-making, which has led an overvaluation of the military as a tool for addressing social and political tensions, including by Prime Minister Abiy Ahmed. The impact on the gendered vulnerabilities of women and girls, men and boys, and LGBTQI+ persons and the continuum of violence between normalized everyday forms and those that occur during conflict became quickly apparent in the scale of rape and other forms of sexual and reproductive violence, along with other crimes, inflicted on them.

When considered in this context, the perpetrators' perceptions about the victims' real or perceived gender, ethnicity, and political views or associations underpinned their intent. Assuming that the allegations relied upon in this report are accurate, there is a reasonable basis to believe that the sexual and reproductive violence inflicted in the conflict constitutes persecution on gender grounds and thus is a crime against humanity, along with being based on intersecting political and ethnic grounds. Where children were



targeted because of their age, crimes committed against them may also constitute persecution on the intersecting ground of age. Similarly, the killing of men and boys because of their real or perceived gender and potential exacerbation of hostilities would also constitute gender-based persecution. The sexual and reproductive violence and other gender-based crimes committed in Tigray also constitute war crimes, and likely genocide.

This report aims to provide a snapshot of the sexual and reproductive violence committed during the Tigray conflict and its aftermath. It offers recommendations for policymakers and decision-makers on steps they should take to address it. To date, there has been almost no accountability for the crimes committed, and thus survivors have had little to no access to remedies and reparations. Perpetrators continue to benefit from an environment of impunity in which there is no deterrence to committing such crimes again. As reports have shown, even after the formal cessation of hostilities in December 2022, sexual and reproductive violence continued to be committed in Tigray and neighboring affected regions; this has been a conflict that exacerbated the escalation of other conflicts in the country, which may reveal the same patterns of abuse in which the local population suffers the brunt of the conflict parties' widespread latitude to conduct their war in violation of international law norms.

Based on this context, this report recommends that states and the Ethiopian government and actors adopt the following avenues to ensure accountability for sexual and reproductive violence, along with other crimes, committed in Ethiopia during the Tigray conflict, with a view to determining both state responsibility and individual criminal responsibility.

The international community should:

- Through the U.N. Security Council, refer the situation in Ethiopia since at least the beginning of the Tigray conflict to the International Criminal Court.
- For state parties to the Genocide Convention, engage with the Ethiopian authorities on their obligations under the convention, in particular their failure to prevent genocide, with a view to institute proceedings against Ethiopia at the International Court of Justice if it does not meet its obligations.
- Ensure that domestic legislation enables investigating and prosecuting international crimes committed during the Tigray conflict based upon extraterritorial—including universal—jurisdiction and ensure that domestic criminal justice authorities have the necessary resources to carry out such investigations and prosecutions.
- Ensure that domestic legislation provides avenues for civil remedies, based on universal jurisdiction, that enable victims to gain access to compensation.
- Establish an independent investigative mechanism to collect, preserve, and analyze information and evidence and to make it available to criminal and civil justice authorities with a view to supporting future accountability options.
- Advocate for and support the development of an Ethiopian National Action Plan on Women, Peace, and Security as a way to strengthen domestic and international gender-responsible peacebuilding and post-conflict recovery programs, focusing on accountability and survivor support, in line with the pillars of the global Women, Peace, and Security Agenda.
- Advocate for the establishment of an inclusive, independent, impartial, and effective transitional justice process that meets international law and standards and responds to the needs of survivors, in particular survivors of sexual and reproductive violence and other gender-based crimes.



- Support civil society organizations working with survivor communities by adequately funding them and supporting their advocacy at the international level.

The Ethiopian government and regional authorities should:

- Implement all recommendations of the ICHREE made in its reports to the U.N. Human Rights Council.
- Cooperate with all investigations conducted by the United Nations and other international, regional, and local actors, including by ensuring unrestricted access and providing protection from reprisals for survivors who engage with them.
- Ensure that all accountability avenues and mechanisms include women, girls, LGBTQI+ persons, and other vulnerable groups in all processes and give adequate attention to gender-based crimes.
- Support civil society organizations working with survivor communities by adequately funding them and supporting their advocacy at the international level.
- Facilitate access to physical and mental health services and other forms of rehabilitation for all survivors of sexual and reproductive violence and other gender-based crimes, along with other international crimes committed during the conflict.



III. Background to the Conflict in Tigray

A. The Tigray Conflict Context

From 1991 to 2018, the Tigray People's Liberation Front (TPLF), an ethno-nationalist party, was a leading member of the Ethiopian People's Revolutionary Democratic Front (EPRDF), a political coalition that governed Ethiopia for nearly four decades. Thus, the TPLF and EPRDF were the primary political power holders in Ethiopia. Then, in April 2018, Abiy Ahmed, a leader of the Oromia People's Democratic Organization (OPDO), was elected prime minister. This shift in Ethiopia's political landscape from the EPRDF's democratic ideals to the OPDO's pan-Ethiopian, democratic model meant that the TPLF lost significant political power. Due to political differences, the TPLF refused to join in a coalition with the new leading Prosperity Party in December 2019, after which many Tigrayan federal government workers abandoned their posts in Addis Ababa and returned to the Tigray region in the north.¹

After Abiy postponed the parliamentary elections scheduled for August 2020 due to the outbreak of COVID-19, opposition leaders, including Tigrayans, accused the Prosperity Party of trying to rig the elections or postpone them indefinitely.² Despite a warning that Abiy's government would take action against unauthorized elections,³ the Tigrayans held separate elections in September 2020, electing the TPLF to lead 2.7 million Tigrayans.⁴

Violence sparked soon after. On Nov. 3, 2020, Tigrayan forces attacked the northern command of the Ethiopian National Defense Force (ENDF). The ENDF retaliated the next day in a "law enforcement operation," with the support of the Amhara Special Forces (ASF), an allied militia, and the Eritrean Defense Forces (EDF). After four subsequent weeks of intense fighting, the TPLF switched from traditional military tactics to insurgency tactics, making TPLF forces harder to identify.⁵ Violence during this phase (*phase one*) of the civil war was contained primarily within the Tigray region, with some spillover into the bordering Amhara region and Eritrea.⁶ In May 2021, the Ethiopian government officially designated the TPLF and the Oromo Liberation Army (OLA), which were fighting alongside the TPLF, as terrorist organizations.⁷ Fighting continued through the spring and summer, but, with an emerging humanitarian crisis on its hands and a growing death toll, the federal government declared a unilateral cease-fire in June 2021 and announced its withdrawal from the Tigray region.⁸

On June 28, 2021, ENDF forces withdrew from Tigray, marking the *second phase* of the conflict. The "cease-fire" was labeled a "joke" by the Tigrayan leadership,⁹ which had seven conditions for a mutual cease-fire, including the withdrawal of Eritrean and Amhara forces, full access to government services (e.g., electricity and banking), and unlimited humanitarian access to the region. The TPLF recaptured Tigray's capital, Mekelle, and advanced attacks in the neighboring Afar and Amhara regions. On July 18, 2021, Abiy compared the TPLF's members to "weeds" and "cancer," declared war on the group, and vowed to wipe it out.¹⁰ Abiy's inflammatory statements caught the attention of the Office of the United Nations Special Adviser on the Prevention of Genocide, which condemned the language and urged "the Government of Ethiopia to fulfil its responsibility and enhance efforts to prevent further escalation of violence."¹¹

The territorial expansion of the conflict and the TPLF's forming of an alliance with the OLA in August 2021 were met with calls in Addis Ababa and the other nine Ethiopian regions for mass conscription, including of youth, to combat TPLF forces.¹² By November 2021, the TPLF had retaken the towns of Dessie and Kombolcha, while the OLA had regained control of parts of Amhara. On Nov. 2, 2021, amid rising concerns that the TPLF had its sights on Addis Ababa, the government declared a state of emergency. Thousands of primarily Tigrayan citizens with suspected connections to the TPLF or OLA were arrested



in Addis Ababa.¹³ Fighting continued through December. After the ENDF regained control of conflict-affected areas in Afar and Amhara, on Dec. 20, 2021, the government announced the end of military action against the TPLF. The Tigrayan leadership withdrew its forces to the borders of the Tigray region.

Despite these withdrawals, fighting continued along the borders of Tigray, Afar, and Amhara until March 24, 2022, marking the *third phase* of the conflict, when Abiy's government and the Tigray/TPLF leadership agreed to a "cessation of hostilities."¹⁴ No major clashes were reported, and humanitarian aid was finally allowed into northern Ethiopia, where the local infrastructure had been devastated and millions of civilians were internally displaced. Phase three was marked primarily by attempts to bring the warring parties to the negotiating table by the United States, European Union (EU), and African Union (AU). The Ethiopian government created a peace committee and chose to endorse an AU-led peace process, while the TPLF preferred U.S.- and EU-led mediation.¹⁵

The end of the cease-fire and *phase four* of the conflict began on Aug. 24, 2022, with a clash in the North Wello zone, located between Southern Tigray and the Amhara region, between TPLF and ENDF forces, which were joined by the Amhara regional special forces and members of Fano, an Amhara ethno-nationalist militia group. Clashes were then recorded in the Tigray, Afar, and Amhara regions. Neither side took responsibility for the resumption of violence,¹⁶ but there were signs before the resumption that the TPLF was willing to reengage in violent actions if Abiy's government did not restore basic services, in line with its preconditions for a cease-fire.¹⁷ On Nov. 2, 2022, the Ethiopian Government and the TPLF signed the Agreement for Lasting Peace through a Permanent Cessation of Hostilities (CoHA), after a week of peace talks led by the AU.¹⁸ The CoHA contained these four crucial elements, the implementation of which would be supervised by the AU and the Intergovernmental Authority on Development (IGAD): (1) disarmament of TPLF combatants and subsequent steps to implement the comprehensive Disarmament, Demobilization, and Reintegration (DDR) program; (2) restoration of essential services in the Tigray region; (3) ensuring unfettered access to humanitarian aid in the Tigray region; and (4) upholding a commitment to protect civilians, especially women and children.¹⁹

Despite early reports that the ENDF and TPLF were abiding by the CoHA²⁰ and the additional requirement that foreign forces were to depart the region, there were allegations that the government-aligned Eritrean forces continued to be responsible for extrajudicial killings and mass arrests in Tigray through the end of 2022.²¹ By Dec. 30, 2022, over 111,000 metric tons of food and nonfood supplies had been transported to conflict zones,²² and basic services such as electricity and telecommunications had been restored in many cities across the Afar, Amhara, and Tigray regions.²³ The TPLF's disarmament began in mid-January, in line with the CoHA's DDR plan, while an Ethiopian government defense force was maintained to contend with ethnic disputes in other regions, particularly Amhara and Oromia.²⁴

As Tigray continued on its path to recovery, the federal government's attention, particularly that of the ENDF, shifted to the ethnic conflict of the Oromo people living in the Oromia Special Zone in Amhara, who have been demanding autonomy since the early 1990s. The ethnic friction in Tigray raised tensions across the country, sparking a resurgence of fighting between Oromo ethnic militias and Amhara special forces in March and April 2021, in both the Special Zone and western Oromia.²⁵ By allying with the TPLF, the OLA obtained and maintained control of many cities in the Oromia Special Zone through December 2021, when a crackdown by the ENDF, Amhara special forces, and Fano militias curbed the violence. However, clashes reignited in April 2022 and continued through April 2023, occupying much of the government's attention as the Tigray conflict died down.²⁶

Ongoing violence in the Amhara region and reports of conflict-related sexual violence (CRSV) through January 2025 have been primarily attributed to the Fano insurgency that began in August 2023. Fano



forces are primarily made up of armed youth from the Amhara region who were heavily involved in community protection during the Tigray conflict. Fano forces maintained antigovernment sentiments throughout the conflict, which contributed to the escalation of tensions with the federal government. These tensions came to a head in August 2023, after the government attempted to disarm and demobilize the group, along with TPLF forces' implementation of the DDR plan, which began in 2022. Deadly clashes between Fano militias and the ENDF resulted in the federal government declaring a state of emergency, and the two groups have since continued to engage in political violence.²⁷ As with the Tigray conflict in northern Ethiopia, women and children in Amhara have been subject to and continue to suffer from gender-based crimes (GBC) and CRSV.²⁸ Although related in origin, these crimes are outside the scope of this report, as this report details the distinct conflict in Tigray.

B. Gender Norms and Structures Relevant to the Commission of Crimes in Tigray

Gender norms play a critical role in understanding the Tigray conflict.²⁹ These norms shape the intentions of the perpetrators of international crimes, the perpetrators' capacity to commit those crimes, and the experiences of affected individuals and communities. The Tigray conflict has highlighted deeply rooted gender norms at both individual and structural levels, producing and reproducing power dynamics, societal roles, and the gender-differentiated impacts of violence. This section will explore the relevance of gender norms in Ethiopia and Tigray, as well as the related social and cultural gender dynamics underpinning and shaping institutional structures. These dynamics have influenced and continue to drive conflict actors, enabling them to commit GBC during the conflict and to continue to shape the experiences of the survivors.

i. Gender Norms in Ethiopia

Ethiopia is a geographically, culturally, and ethnically diverse country, which naturally leads to variations in gender norms and ideals. However, overarching patriarchal norms remain embedded within economic, political, and cultural spaces at all levels, significantly shaping conflict dynamics. Despite the formal enshrinement of gender equality in Ethiopia's Constitution,³⁰ conservative gender norms support gender discrimination in practice—namely, a hierarchical system dominated by men, in which women are subordinated and relegated to the traditional roles of wife and mother.³¹

While men are the primary source of income for many Ethiopian households, women and girls are disproportionately responsible for unpaid domestic labor, including childcare, housekeeping, resource gathering, and agricultural tasks. This confinement to domestic and private sphere roles often limits the autonomy of women and makes them highly dependent on male family members for survival. This dependency is further compounded by household tasks that can take up to 15-18 hours per day, effectively hindering women and girls' access to education—as shown by adult literacy rates, with 44% of Ethiopian women possessing reading and writing skills, compared to 59% of Ethiopian men.³² The gendered division of labor also negatively impacts women's participation in the formal economy, as the burdens of maternal and domestic work and the lack of spousal support create significant constraints on their ability to develop professional skills and experience.

Due to the persistence of strict gender roles that render many women and girls wholly reliant on male relatives, the eldest male family member is typically regarded as their primary custodian, often making unilateral decisions regarding the lives of women and girls, including finances, sexual and reproductive health, mobility, education, employment, and political participation.³³ As the heads of households, men are also responsible for the protection of family honor and community status, which is intricately tied to the reputation of female family members, particularly their premarital



chastity.³⁴ Measures, sometimes extreme, are often taken on behalf of a woman or girl's family to protect their chastity, such as restriction of autonomy, female genital mutilation, and child or early marriage.

At the same time, GBV against women and girls is normalized within Ethiopian society, with an estimated one-third of Ethiopian women experiencing GBV in their lifetime, whether from a relative, spouse, or stranger.³⁵ The sociocultural norms that place men in a position of power and control over women also serve to legitimize the perpetration of GBV, as women's bodily autonomy is devalued. In Ethiopia, the causes of GBV vary, as do its manifestations, which include intimate partner violence, the kidnapping and rape of a desired bride, and the opportunistic and strategic sexual and physical violence meant to shame women and girls. Given that premarital chastity is so highly valued in many Ethiopian communities, there is intense stigma surrounding victims of sexual violence and rape, who are often either forced to marry their attacker to preserve their family's honor or are shamed and exiled. In these ways, GBV and its consequences are intricately related to masculine and community honor—often perpetrated to assert, damage, or restore the reputation of a man and his family.³⁶ Put simply, the perpetration of GBV, particularly of sexual violence, is often viewed as a crime that men commit not against the female victim but against her male custodian and her community.

ii. Institutionalized Militarized Masculinity

Gender and the norms and values ascribed to it by a culture are “pervasively salient and embedded within relations, power, ideologies, and institutions” that shape political, economic, religious, and societal processes.³⁷ Institutionalized gender inequality, which constrains women's legal, economic, and political rights, not only reflects but also reinforces both the hegemony of men and the subordination of women at both individual and community levels. Given that institutional structures in Ethiopia—as with most countries—are dominated by men, they both shape and are shaped by certain constructions of masculinity that idealize warriorhood, leading to the diffusion of “martial attitudes, virtues and ambitions” throughout political and societal spaces and, in turn, driving militarism and conflict.³⁸

Indeed, the Ethiopian military and militarized masculine values have become deeply intertwined with political decision-making through social and structural constructs that have, in effect, led to an overvaluation of the military as a tool that can and should be used to address social and political tensions.³⁹ This deep entrenchment of militarized masculinity within Ethiopian institutions not only shaped how the country has been governed in recent decades but also set the stage for the Tigray war, in which military force became the primary means of addressing political disputes between the TPLF and the Ethiopian federal government under Abiy.

The TPLF and its role in the Tigray conflict are deeply tied to militarized masculinity, built on its self-image as the “protectors” of the Tigray people against hostile forces, which aligns with the broader Ethiopian cultural ideal of men serving as community guardians of women. This masculine self-perception is reinforced by the TPLF's legacy of military triumph in 1991 over the Derg regime, which allowed the EPRDF—with the TPLF at its core—to become the dominant political power in Ethiopia. For 30 years, the EPRDF built on the “models that contributed to their victory,” emphasizing masculine and martial traits like discipline, strength, and sacrifice from the national—with former TPLF military leaders stepping into executive positions—to grassroots levels.⁴⁰



Interestingly, while working to consolidate power and establish itself as an authoritarian party, the EPRDF also restructured Ethiopia into an ethno-federalist state and afforded each ethnic territory formal autonomy while maintaining tight control over regional institutions and security forces.⁴¹ As a system of governance that divides power between national and subnational entities, federalism is based upon masculine concepts of territory, control, defense, and competition, thereby reinforcing societal distance and heightening the perceived level of threat that issues of jurisdiction and autonomy pose to communities in ways that may drive conflict.⁴²

When Abiy was elected prime minister, he originally initiated a series of political reforms as he pursued his vision of “*medemer*”—a nation unified under Ethiopian democracy—directly challenging the current system of ethnic federalism without addressing the deeply rooted ethnic, societal, and political issues that remained.⁴³ By shifting away from decentralized ethnic autonomy, Abiy threatened the power of regional elites, which was embedded in masculine notions of dominance, control, and competition within the federalist system. Encountering resistance, particularly from the TPLF whose relationship with the federal government had soured, Abiy adopted a more centralized and militarized approach to governance, consolidating his own power and framing political opposition as a national threat.⁴⁴ He employed strongman tactics, relying on masculine and nationalist rhetoric about the need for strength and defensive action to justify the use of the military to further his own political aims and suppress any dissent.

When the TPLF-led government in Tigray proceeded with regional elections in 2020, Abiy perceived it to be a challenge to his authority—as a leader and regarding hypermasculine perceptions of his power over the region. When the TPLF attacked a military base in response, Abiy framed this as an existential threat to national sovereignty and escalated to a full-scale military intervention in Tigray, sparking a devastating civil war. By launching military operations, he reinforced a masculinized version of leadership that equates legitimacy with domination and the use of force, a foundation that can similarly be observed in the TPLF’s initial attack and response. The escalation of the tensions between Abiy’s government and the TPLF reflects broader patterns of militarized masculinities in which political disputes grow into battles for control, leaving no room for soft power and leading to devastating consequences.

iii. The Continuum of Violence: Gendered Vulnerabilities to Conflict

As violence occurs along a continuum, conflict-related violence can be seen as a “radicalization” of everyday forms of violence that are normalized within a culture.⁴⁵ Just as deeply entrenched gender norms and their consequences contribute to GBV in a domestic setting, they also substantially contribute to, if not direct, the commission of gender-based crimes in a conflict or atrocity setting. They impact the gendered vulnerabilities of women and girls, men and boys, and persons with other gender identities to conflict-related harm in several ways. Men—especially young adult men (ages 15-44)—tend to suffer the highest risk of mortality in a conflict because they are taking part in hostilities or because they are assumed to be taking part and are targeted on that basis.⁴⁶ Civilian men are also at risk of violence, arbitrary arrest and detention, and enforced disappearances, given that they may be perceived as potential or, in the case of young children, future combatants. Given the militarized masculine ideals that predominate Ethiopian society, men are often placed under pressure to fight or are forcibly conscripted.⁴⁷

During times of conflict, women and girls are at an increased vulnerability to sexual, reproductive, and other forms of GBV, as they are deprived of the protection of male relatives and their bodies are viewed as another ground upon which battles may be fought.⁴⁸ In some communities, given



that the chastity of a woman or girl is seen as a direct reflection on the status or reputation of her male relatives and wider community, rape and sexual violence are commonly used as tactics of warfare by armed groups, with the intent to “dehumanize and dishonor not only the woman but also her husband and the entire community.”⁴⁹ Men and boys are also victims of CRSV and wider forms of GBV, which may serve to emasculate them through the “feminization or homosexualization” of victims, putting them in contradiction with masculine ideals.⁵⁰ CRSV, particularly of men, is significantly underreported due to fears of shame and stigmatization of survivors.

Given that men are more likely to be killed and captured in conflict, or to be targeted due to their potential for direct involvement in combat, women and girls are often widowed or otherwise deprived of their male custodian. The lack of access to education and economic opportunities that the strictly gendered divisions of labor enforce often results in female-headed households struggling to secure basic family necessities such as food, water, and fuel. Furthermore, as conflicts similar to the Tigray war take place in more rural areas, the resulting breakdown of infrastructure leads to decreased supplies of basic resources and increased costs for existing supplies. The struggle to acquire basic resources can be a driver of insecurity and gendered vulnerability to conflict-related violence, as women and girls are forced to engage in higher-risk activities to meet basic needs or are displaced and forced to migrate to provide for themselves and their families.

Women and girls, who are often responsible for the retrieval of water or fuel, may need to travel farther to access those resources, which may be controlled by combatant groups or provided as humanitarian aid in certain higher-density areas. They may need to travel through active conflict zones or through areas that are targeted by those seeking to commit opportunistic GBV, including sexual violence, sexual torture, kidnapping, and trafficking.⁵¹ Additionally, new financial responsibilities and limited economic opportunities also push conflict-affected women and girls to engage in “transactional sexual relationships, from survival sex to formal sex work, in exchange for money, goods, protection, or other kinds of remuneration.”⁵² Engaging in transactional sex also increases displaced women’s and girls’ vulnerabilities to physical insecurity, as well as the risk of unplanned pregnancies or the contraction of sexually transmitted diseases.

While there are recorded cases of female combatants in Ethiopia, specifically as TPLF fighters during the Ethiopia Civil War (1974-91), women were not, for the most part, directly involved in fighting the Tigray war. Instead, women and girls have been disproportionately impacted by other manifestations of conflict-related violence and harm.



IV. Conflict-Related Sexual and Reproductive Violence

Based on reporting by credible sources, the commission of sexual, reproductive, and other forms of GBV during the Tigray conflict was extensive and brutal, leaving survivors with lifelong consequences, including physical scars and mental trauma. CRSV has also left survivors with the prospect of facing social stigmatization that would put them at risk and impact their ability to maintain meaningful intimate relationships and ensure community inclusion. According to such reports, women, girls, men, boys, and persons with diverse sexual orientation and gender identity were subjected to rape, sexual torture, sexual and reproductive mutilation, forced nudity, and other acts of sexual violence by all parties to the conflict. Many survivors were prevented from accessing the necessary somatic and mental health care services, particularly with respect to treatment for fistulas, long-term bleeding, sexually transmitted diseases, and unwanted pregnancies.⁵³ Some victims who initially survived CRSV later died due to their lack of access to medical treatment.⁵⁴

The U.N. International Commission of Human Rights Experts on Ethiopia (ICHREE) has thus far carried out one of the most extensive investigations into sexual and reproductive violence committed during the conflict. After conducting 545 in-depth interviews with a diverse range⁵⁵ of victims and eyewitnesses, 47% of whom were identified as female and 53% as male,⁵⁶ and collecting documentary and audiovisual material, the ICHREE found there were reasonable grounds to conclude⁵⁷ that “rape and other forms of sexual violence against women and girls in Tigray were perpetrated on a massive scale.”⁵⁸ While the majority of such violence took place during the first phase of the conflict, it continued to be perpetrated “in the context of mass detentions of Tigrayans from July 2021, as well as by Eritrean and Amhara forces after the signing of [the cessation-of-hostilities agreement] in November 2022,” including “as recently as June 2023.”⁵⁹ It was “perpetrated across all zones of Tigray as well as against Tigrayan women detained in the Afar region from December 2021,” as well as in Amhara from July to December 2021.⁶⁰ Sexual violence was perpetrated mostly against women of reproductive age but also children and older persons.⁶¹ Reports by multiple other international organizations, nongovernmental organizations, and local organizations are consistent with the ICHREE’s findings.

Similar to other situations of armed conflict or crises, it is not possible to provide an accurate figure of the number of victims of sexual and reproductive violence committed in the Tigray conflict; however, reports indicate it is in the tens of thousands. For the period from Nov. 3, 2020, to June 2023, the ICHREE “compiled credible information about incidents of rape and other forms of sexual violence from seven one-stop-centers in Tigray,”⁶² which showed that “at least 10,003 survivors sought support.”⁶³ According to the Mukwege Foundation, 2,204 survivors sought medical help across Tigray following sexual violence between November 2020 and June 2021 alone.⁶⁴ In the Amhara region, Tigrayan victims of sexual violence made 306 reports to the U.N. Office of the High Commissioner for Human Rights (OHCHR) in the course of one month, between November and December 2021.⁶⁵ In April 2021, a single doctor in Mekelle reported receiving at least three patients per day since Ethiopian troops took Mekelle on Nov. 28, 2020.⁶⁶

According to another doctor, over the “recent months” leading up to March 2021, over 200 women were admitted to Ayder Referral Hospital for CRSV-related medical issues, with “many more cases ... reported in rural villages and for the internally displaced, with limited to no access to medical care.”⁶⁷ However, due to fear of reprisals and stigmatization, most sexual violence crimes have not been reported or documented.⁶⁸ The ICHREE found that the recorded incidents it reviewed “present a vast underreporting of the actual numbers,”⁶⁹ which is likely also the case with other reports.

Sexual and reproductive violence impacts survivors—as well as their families and communities—in many ways, causing both short- and long-term physical, mental, and emotional consequences that are likely to



resonate throughout subsequent generations. These impacts are also often compounded by the lack of recognition or adequate redress for survivors, who have been continuously retraumatized as they attempt to have their voices heard and to get justice for the crimes committed against them since the formal cessation of hostilities.

A. Rape and Other Acts of Sexual Violence

Rape was reportedly widespread during the conflict in Tigray and as the fighting expanded to other regions. Although most survivors appear to be females of reproductive age,⁷⁰ males and LGBTQI+ persons were also victims,⁷¹ as were girls as young as nine years of age⁷² and elderly women.⁷³ Responsibility for rape has been attributed to almost all parties to the conflict, including members of the ENDF, Eritrean army, Amhara Special Forces, Amhara militia (Fano), Afar Special Forces, and Tigrayan Defense Forces.⁷⁴

The rapes were accompanied by other forms of violence, including beatings and death threats, and the insertion of foreign objects into the genitals and reproductive organs.⁷⁵ In Tigray, one survivor reported that her 12-year-old son was killed by 30 Eritrean soldiers in front of her while she was tied to a tree, injected with toxic liquids, stabbed, and repeatedly raped over the course of 10 days.⁷⁶ Survivors were raped at gunpoint and threatened with other violence or harm to family members,⁷⁷ which in some cases was carried out. A survivor from Chenna was offered a choice by her ENDF rapist: be raped or be killed.⁷⁸ Victims were forced to rape their own family members “under threat of imminent violence,”⁷⁹ and were raped in front of their family members, including their children.⁸⁰ In another case, an 18-year-old Tigrayan student from central Tigray was ordered to have intercourse with her grandfather, who was then shot in the leg and locked in the kitchen when he refused. The soldier threatened to shoot the girl if she did not comply, and when she resisted, he shot her right arm and leg; her arm was amputated and bones in her leg shattered.⁸¹

Over a 10-day period⁸² in late November, one survivor was repeatedly raped while her assailants took photos, poured alcohol on her, and laughed; they also killed her 12-year-old son.⁸³ The report was corroborated by a local police investigator working in Ayder Referral Hospital in Mekelle.⁸⁴ Armed forces also committed rape with foreign objects, forcibly inserting nails, shrapnel, metal rods, and rocks into the bodies of victims, including men, during instances of sexual assault.⁸⁵

Some survivors were raped multiple times in one day,⁸⁶ gang-raped,⁸⁷ or raped with other survivors.⁸⁸ Survivors in detention facilities were repeatedly raped throughout their detention. One elderly Tigrayan woman reported being “raped in detention by three police guards every night for over two months.”⁸⁹

As for sexual violence more broadly, the number of rapes committed in the context of the conflict is unknown. In Adigrat Hospital alone, 376 rape cases were reported in the period from the beginning of the conflict until early June 2021.⁹⁰ Between December 2020 and January 2021, more than 136 rape cases were reported in Mekelle, Adigrat, and Wukro hospitals, with up to 22 female victims seeking medical aid every day—a dramatic increase from one every few days or per week prior to the onset of conflict.⁹¹ In October 2022, Tigray’s regional Emergency Coordination Centre for Sherero published a report alleging that “roughly 40 girls and women between the ages of 13 and 80 were raped in the town of Sherero,” and another eight were gang-raped in the district of Tselemti.⁹²

When being raped, Tigrayan victims⁹³ were subjected to derogatory language and abuse targeting their ethnicity.⁹⁴ A Tigrayan woman called Senbetu, who was reportedly raped in her own hotel by the Fano, was called names like “Teref Fano” (meaning “Fano left-overs”), “the raped one,” or “the woman whose body Fano played on.”⁹⁵



Members of various state and nonstate forces and militias also perpetrated other acts of sexual violence against women, girls, men, boys, and persons with diverse sexual orientation and gender identities during the conflict. Some reports indicate that women and men were forced to strip in front of detention guards, other detainees, and members of the armed forces. One elderly woman, who was raped multiple times in detention, said: “They made us take off our clothes and stay naked in the sun for two hours.”⁹⁶ According to the joint investigation by OHCHR and the Ethiopian Human Rights Commission, at least 600 men were forced by the EDF to strip down to their underwear on April 2, 2021, in Samre, meaning those without underwear were completely naked.⁹⁷ The ICHREE also documented “forced nudity and sexualized humiliation, including three instances where perpetrators urinated on their victims or forced them to drink their urine.”⁹⁸

ENDF and EDF soldiers are also accused of having sexually enslaved Tigrayan women and forcibly impregnated them, “routinely subject[ing them] to individual and multiple perpetrator rape” and fully or partially restricting their “access to food, water, sanitary facilities, or medical assistance at times for several weeks, and in one instance for almost four months;”⁹⁹ this continued after the Cessation of Hostilities Agreement.¹⁰⁰

B. Reproductive Violence

Rape and other acts of sexual violence resulted in unwanted pregnancies, physical damage resulting in infertility or the loss of sexual function, and the contraction of sexually transmitted diseases. Survivors of sexual and reproductive violence in Tigray often endured both immediate and long-term physical trauma, including injuries sustained during the assault and subsequent medical complications.

According to documented accounts, multiple rapes resulted in pregnancies that appear to have been intended to alter the ethnic composition of the Tigrayan community.¹⁰¹ As discussed further in part IV(c), women were impregnated through rape, sometimes repeated and without contraception, leading to unwanted pregnancies; and for some Tigrayan women, lack of access to medical services and support meant that they could not terminate these pregnancies when they wished to do so.¹⁰² By forcing Tigrayan women to carry unwanted pregnancies to term through limited access to health care, perpetrators of rape attempted to “cleanse [the] Tigrayan bloodline.”¹⁰³

Rape and other acts of violence also appear to be designed to destroy women’s reproductive capacities, a constituent act of genocide.¹⁰⁴ Based on open-source data and key informant interviews, the Mukwege Foundation found that “Ethiopian government troops and forces allied with them appear to be committing rape, multiple perpetrator rape, and forms of sexual violence aimed at destroying Tigrayan women’s and girls’ genitals (including insertion of foreign objects, burning with hot iron rods, etc.) while also expressing an intent to affect the reproductive functions of Tigrayan women and girls.”¹⁰⁵ Such acts were often “accompanied by threats about ending their reproductive capacity.”¹⁰⁶

One Tigrayan survivor reported to the ICHREE that ENDF and EDF soldiers who raped her at a checkpoint said: “We want to destroy your womb so you can’t give birth to a Tigrayan fighter. We will infect you with HIV.”¹⁰⁷ In another instance, EDF soldiers raped one woman on multiple occasions, telling her that she should give up any children older than seven years old because they had been “told to kill them,” and to not “worry, [because they]’ll give [her] a lot of Eritrean soldiers.”¹⁰⁸ Another survivor, who was raped by Amhara militia when attempting to cross over to Sudan, reported that they said to her: “If you were male we would kill you, but girls can make Amhara babies.”¹⁰⁹ Other Tigrayan survivors of CRSV recalled their perpetrators saying “Tigrayans have no history,” “Tigrayans are beasts,” and “We are raping you to cleanse your Tigrayan bloodline.”¹¹⁰



Other instances of violence against fetuses and children support the conclusion that reproductive violence was intended to stop females giving birth to Tigrayan children. Survivors who were pregnant at the time of their rape reported their unborn fetuses were cut out of their wombs and “stomped to death.”¹¹¹ A pregnant woman reported that she was raped, shot in the stomach, and then left on the road.¹¹² The newborn baby of a fellow captive was also killed after the mother died in childbirth.¹¹³ Women who were forced to watch their children die suffered severe psychological trauma, possibly inhibiting their ability to have further children due to a lack of interest in sexual relationships with men.¹¹⁴

In order to cause damage to the genital organs, perpetrators often committed acts of sexual mutilation, such as stabbing or the insertion of foreign objects.¹¹⁵ Amnesty International reported that a survivor they spoke to, who was raped in front of her children by five Eritrean soldiers, said: “They used an iron rod, which is used to clean the gun, to burn me. They used the fire they put on to roast the goat [to heat the rod]. They inserted pieces of metal in my womb; that was what hurt me. Then they left me on the street.”¹¹⁶ Another published report told how one woman had a hot metal rod inserted into her uterus by four Amhara fighters after they raped her. When she begged them to stop, asking why they were doing that to her, they replied that their “problem [was] with [her] womb,” because her “womb gives birth to [derogative term used to refer to the TPLF].” They said “a Tigrayan womb should never give birth.”¹¹⁷ In another case reported by Al Jazeera, the director of Ayder Referral Hospital reported that Eritrean soldiers who had gang-raped a 21-year-old woman “had burned her external and internal genital parts using a match and hot metal rod” and, as the hospital could not send an ambulance immediately because of security issues, speculated that she had died.¹¹⁸

In one of the most telling cases, one doctor, who removed foreign objects from the genitals of survivors, described how he found among them a note on a piece of paper “which described the ‘sons of Erena’ who are ‘the heroes of Asmara’ – a reference to Eritrea.” The note stated: “What you already did in the 90’s we haven’t forgotten about it even now. From now on, no Tigrayan woman will give birth from a Tigrayan man.”¹¹⁹ The Mukwege Foundation reported that similar treatment included the “insertion of foreign objects (nails, shrapnel, rocks) into victims’ genital organs, and other forms of sexual mutilation, including the burning and searing of vaginas with hot metal rods,” mostly by Eritrean soldiers.¹²⁰ Male detainees were also beaten on their genitals, with one survivor reporting: “All of us have went through [torture] but the most vulnerable ones were older people. ... One old man, they had hit him on his testicles and his testicles were swollen, he couldn’t pee. He was in so much agony. He [eventually] died.”¹²¹ As a result, many survivors were left unable to engage in intimate physical relationships with their partners or to successfully conceive children.¹²²

The ICHREE found that most rape was committed “without a condom, exposing survivors to unplanned pregnancy and sexually transmitted infections and diseases, including HIV” and hepatitis,¹²³ which was intentional.¹²⁴ Physicians for Human Rights (PHR) also found that perpetrators transmitted diseases through rape, such as HIV and syphilis,¹²⁵ for which survivors may have had limited access to medical treatment.¹²⁶ Survivors with HIV and other diseases reported being unable to enter or maintain functional intimate relationships, hindering their ability to have children and maintain a family.¹²⁷

Due to the brutality with which these crimes were perpetrated, many survivors were left with long-term physical disabilities, such as chronic back pain, pelvic pain, and difficulty walking, as well as some cases of hearing loss.¹²⁸ The physical consequences of sexual and reproductive violence were compounded by a lack of access to medical care during the conflict, as survivors were unable to receive comprehensive treatment for their injuries, emergency contraception, or preventive treatment for sexually transmitted infections.¹²⁹



C. Access to Health Care and Its Impact on Survivors of Sexual and Reproductive Violence

The conflict in Tigray severely disrupted access to health care and critical aid throughout the region, leaving millions without essential medical services and supplies. Hospitals and health clinics were targeted, looted, and destroyed, contributing to a large-scale humanitarian crisis. Prior to the onset of the conflict, Tigray's health care system was considered among the best in Ethiopia, with over 700 health institutions throughout the region and over 19,000 health workers providing medical services.¹³⁰ At the height of the violence, the World Health Organization reported that roughly three-quarters of health facilities in Tigray were damaged or destroyed¹³¹ and many of the remaining health care institutions were left nonfunctional as health care workers were forced to flee conflict-affected zones due to safety concerns.¹³² The deliberate targeting of medical infrastructure and health care providers not only increases the suffering of civilians—disproportionately impacting women, children, and the elderly—but it also constitutes a violation of international humanitarian law (IHL).¹³³

Reports indicate that such violations were part of a broader strategy that systematically deprived Tigrayan civilians of essential services and resources. Shortly after the outbreak of violence, the Ethiopian government blocked access to electricity, fuel, and communications, leaving hospitals and health clinics largely unable to operate. The federal government also hindered the flow of humanitarian aid and health services into the region by placing “bureaucratic restrictions on international non-governmental aid organizations,” leading health clinics to turn away patients due to lack of capacity and food and medication shortages.¹³⁴ Médecins Sans Frontières (MSF) and the Norwegian Refugee Council (NRC) were providing necessary humanitarian assistance until July 2021, when they were instructed to “suspend activities in northern parts of the country” by the Ethiopian government.

This humanitarian blockade continued through October 2021 for MSF and January 2022 for the NRC.¹³⁵ The Lancet Health Bulletin found that, by June 2022, 77% of health facilities in Tigray were nonfunctioning.¹³⁶ MSF corroborated this claim, stating that only 13% of facilities were operational.¹³⁷ To this day, health care facilities in Tigray, including the Family Guidance Association of Ethiopia Northern Area Office (FGAE NAO), have yet to resume operations to the capacity necessary to provide meaningful care for their communities and consequently face imminent closure. FGAE NAO has been operational since 1997 and provides comprehensive sexual and reproductive health services, primarily through its volunteer network. Despite FGAE NAO's resilience and commitment to supporting women and children throughout the Tigray conflict, Tigray now “risks losing an irreplaceable pillar of health care for women, youth, and marginalized communities.”¹³⁸

The humanitarian aid blockade and the destruction of Tigray health facilities were detrimental to all those impacted by the conflict, but especially women and children who were subject to sexual violence. In addition to limiting primary care access, resources for those with chronic diseases such as diabetes and HIV were left without lifesaving medications.¹³⁹ Hospital staff were unable to provide elective surgeries, and many resorted to “using expired medications [and] operating without anesthesia.”¹⁴⁰ Many women were forced to give birth in “unhygienic conditions”¹⁴¹ due to limited access to facilities, and child vaccination rates dropped from 73% to 27% in 2022,¹⁴² increasing the likelihood of outbreaks of measles and other commonly vaccinated diseases. Throughout the conflict, an increase in the number of women and girls seeking services was noted in three main areas: “physical trauma and emergency gynecology, sexual and reproductive health consultations to check for infection and ask for contraception, and abortions after rape.”¹⁴³ Unfortunately, the United Nations Population Fund found that by April 2021, only 1% of facilities in Tigray could provide comprehensive services for victims of GBC.¹⁴⁴



D. Sexual and Reproductive Violence Committed by the TPLF and Allied Militia

Reports alleged, albeit on a smaller scale,¹⁴⁵ that the TPLF and allied militia also committed rape and other acts of sexual violence, some of which were alleged to be in retaliation for the sexual violence committed against Tigrayans. Perpetrators of this reproductive violence were recognized as belonging to the TPLF because of their accents and the “ethnic slurs they used against victims (e.g., ‘Amhara is donkey,’ ‘Amhara is useless,’ ‘greedy Amhara’), as well as their overt announcements that they were TPLF.”¹⁴⁶

Once Tigrayan forces regained control of Tigray, pushing Eritrean and Ethiopian forces out, Tigrayan soldiers (as part of the TPLF, TSF, or loyal militia), allegedly (gang-)raped Amhara women and girls, some as young as 14,¹⁴⁷ 12,¹⁴⁸ and 11 years of age.¹⁴⁹ A girl from Adi Hageray, a town in Tigray, also reported having been assaulted and raped by TSF soldiers.¹⁵⁰ These acts were widespread and were directed “against Amhara and Agew women and girls, and one Amhara man, in 11 locations ... in Boza, Chenna, Debark, Dessie, Hayk, Kobo, Lalibela, Shewa Robit, Sekota, Tabla, and Yelen.”¹⁵¹ Other reported incidents include, for example, the alleged rapes of 143 women and girls by “Tigray forces” in the Raya Kobo area in Amhara;¹⁵² the gang-rapes of 16 women by TPLF in the Amhara town of Nifas Mewcha in mid-August 2021;¹⁵³ and the rapes of civilians by “Tigrayan forces” in Kobo and Chenna (northern Amhara) between late August and early September 2021.¹⁵⁴ Tigray forces also are accused of having “perpetrated acts of rape and other forms of sexual violence against women during attacks in Afar region,” including “against Afar women in towns and villages in four locations across two zones of Afar, including Berhale, Erebti, Konneba, and Kasagita.”¹⁵⁵

The rape of Amhara women and girls by TPLF soldiers can be characterized as “revenge rape” for the rape of Tigrayan women by federal government forces in the early stages of the conflict.¹⁵⁶ Similarly, Tigrayan forces are also alleged to have raped Eritrean refugees in revenge for the EDF’s atrocities against Tigrayans.¹⁵⁷ One survivor heard her rapist state: “Our families were raped and now it is our turn to rape you.”¹⁵⁸ Another survivor, from Chenna, reported that her rapist told her: “You are lucky only two of us will rape you. When ENDF soldiers raped our women, it was usually 10 soldiers per woman.”¹⁵⁹ Soldiers are reported to have said “Amhara has massacred our people (Tigrayans), the Federal Defense forces have raped my wife, now we can rape you as we want.”¹⁶⁰

The TPLF fighters are said to have raped women at gunpoint, robbed, and physically and verbally assaulted them, often in front of their children.¹⁶¹ Fourteen of 16 women interviewed by Amnesty International said they were gang-raped.¹⁶² The TSF is accused of having raped the wives of ENDF soldiers on several occasions in Mekelle and Adi Hageray, as well as using machetes to kill some women.¹⁶³

Some women were also forced by their attackers into roles that are generally regarded as gendered, such as providing food, before raping them.¹⁶⁴ Prior to being raped, a 21-year-old mother was forced to cook for Tigrayan fighters.¹⁶⁵ Bemnet, from Nifas Mewcha, reported that four TPLF fighters “demanded she make them coffee, before three of them gang-raped her.”¹⁶⁶ Salam, a 29-year-old mother of three from Chenna, told Amnesty International that, after Tigrayan soldiers took control of the village in July 2021, several groups of Tigrayan fighters went to her home to ask for food every day until Sept. 2, when four of them locked her elderly parents in a separate room and raped her.” She said:

“The ordeal lasted from midday to 3 am. After they left, I went to free my parents who had been locked up in a separate room in our compound by the Tigrayan fighters. My father told me that when he asked them to leave me alone, they had kicked him.”¹⁶⁷



As a result of the rapes, victims report “a variety of symptoms including back pain, bloody urine, difficulty walking, anxiety and depression,” but “damage and looting to the town’s hospital and health station by the TPLF attack has meant that none of the survivors interviewed has been able to access comprehensive post-rape care, including emergency contraception, post-emergency prophylaxis for HIV and sexually transmitted infections, assessment and treatment of injuries, or focused therapy for mental health care.”¹⁶⁸

E. Sexual and Reproductive Violence after the Conclusion of the Conflict

Eritrean soldiers, Amhara forces, and federal government forces continued raping Tigrayan women after the formal cessation of hostilities in 2022.¹⁶⁹ According to the official Tigray Health Bureau, “in November and December 2022—after the peace deal was signed—852 cases of CRSV were reported.”¹⁷⁰ According to PHR, which randomly selected 305 medical records from multiple health facilities across Tigray (of which, 304 records included CRSV), 128 incidents occurred¹⁷¹ in November 2022.¹⁷² PHR also reported that “the scale and nature of these violations has not materially changed since the peace agreement was signed, except for the notable fact that 95% of conflict-related sexual violence experienced by children and adolescents under 18 years old occurred following the signing of the CoHA.”¹⁷³

F. The Mental Health and Social Impacts of Sexual and Reproductive Violence on Survivors

In addition to the physical injuries described above, survivors of sexual and reproductive violence perpetrated in Tigray are left to deal with the mental and emotional consequences of such trauma. Reports stated that survivors suffered from mood swings, insomnia, post-traumatic stress, sleep deprivation, and suicidal thoughts.¹⁷⁴ These mental health consequences also extend to family members of the survivors; Pramila Patten, the U.N. special representative of the secretary-general on sexual violence in conflicts, reported that men had been forced to “rape their own family members under threat of violence.”¹⁷⁵ This forced perpetration compounds suffering by inflicting both direct and indirect emotional trauma, as survivors experience sexual violence directly while simultaneously being forced to witness and partake in the violation of their relative. Where children and relatives were forced to watch the rape of their wives, mothers, grandmothers, sisters, or daughters, such violence resulted in long-term mental health consequences “far beyond the survivor” of direct CRSV.¹⁷⁶ These methods of compounding violence are used by armed forces to break familial bonds and tear the fabric of a society.

Additionally, sexual and reproductive violence has profound social consequences that extend from individual survivors, to families, to entire communities. Given that a woman’s honor and that of her family are closely tied to traditional values around sexuality and marriage in Ethiopian culture, female survivors of CRSV often face social stigma. This stigmatization stems from cultural perceptions that consider survivors to have lost honor through nonmarital sexual acts, regardless of the nonconsensual and violent nature of their experiences. Survivors have reported being shunned by their communities as well as being subjected to verbal abuse and public harassment.¹⁷⁷ It has also been documented that the husbands of many Tigrayan women filed for divorce after discovering that their spouse had been raped.¹⁷⁸ Since men are typically the primary income earner in most Ethiopian households, this abandonment left these women without financial support for themselves or their children. The resulting stress and loss of income often compounded any mental and physical consequences they endured, as survivors struggled to provide for their families and afford medical treatment for their injuries.¹⁷⁹



G. The Commission of Other Crimes during the Conflict

Sexual and reproductive violence was committed in the larger context of widespread acts of violence, including killings, mass detentions, beatings, theft, destruction of food and water infrastructure, and restrictions on access to humanitarian aid the direct and indiscriminate targeting of civilians and civilian objects across Tigray¹⁸⁰ and, when the conflict spread, in Amhara and Afar. The scale of forced expulsions of ethnic Tigrayans was significant, with allegations that as many as 3 million civilians were displaced in Ethiopia and 50,000 in Sudan,¹⁸¹ either being rounded up by ASF and Fano militias and transported to detention centers or to unknown locations,¹⁸² or coerced to leave their homes for fear they would be killed raped, or subjected to other violence.¹⁸³ An estimated 17,000 Tigrayan police officers and male and female members of the ENDF were also detained in an effort to prevent them from joining Tigrayan forces.¹⁸⁴ The official explanation was that the detentions were meant for members of the TPLF;¹⁸⁵ however, detention sometimes served as a precursor to forced expulsions,¹⁸⁶ and often involved beating,¹⁸⁷ and other violence. Many Tigrayans who were forcibly detained or expelled disappeared, with their families receiving no information regarding their whereabouts or being denied visitation rights.¹⁸⁸

Killings had particular gendered underpinnings that warrant further examination. Reports indicate that civilians were massacred in several locations in Tigray throughout the conflict,¹⁸⁹ including 200 to 2,000 Amhara and Tigrayan inhabitants by the TPLF and allied forces, the ASF, and the ENDF in Mai Kadra on Nov. 9, 2020.¹⁹⁰ On Nov. 21, 2020, at least 83 civilian prisoners were executed by the ENDF at Mirab Abaya military camp, while an estimated 150–200 civilians fleeing into the surrounding bush were killed by locals allegedly incited by local radio and government officials.¹⁹¹ From Nov. 28 to 29, 2020, the EDF massacred between 800 and 1,200 people in Axum and over 300 in nearby rural areas.¹⁹² In Zalambessa, ENDF and EDF soldiers killed at least 70 people, reportedly acting under orders to kill indiscriminately, stating: “If you find somebody, just kill them. Knock on the door, and if you find a man or a woman, just kill them! Kill the junta.”¹⁹³ Humanitarian aid workers were also targeted, including employees of MSF and the Relief Society of Tigray.¹⁹⁴

Men were predominantly targeted to be killed.¹⁹⁵ Reports indicate that women, children, and elderly people would work the land during the day and that men only worked at night due to the risk of being targeted by Ethiopian and Eritrean soldiers during the day.¹⁹⁶ In one incident on March 23, 2021, MSF staff witnessed the extrajudicial killing of at least four men who were removed with other passengers from public buses by Ethiopian soldiers; the women were told to walk away, and the men were shot.¹⁹⁷ On Jan. 17, 2021, Fano militia, local Walqayte, and Amhara residents rounded up male Tigrayans in Adi Goshu and the ASF executed 60 of them on the bridge over Tekeze River.¹⁹⁸ The large majority of male killings is said to be “in line with an often-stated intention to “eradicate Tigray fighters, as well as the future generation of fighters.”¹⁹⁹

The destruction of food and water infrastructure and restrictions on access to humanitarian aid by Ethiopian and allied forces’ also had particular gendered impacts. Reports indicate that ENDF, EDF, and ASF soldiers, as well as Fano militia, prevented many farmers in Tigray from cultivating their crops, not only indirectly through fighting but also directly through the deliberate destruction of equipment and harvests, the burning and looting of crops,²⁰⁰ or threats to kill farmers if they attempted to harvest their crops.²⁰¹ Eritrean and Ethiopian forces reportedly used “scorched earth” tactics, destroying “whole villages, warehouses, expanses of fields and crops, mango orchards and grain stores.”²⁰² Members of the EDF, ENDF, and Amhara forces also slaughtered, pillaged, and looted livestock²⁰³ and forced farmers “at gunpoint to cook their animals for the troops.”²⁰⁴



At the same time, when the conflict broke out, the federal government implemented a blockade on humanitarian aid and stopped the transfer of cash to Tigray.²⁰⁵ Banks closed, accounts were frozen, prices skyrocketed and few people could access enough cash to purchase food.²⁰⁶ By mid-June, reports indicated that large parts of Tigray remained out of reach of assistance²⁰⁷ and, hereafter, multiple reports indicated that Ethiopian soldiers were preventing food from reaching Tigray.²⁰⁸ The impact on Tigrayans and others was devastating. Even before the conflict, nearly 1 million Tigrayans were dependent on food aid. By June 2021, 2 million people faced “emergency levels” of food insecurity, and an estimated 353,000 people were in famine conditions and at severe risk of starvation,²⁰⁹ with the latter number increasing to 900,000 by November 2021.²¹⁰ By December 2022, starvation-related deaths were estimated to have reached between 96,000 and 218,000.²¹¹

The ICHREE also reported that starvation “increased the risk of sexual violence”²¹² and, conversely, sexual violence increased the risk of starvation.²¹³ Those forcibly displaced and without access to housing and regular food sources were particularly vulnerable. Reports also indicated that pregnant and breastfeeding women were likely to have been particularly affected. A September 2021 report indicated that, out of 11,000 pregnant and breastfeeding women, more than 70% were “acutely malnourished.”²¹⁴

While the total number of civilian deaths in the Tigray conflict remains unknown, research estimates that 162,000 to 378,000 died, including at least 36,000 to 60,000 civilian fatalities resulting from direct killings.²¹⁵



V. Findings on the Commission of International Crimes Through Sexual and Reproductive Violence

International humanitarian law applicable to non-international armed conflicts (NIACs)²¹⁶—in particular, Common Article 3 of the Geneva Conventions (CA3),²¹⁷ Additional Protocol II to the Geneva Conventions (APII)²¹⁸ and customary international law²¹⁹—are applicable to the conflict in Tigray, as well as the spread of conflict to other neighboring regions of Ethiopia. Additionally, customary international law prohibiting crimes against humanity,²²⁰ as well as customary treaty law prohibiting (and requiring the prevention of) genocide,²²¹ continues to apply. While Ethiopia is not a party to the Rome Statute of the International Criminal Court, Rome Statute provisions governing crimes against humanity and modes of liability in particular serve as a guide upon which to assess responsibility for the conduct outlined in part IV.

Violations of the applicable law may give rise to State responsibility where the conduct is attributable to the State. Some violations of IHL may also give rise to individual criminal responsibility, including war crimes, crimes against humanity, and the crime of genocide.²²² The basis for pursuing State responsibility for crimes against humanity is not (yet) governed by treaty; complainants must rely on international conventions governing the underlying acts to pursue remedies against States.²²³ For the purposes of this report, analysis of the conduct above will largely focus on crimes against humanity as defined under the Rome Statute (with some exceptions), as this framework provides the most comprehensive expression of States' intention to penalize sexual, reproductive, and other GBCs.

A. Crimes Against Humanity

Several institutions and actors have declared that, at least on a *prima facie* basis, the crimes committed against Tigrayans may amount to crimes against humanity. A crime against humanity is characterized by the commission of a prohibited underlying act, including various forms of sexual and reproductive violence, within the context of a widespread or systematic attack against a civilian population.²²⁴ A widespread attack may be demonstrated in geographic terms or in terms of the number of persons targeted. The assessment asks whether an attack was “massive, frequent, carried out collectively with considerable seriousness and directed against a multiplicity of victims.”²²⁵ A systematic attack is characterized by a distinct “pattern of crimes,” which may be “evidenced by non-accidental repetition of similar criminal conduct on a regular basis” or “a series of repeated actions seeking to always produce the same effects on a civilian population.”²²⁶

i. Underlying Acts of Crimes Against Humanity

The underlying acts that may establish crimes against humanity include murder; extermination; enslavement; deportation; forced displacement; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, sexual slavery, enforced prostitution, forced pregnancy, and any other form of sexual violence; persecution on political, racial, national, ethnic, cultural, religious, gender, or other grounds; enforced disappearances; and other inhumane acts of a similar character intentionally causing great suffering or serious injury to body or to mental or physical health.²²⁷ It is not necessary that one of these acts is committed on a widespread or systematic basis, but that the totality of acts linked to the attacked are widespread or systematic.

Reports allege that members of the Ethiopian and allied forces committed a broad range of sexual and reproductive violence that may constitute crimes against humanity. The Rome Statute explicitly includes the underlying acts of “rape, sexual slavery, enforced prostitution, forced pregnancy [and]



enforced sterilization,” as well as “any other form of sexual violence of comparable gravity.” Such acts may also constitute sexual torture.

As set out in part IV(a), reports clearly allege that a significant number of rapes were committed by members of the ENDF, EDF, Amhara Special Forces, Amhara militia (Fano), and Afar Special Forces. Such acts were committed by force and in circumstances (such as detention centers) where the context made it impossible for the victims to consent.

While the instances of enslavement outlined in this report are limited, there are allegations of women and girls being subjected to *sexual slavery*, including by being raped or subjected to other acts of violence while being detained, being tied to a tree for multiple days, or being abducted and transported in situations of sexualized enslavement (see parts III(a) and (c)). Such instances would meet the required elements where the perpetrator exercised “any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty.”²²⁸

While further investigation is required, genital mutilation, including the insertion of foreign objects into the reproductive organs of victims and other damage done to them by members of such forces, as well as injuries sustained through rape, may constitute *enforced sterilization*. As set out in parts IV(a) & (b), such acts were committed by perpetrators who expressed their intention to destroy the reproductive capacity of the victims.

The rape of detained victims may constitute forced pregnancy, defined in the Rome Statute as “the unlawful confinement of a woman forcibly made pregnant.”²²⁹ Reports indicate some women were raped and then detained for up to nine months, preventing them from accessing abortions. If a broader definition of forced pregnancy was applied under customary international law—such as other factors preventing access to abortions, including the restrictions on access to health care discussed in part IV(c) above—a broader range of conduct may constitute forced pregnancy where it could be shown the requisite intent and knowledge was established.

Other acts of a sexual nature,²³⁰ which are determined by myriad factors such as age, gender, sex characteristics, culture, religion, historical precedents, ethnicity, and indigenous status, committed by force, or by threat of force or coercion, may also constitute *sexual violence of comparable gravity*.²³¹ While further gender-competent and intersectional investigation and analysis of the Tigray conflict context are needed, the acts described in parts IV(a-c)—including forced nudity, beatings on the genitals, and being forced to watch rape and other acts of sexual violence—may constitute sexual violence of comparable gravity. The intentional transmission of sexually transmitted diseases, such as HIV and syphilis, may also constitute acts of sexual violence. The cutting of fetuses from the wombs of pregnant women may also constitute reproductive violence, which may fall under the umbrella of sexual violence.

The perpetration of sexual and reproductive violence may also constitute *persecution* based on intersecting gender, ethnicity, and political grounds. To establish the objective elements of persecution, it is necessary that the perpetrator carry out one or more of the underlying acts of crimes against humanity against an identifiable group or collectivity on the basis of political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognized as impermissible under international law, or intentionally and severely deprives them of their fundamental rights.²³² Under the Rome Statute, while gender is defined as referred “to the two sexes, male and female, within the context of society,”²³³ the Office of the Prosecutor of the ICC (OTP-ICC) has stated that “as a social construct, gender varies from society to society and even within a single



society.”²³⁴ While sexual violence does not, per se, constitute persecution, in many instances the context in which it is committed will reveal the gendered intentions of the perpetrators.

For instance, the intention to target women with sexual violence compared with the targeting of men, contrasted with the targeting of LGBTQI+ persons, may differ based on their respective genders and the perpetrators’ perceptions and beliefs about them. As stated by the OTP-ICC in its Policy on Gender Persecution, “Perpetrators may target women and girls because they view them as ‘chattel’ or ‘war booty’ (based on their belief that women are lesser than men and should be treated like property)” and “men and boys through rape as a strategy to ‘feminise’ them and/or to invoke the ‘indignity’ of being treated as a woman or a ‘homosexual’ (based on their belief that men enjoy a higher standing than women or LGBTQI+ persons).”²³⁵

The crime of persecution in conflict occurs along the continuum of violence, wherein historical and structural discriminatory gender norms present in peacetime shape the ways in which violence is enacted and justified, thereby normalizing the systematic targeting of women and girls and LGBTQI+ individuals.²³⁶ In turn, the perpetration of such violence is often intended to reinforce these preexisting norms, which prescribe socially acceptable behaviors and performances of gender, thus bolstering institutional inequalities.²³⁷ Given that they frequently uphold hypermasculine ideals that both marginalize the perceived performance of femininity and legitimize the use of sexual violence as a weapon of war, military institutions often facilitate the perpetration of gender-based persecution by devaluing and even dehumanizing women and LGBTQI+ people. In this same way, sexual violence against men and boys may be employed as a military tactic as a means of emasculating or feminizing enemy combatants or male civilians, which can be understood as a form of dehumanization through a “displacement from gendered personhood.”²³⁸

In conflict, gender persecution may also be employed as a means of punishing those who operate outside of what a specific armed group or state perceives as their prescribed gender roles.²³⁹ In the case of the Tigray conflict, Tigrayan women may have been targeted because their ethnic identity marked them as inherently resistant to the EDF, ENDF, and Fano’s gender norms and ideals, which were aligned with ethno-nationalist ideologies that sought to uphold a patriarchal and ethnocentric view of gender roles.

In the Tigray conflict context, alleged rapes, enforced sterilization, forced pregnancy, sexual slavery, and other acts of sexual violence were predominantly, although not exclusively, committed against women and girls. The specific contexts in which some acts were committed—in which male perpetrators required the victims to provide food, coffee, and housing for them prior to being raped (see part IV(a))—are illustrative of the perpetrators’ perceptions of women, particularly in the gendered context discussed in part III(b), as being predominantly confined to domestic and private-sphere roles. The gendered harms experienced by victims of sexual violence, in particular women and girls, including their ability to continue or engage in relationships and have children, as well as the stigma they may face in Tigrayan society (as discussed in part III(f)), may also reveal the gendered nature of the perpetrators’ intent. Additionally, based on victims’ reports of the perpetrators’ stated intentions, some such acts were committed based on their reproductive capacity and a desire to alter the ethnic composition of the population, revealing the intersection of gender (namely their capacity to reproduce for the group) and ethnicity (as Tigrayan) as grounds for the conduct.

While contextual information regarding the commission of sexual and reproductive violence against men is more limited, some acts—such as the forced nudity of 600 men in detention (part III(c)) or



forcing men to rape each other—may reveal an intention to humiliate and emasculate them based on their gender. Further investigation of such specific instances is required to understand the gendered context in which they were committed. More broadly, based on the pattern of conduct of the perpetrators, in which men and boys of fighting age were separated from women and targeted for killings because of their capacity to engage in hostilities, further investigation may reveal the gendered intentions of the perpetrators. Other acts not of a sexual nature, such as killings and detentions (part III(g)(i) and (iii)), may also therefore constitute GBC.

Statements made by the direct perpetrators while committing sexual, reproductive, and other GBV indicate that such violence was committed on ethnic grounds.²⁴⁰ As discussed in the New Lines Institute report “Genocide in Tigray: Serious Breaches of International Law in the Tigray Conflict, Ethiopia, and Paths to Accountability,”²⁴¹ and summarized above, direct perpetrators and those higher up the chain of command used derogatory language toward ethnic Tigrayans when committing the crimes and when making public statements about them, respectively. Ethiopia-based Tigrayans not only self-identify as an ethnic group²⁴² but also meet objective criteria for definition as an “ethnic group” under international law.²⁴³ While the “Tigrayan community is not homogeneous,”²⁴⁴ its members share commonalities, including a shared language (Tigrinya) and culture (including physical characteristics, such as “two small parallel scars next to the eye, often on the temple”).²⁴⁵ Furthermore, Tigrayan ethnicity is stated on their national identity card,²⁴⁶ with a view to ensuring access to certain benefits reserved for them.²⁴⁷ Even the delineation of the regional borders for the purpose of the 1994 Constitution was largely based on ethnic lines, including in Tigray, resulting in “ethnic federalism.”²⁴⁸

The origins of the conflict—the change in political leadership and subsequent elections in Tigray, despite the prime minister’s ruling that elections were to be postponed—and the resulting perceived threat the TPLF posed to Abiy and the ruling party, indicate that the targeting of Tigrayans may also have been on political grounds. Some reports indicated that victims were targeted based on their perceived ethnicity and assumed affiliation with the TPLF, which was both a military force and a political body. As such, it can be argued that Tigrayans may have been targeted on intersecting political, ethnic, and gender grounds.

Child victims were also targeted based on their age and the perception that they, especially young boys, would become TPLF fighters in the future. As discussed in part III(b), EDF soldiers told a woman whom they raped several times that they had been “told to kill” all children older than seven years. Many children were also killed during the conflict, including children of survivors of sexual and reproductive violence. Such statements and conduct show that child victims may have been targeted and persecuted based on intersecting grounds, in particular their identity as ethnic Tigrayans (and future political threats), their age, and their gender.

ii. The Widespread and Systematic Basis of the Attack Against the Civilian Population

Based on the information set out in part IV, multiple underlying acts of crimes against humanity were committed during the conflict. In addition to the acts of sexual and reproductive violence and persecution discussed above, other acts allegedly include killings and possible extermination; forced displacement and deportation, where persons forcibly displaced fled Ethiopia; imprisonment or other types of severe deprivation of liberty; inhumane acts and possibly torture; and enforced disappearances. These acts appear to have been carried out on a massive scale, frequently collectively by the perpetrators, and directed against a multiplicity of victims on a widespread basis. Their occurrence also seems to reveal a systematic pattern of conduct, committed by different



actors from the same parties to the conflict across the conflict territory, with the same effects on the population. Based on the information available, civilians were apparently also targeted with the range of acts committed. While members of the TPLF and other nonstate actors were also targeted, the presence of combatants in the group of targeted persons does not necessarily alter the predominantly civilian character of the population.²⁴⁹

As found by the ICHREE, “based on the large-scale and organized nature of the attacks, and the high number of victims ... they constituted a widespread and systematic attack directed against the Tigrayan civilian population constituting crimes against humanity.” The ICHREE found that the “ENDF, EDF and allied regional special forces, including Amhara Special Forces and Afar Special Forces and militias, in particular Fano militias,” were responsible for the acts committed.²⁵⁰

B. War Crimes

To establish a war crime in the context of a NIAC, it is necessary to prove (1) the existence of a NIAC, (2) a nexus between that conflict and the relevant conduct of the perpetrator, and (3) that the perpetrator’s conduct violated one or more specific rule(s) of IHL occasioning individual criminal responsibility.²⁵¹ The “nexus” requirement (2) is to be assessed in light of all the relevant circumstances. At minimum, the conflict must have “played a substantial part in the perpetrator’s ability to commit [the crime], [their] decision to commit it, the manner in which it was committed or the purpose for which it was committed.”²⁵² Relevant factors that may demonstrate the required nexus include “the fact that the perpetrator is a combatant; the fact that the victim is a noncombatant; the fact that the victim is a member of the opposing party; the fact that the act may be said to serve the ultimate goal of a military campaign; and the fact that the crime is committed as part of the perpetrator’s official duties.”²⁵³

As established above, from Nov. 4, 2020, to Nov. 2, 2022, Ethiopia and the TPLF were engaged in an NIAC²⁵⁴—a classification unaltered by the intervention of Eritrea, given that the EDF acted with the consent of Ethiopia and in support of Ethiopia’s role in the conflict.²⁵⁵ The nexus requirement is very likely satisfied, given that the crimes described herein were frequently committed by persons affiliated with a party to the armed conflict in Tigray against civilians affiliated with the adverse party, the perpetrator was frequently a combatant and the victim a noncombatant, and the fact that the existence of the conflict enabled the occurrence of the incidents by providing the means and opportunity to carry them out.

Acts of sexual and reproductive violence may constitute grave breaches of the Geneva Conventions and customary international law and can therefore be prosecuted as war crimes. They may constitute violations of CA3,²⁵⁶ which protects persons not taking an active part in conflict, including mutilation, cruel treatment and torture, and outrages upon personal dignity, in particular humiliating and degrading treatment. To the extent that APII applies,²⁵⁷ it also prohibits these outrages, as well as rape, enforced prostitution, and any form of indecent assault.²⁵⁸ Breaches of these prohibitions constitute war crimes under international criminal law.²⁵⁹ The underlying acts of crimes against humanity, if proven, may also meet the requirements of these prohibitions and thus constitute war crimes.²⁶⁰

C. Genocide

Genocide is defined as “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group,” as such:

- (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.²⁶¹

Sexual and reproductive violence may constitute several different acts of genocide.²⁶² In particular, rape may cause serious bodily or mental harm to members of the group, and reproductive violence may constitute serious bodily and mental harm and may also be imposed to prevent births within the group. Forced pregnancy may also indicate an intent to alter the ethnic composition of the group and thereby destroy it.²⁶³ Coupled with the intentional imposition of conditions of life calculated to bring about the group's physical destruction—namely, the destruction of food sources and restrictions on humanitarian aid, the destruction of and restrictions on access to health care facilities, and the forcible transfer of the population to areas where they would struggle to access food, water, and housing necessary to survive—and killing, forced pregnancy may indicate an intent to destroy the group as such, namely, the ethnic Tigrayan group.

As discussed in extensive detail in the New Lines Institute report “Genocide in Tigray: Serious Breaches of International Law in the Tigray Conflict, Ethiopia, and Paths to Accountability,” in addition to other conduct including killings and the destruction of objects indispensable to survival, acts of sexual and reproductive violence, coupled with direct and indirect indicators of intent, may constitute genocidal acts, of which further investigation is required. These indicators can include statements by direct and indirect perpetrators from the ENDF, EDF, Amhara forces, and militia indicating ethnically motivated grounds for destroying Tigrayans.

D. Crimes Committed by the TPLF and Allied Militias

Given the focus of this report, the information presented here is not sufficient to draw conclusions about the responsibility of the TPLF and allied forces for the full range of crimes they allegedly committed, at least according to public reports. However, reports allege that their members were responsible for rape and other acts of sexual and reproductive violence (see part III(d)), albeit on a relatively smaller scale,²⁶⁴ as well as the killing, imprisonment, torture, inhumane treatment, and forced displacement of non-Amhara in the Tigray, Amhara, and Afar regions. Rape and other alleged acts of sexual violence were reportedly accompanied by “shocking levels of brutality” and ethnic slurs, indicating that rape and other forms of sexual violence may constitute persecution on gender and ethnic grounds.²⁶⁵



VI. Responsibility for Sexual and Reproductive Violence Committed in the Tigray Conflict

A. Individual Criminal Liability

Customary international criminal law provides for individual criminal responsibility for crimes against humanity, war crimes, and genocide, through several modes of liability, including direct (co-)perpetration, ordering, aiding and abetting, superior responsibility, and, arguably, indirect (co-)perpetration. Individuals may also be held criminally responsible for incitement to commit genocide.²⁶⁶

Direct perpetration refers to the physical perpetrator of the crime. As described above—and as found by the ICHREE—survivors and eyewitnesses identified members of the ENDF, EDF, Amhara Special Forces, Afar Special forces, and Fano militia as direct perpetrators of sexual and reproductive violence.²⁶⁷ While some perpetrators made comments about having “orders” to carry out sexual and reproductive violence,²⁶⁸ the information available does not necessarily reveal who may have been responsible higher up in chains of command. While survivors also recounted crimes of sexual and reproductive violence perpetrated by “members of these groups jointly,”²⁶⁹ and despite significant evidence of joint operations between ENDF, EDF, and ASF, it cannot be assumed that they acted under a unified command or purpose.²⁷⁰ Further investigation of the state and other group structures involved and their hierarchies, and the linkages between them, is necessary to identify the indirect and remote perpetrators involved and the modes of liability upon which they participated and may be responsible for the crimes.

In particular, further investigation is required to identify persons higher up in the chain of command who may have used the direct perpetrators to carry out the crimes via indirect perpetration²⁷¹ or otherwise ordered, induced, or solicited the crimes or aided and abetted in the commission of them.²⁷²

Similarly, further investigation is necessary to determine the extent to which individuals may be held liable via superior or command responsibility. A superior may be liable for their subordinate’s crime, where (1) there is an existing superior/subordinate relationship in which the superior has effective control²⁷³ over the subordinate, (2) the superior had knowledge that the subordinate was about to commit or had committed the crime, and (3) the superior failed to adopt measures reasonable and necessary to prevent, punish, or report the acts.²⁷⁴ Given the widespread nature of the commission of sexual and reproductive violence throughout the conflict—and the apparent high number of direct perpetrators carrying out those acts—it is unlikely that superiors were not put on notice that such crimes had been, and may continue to be, committed. Where superiors had the material ability to punish such crimes, such knowledge would give rise to an obligation to do so. Even where they did not have sufficient knowledge *before* the crimes were committed, “failure to punish a crime of which [the superior] has actual knowledge is likely to be understood by his subordinates at least as acceptance, if not encouragement, of such conduct with the effect of increasing the risk of new crimes being committed.”²⁷⁵ Given that both Abiy and Eritrean President Isaias Afwerki denied their forces were complicit, it is clear they had the knowledge and, by denying it, failed to prevent and punish these crimes. Even when the Ethiopian government did acknowledge these crimes had been committed, its efforts toward justice were paltry, and reports indicate further efforts to minimize the evidence of these crimes.²⁷⁶ As such, knowledge coupled with failure to act may give rise to a further obligation to prevent future crimes, given that the superior would then be on notice that further crimes might be committed.

Finally, further investigation is required to determine the extent to which indirect perpetrators may be liable as members of a group. There is considerable debate regarding the extent to which a joint criminal enterprise (the mode of liability relied upon by several ad hoc tribunals) or indirect co-perpetration (under



the Rome Statute) constitute customary international law. Where indirect co-perpetration or a similar mode applies, more physically remote persons may be liable for their intentional contributions to the crimes as part of a group of persons acting with a common purpose.²⁷⁷ While the precise relationship between the groups involved requires investigation, prior to inviting the EDF into the conflict, members of the Ethiopian government knew or should have known how those forces were likely to conduct themselves towards the Tigrayan population, in light of Eritrea blaming Tigray for its earlier military defeats and the pervasive use of anti-Tigrayan rhetoric by the Eritrean media and government officials prior to the conflict.²⁷⁸ At a minimum, the ENDF, EDF, ASF, and other militias appeared to be acting in coordination and may have been acting under the direction of a group of high-level authorities acting with a common purpose.

B. State Responsibility under International Law

The Draft Articles on State Responsibility for Internationally Wrongful Acts (ARSIWA) establish State responsibility for internationally wrongful acts and define such acts as “when conduct consisting of an action or omission (1) is attributable to the State under international law; and (2) constitutes a breach of an international obligation of the State.”²⁷⁹ ARSIWA further provides for State responsibility for the conduct of organs (including persons or entities) of that State in its Article 8, which reflects customary international law.²⁸⁰ The ICHREE has already stated that, based on the limited evidence available, both “Ethiopia and Eritrea carry State responsibility for the violations and abuses of international law committed by their organs of state, and persons and groups acting under their instruction, direction or control.”²⁸¹ Further investigation would aid in determining the extent of that responsibility. The ICHREE also points out that Ethiopia has obligations under international human rights law, and that both States are obliged “to provide remedies, including investigation and prosecution of those responsible, and reparations without delay.”²⁸²

Specifically, Ethiopia is a State party to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment;²⁸³ the Convention on the Elimination of All Forms of Discrimination against Women;²⁸⁴ the Genocide Convention;²⁸⁵ the International Covenant on Civil and Political Rights;²⁸⁶ and the Convention on the Rights of the Child.²⁸⁷ Eritrea is a State party to the same conventions, with the exception of the Genocide Convention; however, the obligation to prevent and punish crimes of genocide is *erga omnes* (owed to the international community as a whole) because such prevention is a *jus cogens* (peremptory) norm. Thus, any conduct (action or omission) attributable to either State that constitutes a breach of an obligation under these treaty regimes (or any violation of an *erga omnes* obligation) would invoke State responsibility.

Again, there is currently a significant lack of information about linkages and chains of command, but further investigation into these structures will likely reveal evidence of conduct attributable to Ethiopia and Eritrea. For example, the Commission described certain structures in place that reveal how such attribution (to Ethiopia) could be established:

Besides the multiple armed actors, the Ethiopian government, at federal and regional levels, has regularly deployed a joint civilian-military “Command Post” system to implement the states of emergency declared since November 2020. This system provides the means to centralize control of all military, law enforcement, and civil powers into one integrated security effort, headed by the prime minister, and exercised through the ENDF high command. Alongside national or regional command posts, other subordinate command posts continue to be established locally conjoining civilian and military control at lower levels.²⁸⁸



Furthermore, ARSIWA provides for Responsibility of a State in connection with the act of another state (Chapter IV) for aiding or assisting in the commission of an internationally wrongful act (Art. 16) and for direction and control exercised over the commission of an internationally wrongful act (Art. 17). Once further investigation reveals the command structure and linkages between forces, it is possible that Ethiopia and Eritrea will bear State responsibility under Chapter IV of ARSIWA as well. Any findings of State responsibility are without prejudice to findings of individual criminal responsibility (and vice versa).²⁸⁹



VII. Recommendations

As part of the Cessation of Hostilities Agreement on Nov. 2, 2022, Ethiopia committed to implementing a comprehensive national transitional justice policy aimed at ensuring “accountability, truth, reconciliation and healing in post-conflict Ethiopia,” consistent with the African Union’s 2019 Transitional Justice Policy Framework (AUTJP).²⁹⁰ This process aims to “ensure a full and impartial investigation of atrocities and the prosecution of all parties accused of committing international crimes,”²⁹¹ once a “national transitional justice policy that mirrors the AUTJP” is implemented.²⁹² In order to effect this commitment, the Ethiopian federal government established the National Dialogue Commission and the National Rehabilitation Commission.²⁹³

However, it remains to be seen how, or even whether, Ethiopia will seek to discharge its commitment in practical terms.²⁹⁴ Political will, sufficient financing, and independent judges are crucial, especially since those who signed the Cessation of Hostilities Agreement “may well be accused of crimes,”²⁹⁵ and Ethiopia has previously failed to implement transitional justice processes.²⁹⁶ While the Criminal Code (2004) includes some provisions relating to genocide and war crimes, commentators have noted that further legislation may be required to enable actual prosecutions for crimes against humanity.²⁹⁷ Coupled with entrenched gender inequality and discrimination against LGBTQI+ persons in law, there is reason to doubt that domestic accountability mechanisms will be effective in ensuring accountability.²⁹⁸

Indeed, Ethiopia was reported to have prosecuted just three soldiers for rape,²⁹⁹ while 25 other soldiers had at that time been charged with rape and sexual violence,³⁰⁰ and 28 other suspects faced charges of killing civilians in northern Tigray by May 2021.³⁰¹ There is no evidence of any subsequent radical increase in the volume of accountability efforts.³⁰² Given the scale of the alleged criminality, it thus remains fair to conclude that “no meaningful step has been taken to investigate and prosecute atrocity crimes committed in the context of the conflict.”³⁰³

To the contrary, Ethiopia has also expressed skepticism about the factual basis for many of the allegations of criminality during the conflict. Significantly, for example, Ethiopia dismissed the ICHREE’s allegation that all sides in the conflict had committed war crimes as “highly politicized,”³⁰⁴ refused to cooperate with the ICHREE, prevented access to fact-finding investigations, and tried to set conditions for the ICHREE’s work, which proved “unacceptable” to the ICHREE’s experts.³⁰⁵ Later, Ethiopia “slammed the commission’s reports as ‘inflammatory’ and ‘biased.’”³⁰⁶ More concerning still, Ethiopia consistently lobbied for the de-funding of the ICHREE since its inception and ultimately succeeded in this goal.³⁰⁷ In October 2023, shortly after the second report of the ICHREE was published, the EU and other relevant states “failed to introduce any draft resolution at the U.N. Human Rights Council session that would either renew ICHREE’s mandate or maintain international scrutiny of the human rights situation in Ethiopia.”³⁰⁸

It is a dangerous precedent that a country under investigation has succeeded in dismantling an official, presumably independent, international commission of inquiry. Thus, despite some notable calls in January 2023 from major European states (France and Germany) for accountability for abuses committed during the Tigray conflict,³⁰⁹ by March 2023 “the U.S. and EU member states folded to Ethiopia’s threats to prematurely end the ICHREE mandate, agreeing to refer to ICHREE’s forthcoming September report as its ‘final’ one.”³¹⁰ This was less than half a year after the formal end of the conflict, and while allegations of violence and criminality continued.³¹¹

An independent investigation into international crimes committed during the conflict is preferable since the government itself is a party to the conflict and its members have been accused of committing them. A study of 6,689 randomly selected Ethiopians found that only 2% of Tigrayans preferred domestic



trials over hybrid or international options, while 60% of Tigrayans favored a U.N. tribunal, and that traditional domestic mechanisms (such as customary courts) should only be used to deal with property crimes rather than sexual violence or mass killings.³¹² The ICHREE stated that its “own assessment of the Government’s actions to date bears out this mistrust,” as “the Government’s consultation process falls well short of African Union and international standards. Rather than reflecting victims’ voices, it is hostage to an arbitrary deadline for completion. Impunity, rather than accountability, is the norm regarding past violations.”³¹³

Notably, only 29% of Ethiopians more generally want to see involvement by the international community,³¹⁴ mirroring the political and ethnic divide between Tigrayans and other Ethiopians. In this light, an independent international investigation seems not only warranted but preferable. Others have already called for a special mechanism “with adequate safeguards of independence and with a power to investigate and prosecute serious crimes based on international standards.”³¹⁵

Currently, alternate options for accountability at the international level are limited. Ethiopia is not a State party to the Rome Statute of the International Criminal Court, which could ensure (limited) individual perpetrators are brought to account. For geopolitical reasons, the U.N. Security Council is unlikely to refer the situation to the Court.³¹⁶ No State has yet declared a dispute with Ethiopia that would serve as a precursor to bringing the State before the International Court of Justice under one of the conventions, such as the Genocide Convention, the Torture Convention, or the Convention on the Elimination of All Forms of Discrimination against Women, that might provide for state responsibility. As such, victims have little access to remedies and reparations for the harms they have suffered. Other novel approaches may also be possible, such as the initiative to seek provisional measures under the African Charter on Human and Peoples’ Rights.³¹⁷

The international community has repeatedly expressed its commitment to addressing gender-based crimes, including through measures to prevent their occurrence, to hold perpetrators accountable, and to provide full remedies and reparations to victims.³¹⁸ Yet actions to meet this commitment in a way that actually addresses the gendered harms victims suffer and provides remedies to victims that enable them to move on with their lives, including by ensuring the perpetrators of such harms are held accountable and reparations including compensation are provided, are proportionally very limited. In the current political climate, with increasing backsliding on commitments to ensure the rule of law, uphold human rights, and address selectivity in the extent to which States are called to account, now is a pivotal moment for States to step up and demonstrate leadership aiming to reverse this trend.

Based on this context, this report recommends States and the Ethiopian government and actors adopt the following avenues to ensure accountability for sexual and reproductive violence, as well as other crimes, committed in Ethiopia during the Tigray conflict, with a view to determinations of both State responsibility and individual criminal responsibility.

The international community should:

- Through the U.N. Security Council, refer the situation in Ethiopia since at least the commencement of the Tigray conflict to the International Criminal Court.
- For State parties to the Genocide Convention, engage with the Ethiopian authorities on their obligations under the convention, in particular their failure to prevent the commission of genocide, with a view to institute proceedings against Ethiopia at the International Court of Justice if they do not meet their obligations.



- Ensure that domestic legislation enables the investigation and prosecution of international crimes committed in the Tigray conflict based upon extraterritorial, including universal, jurisdiction and ensure the necessary resourcing of domestic criminal justice authorities to ensure they can carry out such investigations and prosecutions.
- Ensure domestic legislation provides avenues for civil remedies, based on universal jurisdiction, which enable victims access to compensation.
- Establish an independent investigative mechanism to collect, preserve, and analyze information and evidence and to make it available to criminal and civil justice authorities with a view to supporting future accountability options.
- Advocate for and support the development of an Ethiopian National Action Plan on Women, Peace and Security as a means to strengthen domestic and international gender-responsible peacebuilding and post-conflict recovery programs, focusing on accountability and survivor support, in line with the pillars of the global Women, Peace and Security Agenda.
- Advocate for the establishment of an inclusive, independent, impartial, and effective transitional justice process that meets international law and standards and responds to the needs of survivors, in particular survivors of sexual and reproductive violence and other gender-based crimes.
- Support civil society organizations working with survivor communities by adequately funding them and supporting their advocacy at the international level.

The Ethiopian government and regional authorities should:

- Implement all recommendations of the ICHREE made in its reports to the U.N. Human Rights Council.
- Cooperate with all investigations conducted by U.N., international, regional, and local actors, including by ensuring unrestricted access and providing protection from reprisals for survivors who engage with them.
- Ensure any accountability avenues or mechanisms include women, girls, and LGBTQI+ persons, and other vulnerable groups, in any process and give adequate attention to gender-based crimes.
- Support civil society organizations working with survivor communities by adequately funding them and supporting their advocacy at the international level.
- Facilitate access to physical and mental health services and other forms of rehabilitation for all survivors of sexual and reproductive violence and other gender-based crimes, as well as other international crimes committed during the conflict.



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Endnotes

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- 206 Teklehaymanot G Weldemichel, 'Inventing hell: how the Ethiopian and Eritrean regimes produced famine in Tigray' (2022) 15(3) *Human Geography* 290, 292. Famine Early Warning System Network, Ethiopia Food Security Alert (14 October 2021).
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- 208 Famine Early Warning System Network, Ethiopia Food Security Alert (22 December 2021); OCHA, Northern Ethiopia Humanitarian Update, Situation Report (12 May 2022); AP, 'UN agency suspends food aid to Ethiopia's Tigray amid theft' (Associated Press, 1 May 2023); Dawit Endeshaw, 'World Food Programme suspends food aid to Ethiopia's Tigray over reported thefts' (Reuters, 4 May 2023); Gianluca Mezzofiore, Bethlehem Feleke and Eve Brennan, 'Eritrean forces stop UN mission in Tigray, Ethiopia, aid workers tell CNN' (CNN, 26 May 2023) (reporting that Eritrean forces prevented a UN-led humanitarian mission from entering the village of Gemhalo in the northern Ethiopian region of Tigray on 25 May 2023); Reuters, 'Aid enters Ethiopian territory controlled by Tigray forces – WFP' (Al Jazeera, 1 April 2022); World Food Programme, Ethiopia Country Brief (March 2022); World Food Programme, Ethiopia Country Brief (May 2022); World Food Programme, Ethiopia Country Brief (June 2022); Declan Walsh, 'A Lifeline to Millions of Ethiopians Is Being Blocked' (*New York Times*, 29 July 2021); Bobby Ghosh, 'The World's Deadliest War Isn't in Ukraine, But in Ethiopia' (Bloomberg, 22 March 2022); Max Bearak and John Hudson, 'Samantha Power has long championed humanitarian intervention. Ethiopia's crisis is putting her to the test.' (*Washington Post*, 5 August 2021); Simon Marks, 'Ethiopia Suspends Two Humanitarian Groups From War-Torn Tigray' (Bloomberg, 3 August 2021). Michelle Nichols, 'U.N. aid chief to Ethiopia on famine in Tigray: 'Get those trucks moving'' (Reuters, 28 September 2021) (noting that he WFP referred to 61 trucks that had been able to leave Tigray). See also UN ICHREE, 'Report of the International Commission of Human Rights Experts on Ethiopia' (19 September 2022) A/HRC/51/46, para. 77. See also European Union, 'Ethiopia: Statement by High Representative Josep Borrell and Commissioner for Crisis Management Janez Lenarčič on restricted humanitarian access to Tigray' (14 May 2021).



- 209 Economist, 'Tigray is edging closer to famine' (The Economist, 22 April 2021) ("Tigray was deemed food secure prior to the outbreak of the conflict"); Famine Early Warning System Network, 'Ethiopia' (showing assessed outcomes for June 2021 as mostly 'Stage 4: Emergency' in two thirds of Tigray, with 'Stage 3: Crisis' in Western Tigray). The assessment is based on the IPC 3.0 Acute Food Insecurity Classification, reported in June 2021. See also Sofie Annys, Tim Vanden Bempt, Emnet Negash, et al., Tigray: Atlas of the humanitarian situation (Version 2.2, University of Ghent, December 2021), 73.
- 210 USAID, 'On One Year of Conflict in Northern Ethiopia' (Press release, 4 November 2021).
- 211 Emnet Negash, '[Updated assessment of civilian starvation deaths during the Tigray war](#)' (*Martin Plaut blog*, 24 May 2023).
- 212 UN ICHREE, 'Comprehensive investigative findings and legal determinations: International Commission of Human Rights Experts on Ethiopia' (13 October 2023) A/HRC/54/CRP.3, paras 154-155, 157.
- 213 UN ICHREE, 'Comprehensive investigative findings and legal determinations: International Commission of Human Rights Experts on Ethiopia' (13 October 2023) A/HRC/54/CRP.3, para 156.
- 214 Michelle Nichols, 'U.N. aid chief to Ethiopia on famine in Tigray: 'Get those trucks moving'' (Reuters, 28 September 2021).
- 215 Emnet Negash, '[Updated assessment of civilian starvation deaths during the Tigray war](#)' (*Martin Plaut blog*, 24 May 2023). A senior humanitarian official in Tigray drew comparisons with the former Yugoslavia, saying "Ethiopians will be digging up mass graves for a decade", in Andres Schipani, '[Ethiopia 'will be digging up mass graves for a decade': inside Tigray's dirty war](#)' (*Financial Times*, 26 March 2021). See also TGHAT, Victim List (last accessed 23 March 2024); Ethiopia: Tigray War, Database, Victims (last accessed 23 March 2024); Tim Vanden Bempt, Sofie Annys, Emnet Negash, et al., Tigray: one year of conflict – Casualties of the armed conflict, 2020-2021 – Tigray (Ethiopia) (Every Casualty Counts, 2021), 2-3, 5-6.
- 216 A conflict between one or more states and a nonstate organized armed group. There is little doubt that a noninternational armed conflict existed in Ethiopia at all times material to this report, between at least 4 November 2020 and 2 November 2022, between Ethiopia and a nonstate organized armed group (the TPLF). See also Geneva Academy of International Humanitarian Law and Human Rights, '[A Non-International Armed Conflict in Ethiopia's Tigray Region](#)' (21 January 2021). This conclusion is not altered by the intervention of Eritrea, since its forces acted with the consent of Ethiopia and in support of Ethiopia's role in the conflict. UN ICHREE, 'Comprehensive investigative findings and legal determinations: International Commission of Human Rights Experts on Ethiopia' (13 October 2023) A/HRC/54/CRP.3, paras. 90, 91.
- 217 Ethiopia acceded to the Geneva Conventions on 2 April 1970. See <https://treaties.un.org/pages/showdetails.aspx?objid=0800000280158bla>.
- 218 Ethiopia acceded to Additional Protocol II on 8 October 1994. See <https://treaties.un.org/pages/showDetails.aspx?objid=08000002800f3cb8>.
- 219 See, in particular, <https://ihl-databases.icrc.org/en/customary-ihl>.
- 220 As defined by numerous international courts and tribunals, as well as domestic courts.
- 221 As defined by the Genocide Convention, which Ethiopia acceded to on 1 July 1949, and in customary international law defined by numerous international courts and tribunals, as well as domestic courts.
- 222 In other words, while all war crimes are violations of IHL, not all violations of IHL are war crimes.
- 223 For example, the *Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment* and the *Convention on the Elimination of All forms of Discrimination against Women*.
- 224 It is not required that this conduct occurs in the context of an armed conflict, nor is it required that the attack is both widespread *and* systematic—it can be either. While the Rome Statute further requires that the attack is carried out pursuant to a State or organizational policy, no such requirement has yet been accepted by any tribunal applying customary international law. For the purposes of the ICC, this requirement seeks only to ensure that the multiple acts forming the attack are linked in some way, such that random, sporadic or unrelated incidents do not amount to crimes against humanity. However, the policy need not be express, and may be inferred from a variety of factors, including public statements, the use of State or organizational resources, shared motive, and so on. While any attack which is 'systematic' will necessarily satisfy the policy requirement, the policy requirement is not so demanding that in practice it requires all attacks to be systematic. Rather, it has a modest threshold, suited to its purpose. See e.g. ICC, *Prosecutor v Ongwen*, Trial Judgment, ICC-02/04-01/15-1762-Red, 4 February 2021, paras. 2678-79.
- 225 ICC, *Prosecutor v Ntaganda*, Judgment, ICC-01/04-02/06-2359, 8 July 2019, para. 691; ICC, *Prosecutor v Bemba*, Judgment pursuant to Article 74 of the Statute, ICC-01/05-01/08-3343, 21 March 2016, para. 163.
- 226 ICC, *Prosecutor v Ntaganda*, Judgment, ICC-01/04-02/06-2359, 8 July 2019, paras. 692-693; ICC, *Prosecutor v Katanga*, Judgment pursuant to Article 74 of the Statute, ICC-01/04-01/07-3436-tENG, 7 March 2014, paras. 1113, 1123.
- 227 Law on the Specialist Chambers and Specialist Prosecutor's Office (Kosovo) 05/L-053 (3 August 2015), art. 13(1) (setting out the Specialist Chambers' jurisdiction over crimes against humanity under customary international law, including the crimes listed in the Rome Statute).
- 228 ICC Elements of Crimes, art. 7(7)(1)(g)-2.
- 229 Rome Statute, art. 7(2)(f). See also *Situation in Uganda in the Case of Prosecutor vs. Dominic Ongwen*, Judgment on the appeal of Mr Ongwen against the decision of Trial Chamber IX of 4 February 2021 entitled "Trial Judgment", No. ICC-02/04-01/15A, 15 December 2022, para. 1055.
- 230 "The sexual nature or meaning of an act may depend on context, community or even individual. It is thus critical to conduct an in-depth, intersectional analysis to understand and characterize these acts appropriately within a given context." See ICC Policy on Gender-Based Crimes, para. 44.
- 231 International Criminal Court Elements of Crimes, article 7(1)(g)-6.1.



- 232 Rome Statute, Article 7(1)(h). The crime of persecution also requires that the persecutory act be committed “in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court.”
- 233 Rome Statute, Article 7(3).
- 234 ICC Office of the Prosecutor Policy on Gender-Based Crimes (2023), para. 17.
- 235 ICC Office of the Prosecutor Policy on Gender Persecution (2022), para. 51.
- 236 International Criminal Court. (2022). *Policy on the crime of gender persecution*. <https://www.icc-cpi.int/sites/default/files/2022-12/2022-12-07-Policy-on-the-Crime-of-Gender-Persecution.pdf>
- 237 UN Women. (2022). *Identifying gender persecution in conflict and atrocities*. <https://www.unwomen.org/sites/default/files/2022-01/Identifying-gender-persecution-in-conflict-and-atrocities-en.pdf>
- 238 Schulz, L. (2018). Displacement from gendered personhood: Sexual violence and masculinities in Northern Uganda. https://dlwqxtxtslxzl7.cloudfront.net/63605472/Schulz_2018_displacement_from_gendered_personhood_sexual_violence_and_masculinities_in_Northern_Uganda20200612-26237-hk5ms-libre.pdf?1591950609
- 239 UN Women. (2022). *Identifying gender persecution in conflict and atrocities*. <https://www.unwomen.org/sites/default/files/2022-01/Identifying-gender-persecution-in-conflict-and-atrocities-en.pdf>
- 240 A further factor potentially consistent with the existence of a persecutory intent is the targeting of journalists whose reporting was perceived as favorable to Tigrayans or unfavorable to the Ethiopian authorities. There is evidence of crimes committed against journalists during the conflict in particular, both regarding those of Tigrayan ethnicity and otherwise, including foreigners. *See also* UN ICHREE, ‘Comprehensive investigative findings and legal determinations: International Commission of Human Rights Experts on Ethiopia’ (13 October 2023) A/HRC/54/CRP.3, para 172.
- 241 New Lines Institute, *Genocide in Tigray: Serious breaches of international law in the Tigray conflict, Ethiopia, and paths to accountability* (June 3, 2024), <https://newlinesinstitute.org/rules-based-international-order/genocide-in-tigray-serious-breaches-of-international-law-in-the-tigray-conflict-ethiopia-and-paths-to-accountability-2/>.
- 242 UN ICHREE, ‘Report of the International Commission of Human Rights Experts on Ethiopia’ (19 September 2022) A/HRC/51/46, para. 11; Ministry of Foreign Affairs of the Netherlands, Directorate for Sub-Saharan Africa Country of Origin Information Reports Section, [Thematic Country of Origin Information Report on Tigray 2021](#) (August 2021), 45.
- 243 ICTR, *Prosecutor v. Akayesu*, ICTR-96-4-T, Judgment, 2 September 1998, para. 513 (“An ethnic group is generally defined as a group whose members share a common language or culture”).
- 244 Ministry of Foreign Affairs of the Netherlands, Directorate for Sub-Saharan Africa Country of Origin Information Reports Section, [Thematic Country of Origin Information Report on Tigray 2021](#) (August 2021), 43.
- 245 Ministry of Foreign Affairs of the Netherlands, Directorate for Sub-Saharan Africa Country of Origin Information Reports Section, [Thematic Country of Origin Information Report on Tigray 2021](#) (August 2021), 45. Characterization of Tigrayans as a national, racial, or religious group does not seem to be apposite. Notably, Tigrayans of both Christian and Muslim faith exist, and Islamic Tigrayans are “not seen as a separate ethnic group”, *see* Ministry of Foreign Affairs of the Netherlands, Directorate for Sub-Saharan Africa Country of Origin Information Reports Section, [Thematic Country of Origin Information Report on Tigray 2021](#) (August 2021), para. 43. It is reported that Tigrayans of both Muslim and Christian religions were targeted and killed: *see* Goitom Mekonen Gebrewahid, *Primed For Death: Tigray Genocide, A Survivor’s Story* (2022), 8.
- 246 Ministry of Foreign Affairs of the Netherlands, Directorate for Sub-Saharan Africa Country of Origin Information Reports Section, [Thematic Country of Origin Information Report on Tigray 2021](#), 43, <https://www.government.nl/documents/reports/2021/08/31/thematic-country-of-origin-information-report-on-tigray-2021>
- 247 Fasil, Z. [Report on Citizenship: Ethiopia](#) (European University Institute 2020), 2370.
- 248 Christophe Van der Beken, ‘Ethiopia: Constitutional Protection of Ethnic Minorities at Regional Level’ (2007) 20 *Afrika Focus* 105, 107-8.
- 249 Article 50 of Additional Protocol I of the Geneva Conventions: . . . 3. The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.
- 250 ICHREE Comprehensive report, para. 480.
- 251 While not an exhaustive list of war crimes which exist in customary international law, article 8 of the Rome Statute of the ICC provides a useful summary of many significant war crimes.
- 252 *See* ICC, *Situation in Afghanistan*, Judgment on the appeal against the decision on the authorization of an investigation into the situation in the Islamic Republic of Afghanistan, ICC-02/17-138 OA4, 5 March 2020, paras. 69-70; ICTY, *Prosecutor v. Kunarac et al.*, IT-96-23 and IT-96-23/1-A, Judgment, 12 June 2002, paras. 58-60 (observing further that “[w]hat ultimately distinguishes a war crime from a purely domestic offence is that a war crime is shaped by or dependent upon the environment—the armed conflict—in which it is committed. It need not have been planned or supported by some form of policy. The armed conflict need not have been causal to the commission of the crime”).
- 253 *See* ICC, *Situation in Afghanistan*, Judgment on the appeal against the decision on the authorization of an investigation into the situation in the Islamic Republic of Afghanistan, ICC-02/17-138 OA4, 5 March 2020, para. 69; ICC, *Prosecutor v Ntaganda*, Judgment on the appeal of Mr Ntaganda against the “Second decision on the Defence’s challenge to the jurisdiction of the Court in respect of Counts 6 and 9”, ICC-01/04-02/06-1962, 15 June 2017, para. 68; ICTY, *Prosecutor v. Kunarac et al.*, IT-96-23 and IT-96-23/1-A, Judgment, 12 June 2002, para. 59.



- 254 The conflict satisfied the legal conditions of (1) sufficient organization of the parties and (2) that the intensity of hostilities exceed internal disturbances and tensions, such as riots, isolated and sporadic acts of violence. See also, e.g., Geneva Academy of International Humanitarian Law and Human Rights, '[A Non-International Armed Conflict in Ethiopia's Tigray Region](#)' (21 January 2021).
- 255 UN ICHREE, 'Comprehensive investigative findings and legal determinations: International Commission of Human Rights Experts on Ethiopia' (13 October 2023) A/HRC/54/CRP.3, paras. 90, 91.
- 256 See Geneva Conventions I-IV, art. 3.
- 257 Additional Protocol II requires the establishment of a conflict between the armed forces of a contracting party and dissident armed forces or other organized armed groups which, under responsible command, 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. 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), 8 June 1977, art. 1.
- 258 CIL prohibits acts of torture or inhuman treatment as well as the wilful causing of great suffering or serious injury to body or health. See, e.g., HRW summary in Kosovo context available at <https://www.hrw.org/legacy/campaigns/kosovo98/seviolence.shtml>. Common Article 3 likewise prohibits violence to life and person, cruel treatment, and torture or other outrages upon personal dignity.
- 259 See Rome Statute, art. 8(2)(c), (e)(iv); ICRC Customary IHL, List of Rules, Rule 156.
Definition of War Crimes: Serious violations of international humanitarian law constitute war crimes, available at <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule156>.
- 260 Notably, the other conduct outlined in this report may also constitute violations of the rules on the conduct of hostility, including distinguishing between civilians and civilian objects on the one hand and the combatants and military objects on the other, as well as the prohibition on the use of starvation as a weapon of warfare.
- 261 Article II of the Genocide Convention, Article 6 of the Rome Statute of the International Criminal Court and customary international law as determined by international courts and tribunals. It is essential that the person(s) victimized actually belong to a protected group—a national, ethnical, racial, or religious group with “particular positive characteristics” and a “particular distinct identity”—and that the genocidal intent relates to that group. ICJ, *Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment of 26 February 2007, ICJ Reports 2007, 43, paras. 193-197; ECCC, *Nuon Chea and Khieu Samphan (Case 002/02)*, 002/19-09-2007/ECCC/TC, Judgment, 16 November 2018, para. 793; ICTY, *Prosecutor v. Tolimir*, IT-05-88/2-A, Judgment, 8 April 2015, para. 182.
- 262 Farrell Rosenberg, E. (2023). Gender and genocide in the 21st century: How understanding gender can improve genocide prevention and response. New Lines Institute for Strategy and Policy. <https://newlinesinstitute.org/gender/global-responses-to-sexual-and-gender-based-violence/gender-and-genocide-in-the-21st-century-how-understanding-gender-can-improve-genocide-prevention-and-response/>
- 263 Grey, R. (2017). The ICC's first 'forced pregnancy' case in historical perspective. *Journal of International Criminal Justice*, 15(5), 905–930. <https://doi.org/10.1093/jicj/mqx051>
- 264 UN ICHREE, 'Report of the International Commission of Human Rights Experts on Ethiopia' (19 September 2022) A/HRC/51/46, para. 70.
- 265 Amnesty International, *Ethiopia: Summary killings, rape and looting by Tigrayan forces in Amhara* (16 February 2022), 14, 15.
- 266 The ICHREE notes that “the definitions of the international crimes codified in the Rome Statute are largely considered as reflecting customary international law and on that basis binding on all individuals, including in relation to the situation in Ethiopia.” UN ICHREE, 'Comprehensive investigative findings and legal determinations: International Commission of Human Rights Experts on Ethiopia' (13 October 2023) A/HRC/54/CRP.3, para. 55.
- 267 UN ICHREE, 'Comprehensive investigative findings and legal determinations: International Commission of Human Rights Experts on Ethiopia' (13 October 2023) A/HRC/54/CRP.3, para. 135.
- 268 Dr. Denis Mukwege Foundation, the Hague, Netherlands, and Center for Human Rights, Gender, and Migration at Washington University, St. Louis, USA, *Understanding Conflict-Related Sexual Violence in Ethiopia: A Case of the Tigrayan Conflict* (1 November 2022), p. 58
- 269 UN ICHREE, 'Comprehensive investigative findings and legal determinations: International Commission of Human Rights Experts on Ethiopia' (13 October 2023) A/HRC/54/CRP.3, para. 135.
- 270 Dr. Denis Mukwege Foundation & Center for Human Rights, Gender and Migration at Washington University. (2022, November 1). *Understanding Conflict-Related Sexual Violence in Ethiopia: A Case of the Tigrayan Conflict*, p. 31 (concluding that the “data does not make clear whether the EDF, regional forces, and aligned militias are subordinated under the ENDF or take instructions from them,” but that there is evidence of “co-perpetration alongside Ethiopian troops [...] forces operating on their own”). *The Hague, Netherlands: St. Louis, USA*. <https://www.gov.uk/research-for-development-outputs/understanding-conflict-related-sexual-violence-in-ethiopia-a-case-of-the-tigrayan-conflict>
- 271 Indirect perpetration can be found where one individual uses another individual (an agent or intermediary) to commit the crime. The first individual—the indirect perpetrator—is criminally liable regardless of the direct perpetrator's criminal responsibility. Similarly, where the separate individual explicitly orders, solicits, or otherwise induces the commission of the crime, that individual can be found liable as well (regardless of whether the crime was committed—as long as it was at least attempted). See Rome Statute Art. 25(3)(b).
- 272 See Rome Statute Art. 25(3)(c).
- 273 “It is sufficient to exercise authority over such a person *de facto*. What really matters is to determine whether the superior has actual powers to control the actions of his subordinates, and in this regard *ad hoc* international tribunals apply an ‘effective control’ test based on the specific evidence of each case, which aims to identify if the superior has the material ability to prevent and punish criminal conduct.” ADVISORY SERVICE ON INTERNATIONAL HUMANITARIAN LAW: Command responsibility and failure to act, International Committee of the Red Cross (ICRC), April 2014.



- 274 *As summarized in* Tsagourias, N., & Morrison, A. (2018). Command Responsibility. In *International Humanitarian Law: Cases, Materials and Commentary* (pp. 337–367). chapter, Cambridge: Cambridge University Press, *citing* Common Article 3 GCs; Arts 86(2), 87(3) API; Art. 6(3) ICTR Statute; Art. 7(3) ICTY Statute; Art. 29 Extraordinary Chambers in the Courts of Cambodia (ECCC); Art. 28 ICC St.
- 275 *Hadžihasanović et al.* (Appeals Judgment), 2008 IT-01-47-A at para. 30.
- 276 Ethiopia sought to cover up evidence of crimes, suggesting that these were at least accepted, or even potentially implying consciousness of guilt or at least an attempt to prevent external scrutiny. One former government minister said: “We brought back the most painful stories, and every side was implicated. [...] But when I wanted to release our findings, I was told that I was crossing a line. ‘You can’t do that,’ is what an official very high up in Abiy’s office called and told me. And I said, ‘You asked me to find the truth, not to do a propaganda operation. I am not trying to bring down the government—there is a huge rape crisis for God’s sake. Child soldiers are being recruited by both sides. I have the evidence on my desk in front of me.’” (Max Bearak, “She was in Abiy Ahmed’s cabinet as war broke out; Now she wants to set the record straight” (*Washington Post*, 30 December 2021). Abiy and members of the Ethiopian government knew or should have known how EDF forces were likely to conduct themselves toward Tigrayan civilians, in light of Eritrea blaming the TPLF for its earlier military defeats and the pervasive use of inflammatory, anti-Tigrayan and anti-TPLF rhetoric in Eritrean media and by government officials prior to the conflict. See ICHREE at paras. 65 and 446.
- 277 See, for example, the standard under article 25(3)(d) of the Rome Statute, which states that a person is liable where they “[i]n any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose” and the contribution is intentionally “made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime” or “[b]e made in the knowledge of the intention of the group to commit the crime.”
- 278 ICHREE Comprehensive Report October 2023, paras 65 and 446.
- 279 International Law Commission. (2001). *Responsibility of States for Internationally Wrongful Acts (ARSIWA)*, Articles 1 and 2. https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf
- 280 ARSIWA, *Article 4*, 2001.
- 281 UN ICHREE at para. 501
- 282 UN ICHREE at para. 501
- 283 CAT Article 2:
1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
 2. An order from a superior officer or a public authority may not be invoked as a justification of torture.
 3. CAT Article 16: Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.
- 284 CEDAW Article 2: States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:
- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
 - (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
 - (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
 - (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
 - (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- 285 The Genocide Convention provides in its Article I: The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish. Article IV provides that: Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.
- 286 ICCPR Article 2:
1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
 2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.
 3. Each State Party to the present Covenant undertakes:
 - (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;



- (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- (c) To ensure that the competent authorities shall enforce such remedies when granted.

287 CRC Article 2:

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

288 UN ICHREE, *Report on Ethiopia*, 2023, para. 94.

289 UN ICHREE. (2023). *Report of the International Commission of Human Rights Experts on Ethiopia* (A/HRC/54/55), para. 61, citing United Nations International Law Commission. (2001). *Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA)*, with commentaries, Art. 58, III, section (6), 142-43, section (3).

290 Metekia, T. S. (2022, November). *Peace agreement pledges transitional justice for Ethiopia*. *ISS Africa*. <https://issafrika.org/iss-today/peace-agreement-pledges-transitional-justice-for-ethiopia>; Tiruneh, W. (2023, May 15). Accountability for atrocity crimes: How should Ethiopia implement its commitment under the agreement on permanent cessation of hostilities? *Opinio Juris*. <https://opiniojuris.org/2023/05/16/accountability-for-atrocity-crimes-how-should-ethiopia-implement-its-commitment-under-the-agreement-on-permanent-cessation-of-hostilities/>

291 Metekia, *Peace Agreement Pledges*, 2022

292 Metekia, *Peace Agreement Pledges*, 2022.

293 Tiruneh, *Accountability for Atrocity Crimes*, 2023.

294 See also UN ICHREE, 'Report of the International Commission of Human Rights Experts on Ethiopia' (14 September 2023) A/HRC/54/55, paras. 82-87 (pointing out the weaknesses of the federal government's 'Options for Transitional Justice' policy paper; the government's failure to abide by international standards, and to address the policy's shortcomings; the availability of pardons and amnesties for crimes under international law which contradicts international and regional standards; the lack of efficacy of key Ethiopian institutions; the lack of criminalisation of international crimes as reflected in the Rome Statute of the International Criminal Court; the absence of pathways to hold Eritrean soldiers to account in Ethiopia); paras. 88-90 (highlighting wider problems of the justice sector); paras. 91-93 (concluding that the Ethiopian federal government pursues a model of 'quasi-compliance'). *United Nations Human Rights Office of the High Commissioner*. https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/chreetiopia/A_HRC_54_55_AUV.pdf

295 Crawford, J. (2023, October 19). Flawed transitional justice in Ethiopia. *Justice Info*. <https://www.justiceinfo.net/en/123440-flawed-transitional-justice-ethiopia.html>

296 Crawford, *Flawed Transitional Justice*, 2023. See also Ethiopian Government-Commissioned Working Group. (2023, January). *Policy Options for Transitional Justice: Draft for Keyholder Consultations*, p. 3 (pointing out that Ethiopia's previous attempts at transitional justice lacked a holistic transitional justice framework, which meant its efforts were "ineffective, incoherent and largely fragmented"). <https://www.justiceinfo.net/wp-content/uploads/Ethiopia-Policy-Options-for-Transitional-Justice-2023-v2.pdf>

297 Metekia, *Peace Agreement Pledges*, 2022 (arguing that Ethiopia should "criminalise torture and enforced disappearance as standalone crimes and provide legislation on command responsibility").

298 Tiruneh, *Accountability for Atrocity Crimes*, 2023.

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