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*Federal Democratic Republic of Ethiopia
Permanent Mission to the United Nations
Geneva*

392/2022-A

15 February 2022

The Permanent Mission of the Federal Democratic Republic of Ethiopia to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the United Nations High Commissioner for Human Rights (OHCHR) and has the honour to transmit herewith the reply from the Federal Democratic Republic of Ethiopia in reference to the letter Reference AL ETH 2/2021, dated on 10 December 2021, from the Special Procedures Branch of OHCHR.

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

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The Office of the United Nations High Commissioner for Human Rights
Geneva, Switzerland.



***THE GOVERNMENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF
ETHIOPIA***

**REPLY TO THE JOINT COMMUNICATION BY THE 7 UN SPECIAL
RAPORTEURS AND 1 WORKING GROUP ON ALLEGED VIOLATIONS OF
INTERNATIONAL HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN
LAWS INCLUDING GENDER BASED VIOLENCE IN THE CONTEXT OF THE
CONFLICT IN THE TIGRAY, AMHARA AND AFAR REGIONS**

08 February, 2022

Addis Ababa, Ethiopia

Introduction

1. The Government of the Federal Democratic Republic of Ethiopia (alternatively Government of Ethiopia, GoE, Ethiopia) hereby submits its reply to the joint communication by the UN Special Rapporteur on violence against women, its causes and consequences; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right of every one to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the human rights of internally displaced persons; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on minority issues; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Working Group on Discrimination against Women and Girls dated 10 December 2021 Ref. AL ETH 2/2021, concerning the alleged violations of international human rights and humanitarian law including gender based violence (alternatively GBV) in the context of the conflict in the Tigray, Amhara and Afar Regions which sought for Ethiopia to provide a response within 60 days. Ethiopia has the honor to present its response containing the facts surrounding the situation.
2. The GoE has been undertaking an all-encompassing reform in the past three to four years. The sincerity of its commitment towards respect for human rights during this period cannot be put into doubt. The revision of repressive laws and the establishment of a new legal and institutional framework for the protection and enforcement of human rights and fulfillment of other international obligations stand as testimony.
3. The Government's commitment to the cause of human rights emanates from a deeply held commitment to open a new chapter in Ethiopia's long history where all Ethiopians enjoy full respect and dignity as human beings regardless of their gender, religion, ethnicity, or other extraneous considerations.
4. Despite all these efforts at the Federal level, the Tigray Peoples Liberation Front (hereinafter TPLF) rejected the reform agenda and launched an orchestrated campaign to undermine the reforms in defiance of the Federal Government. It is a matter of public record that the Federal Government tried all possible avenues to amicably resolve the differences with the TPLF but to no avail.

5. When the Tigray Special Forces (TSF) and their Militia attacked the Northern Command of the Ethiopian National Defence Forces (hereinafter ENDF) on 3 November 2020, they committed a crime of treason of the highest order. As it became clear over time, however, the November 3 attack was only the first act in a well-orchestrated and rehearsed plan to usher in the disintegration of Ethiopia and replace it with a number of small independent or quasi-independent states over which Greater Tigray would reign supreme. Several days later, a senior member of the TPLF leadership publicly and triumphantly declared how successful the TPLF's lightning-like 'pre-emptive' attack was and how it supposedly incapacitated and destroyed the Northern Command of the ENDF.
6. The heinous attack resulted in the looting of a large amount of heavy and light weaponry, leading the TPLF to openly and repeatedly threaten the capitals of adjacent regions, the capital Addis Ababa as well as the capital of neighboring Eritrea. At the human level, on the day of the attack, the TPLF forces massacred, in cold blood, hundreds of middle-to high-level ENDF commanders, and kidnapped thousands of members of the ENDF, Federal Police. Individual victims were identified on the basis of their ethnic identities in a manner that was calculated to unleash ethnic violence throughout the Country. Vital infrastructure facilities, including airports, roads, bridges, telecommunication, and electrical installations were also destroyed intentionally.
7. The atrocious act of TPLF forced the GoE to take measures for keeping the existence of the Country through a "law enforcement operation". However, the terrorist group, the TPLF, has been expanding its terrible attack to the neighboring regions, Amhara and Afar.
8. Taking this fact into consideration, while we are dismayed with the extremely partial and biased nature of the allegations which seem to justify the grave misdeeds and atrocities of the terrorist TPLF, we have presented our response to the issues out of respect for the UN Human Rights System.

I. General Information and/or Comments on the Allegations

9. The allegations contain traumatic accounts of alleged gender-based violences committed against women and girls, pointing in some cases to acts that have resulted in victims contracting sexually transmitted diseases and unwanted pregnancy, while in all cases leaving the victims with severe psychological trauma and physical harm. However, the allegation failed to cover the scale and brutality of GBV cases committed by Tigray Security Forces against female members of ENDF and women and girls in the Amhara and Afar Regions, which shows the partiality of the allegations.
10. As serious and appalling as these allegations are, it is regrettable that TPLF and TPLF's sympathizers in the media have exploited the tragedy through a deliberate, coordinated, and malicious campaign to tarnish Ethiopia's image and ENDF's established track record for exemplary military discipline.
11. Ethiopia is a party to most of the international as well as regional conventions prohibiting GBV, and such acts are considered, under Ethiopian laws, to be serious offenses punishable with rigorous imprisonment. The reality is that GBV had been a major problem for women in Tigray under the TPLF long before the hostilities started. Ethiopians will recall that already a year or so before the conflict in the Tigray Region started; hundreds of women took to the streets of Mekelle to condemn GBV and seek justice from the authorities in Tigray. The protest was forcibly disrupted by TPLF at that time. “ይኸኖ”, a social media campaign, was also staged saying “enough” to such violence.
12. It should also be noted that the unprecedented attack perpetrated against the Northern Command by the TPLF had totally disrupted the regional law enforcement mechanism in Tigray. Moreover, the release of more than 10,000 convicted prisoners all over Tigray by TPLF without undergoing the proper rehabilitation programs and before serving their sentences aggravated the situation.
13. Having said all this, the Government cannot deny the disappointing and unfortunate fact that a few members of the ENDF have been convicted of committing such terrible crimes. The Government of Ethiopia not only investigated and successfully prosecuted these offenders, it has also taken measures to avoid recurrence of such acts in the future.

Protection of human rights and respect for humanitarian law are major parts of the training manuals and curricula of the ENDF.

14. The internal military justice system is also based on zero tolerance for such crimes and provides for the prosecution and appropriate punishment of military personnel who commit such crimes. ENDF has also proved its commitment to the values it upholds by charging and punishing perpetrators suspected of committing GBV.
15. Accordingly, the crimes alleged to be committed by ENDF contained in the Joint Communication do not represent the values or institutional character and reputation of ENDF. The track record of the ENDF, both in its domestic as well as international and regional peace operations' engagements, is impeccable and well-established. The alleged violations may only show that the acts are personally motivated which cannot in any way be associated with ENDF as an institution or the Government of Ethiopia. Besides, GBV had never been used systematically as part of a deliberate strategy to terrorize, degrade and humiliate the society in Tigray region or anywhere else by ENDF or the Government of Ethiopia.
16. The aggression of the TPLF, which has been continued into Afar and Amhara regional states, has disrupted the effort of the Government to thoroughly investigate the allegations of GBV in Tigray region. The GoE reiterates its position that no matter which side of the conflicting parties they are associated with, those who engage in acts of GBV shall be held accountable for their crimes.
17. The humanitarian assistance efforts of the GoE is also highly affected by the TPLF's act of aggression in the Afar and Amhara regions, which are the main humanitarian routes to the Tigray region. This act of the TPLF has also hindered the supply of medicines and other health facilities to the health centers in Tigray region, which make helping victims of GBV very cumbersome or impossible.
18. Generally, the GoE has exerted all necessary efforts to stop the hostilities, has been trying to bring justice to the victims of the war by duly investigating and prosecuting the crimes of alleged perpetrators and providing humanitarian aid such as food, medicine, cash and other services to those affected by the crises.

19. Therefore, the allegations concerning the deliberate utilization of GBV against women and girls in the Tigray Regional State are unsubstantiated, biased and unfounded. The GoE is making an effective investigation into all cases of GBV, and some members of the ENDF have been prosecuted and convicted for sexual crimes including rape.

II. Measures Taken to Investigate Allegations of GBV

20. The Government of Ethiopia would like to restate its commitment to ensure accountability by bringing to justice all actors that participated in the perpetration of crimes and human rights violations in the Tigray, Amhara and Afar regions. The Government has received a number of reports concerning the allegations of GBV and other violations of international humanitarian norms, and took these reports very seriously, has been conducting thorough, independent and effective investigations with the view to prosecute those found accountable for the violations, and convict them based on law and evidence.

21. Accordingly, before the conflict was expanded to Amhara and Afar regions, the State authorities with the legal mandate to investigate crimes committed within Ethiopian border (the FDRE Ministry of Justice, the Federal Police, the Military Police and Prosecutors of the ENDF) have made a thorough and effective investigation into alleged crimes committed in Tigray regions in connection with the law enforcement operation.

22. After the investigation was conducted, prosecutors have initiated a criminal charge against 25 (twenty-five) soldiers for committing acts of GBV including rape. So far, one sergeant major, two sergeants, one second corporal, three privates have been convicted while a second lieutenant, a second corporal, and a private have been acquitted. The GoE undertakes to disclose to the public the records of the trials in all these cases for purposes of transparency as well as deterrence in the future. It should also be noted that there are several other allegations of GBV under active investigation at the moment.

23. Thus, the police and prosecutors have been conducting investigations based on the reports they have received through various mechanisms. They remain open for any credible report and there would never be a situation under which members of ENDF or other security officials enjoy impunity for crimes committed within Ethiopian borders.

24. After the expansion of the conflict into Amhara and Afar regions because of the TPLF's aggression, criminal investigations on serious crimes against civilians in Amhara and Afar regional states by a joint team of Federal Prosecutors and Federal police, in collaboration with regional investigation authorities, were initiated on 15 September 2021 and the team has already issued its preliminary findings on 2 November 2021.
25. Moreover, currently the Government of Ethiopia has given special attention to the conflict situation in Tigray, Amhara and Afar regions to investigate the alleged crimes committed since the beginning of the conflict in November 2020. The Government has established high-level Inter-Ministerial Taskforce (IMTF) composed of the Minister of Justice, the Minister of Defense, the Minister of Peace, the Minister of Women and Social Affairs, the State Minister of Finance, the State Minister of Foreign Affairs, and Commissioner General of the Federal Police Commission. The Taskforce enables the GoE to investigate the allegations of crimes committed in relation with the conflict in the three regions, bring all perpetrators of serious crimes to justice, and provide redress and psycho-social support needed for victims of these violations.
26. Within the IMTF, there are 4 committees mandated for various tasks. Among these committees, Investigation and Prosecution Committee is assigned to oversee the investigation of all alleged incidences of serious violations of international human rights law (IHRL) and international humanitarian law (IHL) committed by all parties in the context of /in connection with/ the conflict in Tigray, Afar and Amhara regions. The Committee is composed of members from the Ministry of Justice, the Ministry of Defense, Federal Police, and Regional Police/Justice Bureaus and is coordinated by the Minister of the Ministry of Justice. The Committee will assure swift justice to all victims and guarantee non-recurrence of such violations against anyone.
27. The other committee within the IMTF is the Sex/Gender-Based Violations Committee. This Committee is composed of members from Ministry of Justice, Federal Police, Regional Justice Bureau, Ministry of Women and Social Affairs and Ministry of Health and is chaired by the Minister of the Ministry of Work and Social Affairs. This Committee supports the Investigation and Prosecution Committee by designing a system for the organization of a comprehensive inventory, documentation and recording of GBV complaints across all areas affected by the conflict.

28. It also works on and deploys personnel for a conducive environment that would offer easy and confidential GBV compliant mechanism; engages with other committees to put in place simplified procedures on gathering evidence; ensures/coordinates the provision of free legal aid to survivors and ensures/coordinates the creation of special mechanisms to facilitate witness protection programs for survivors and other witnesses.
29. In addition to the above intended tasks the IMTF set up an autonomous civil-military body responsible for undertaking all investigation of violations alleged to have been committed by members of the ENDF and regional forces of Amhara, Afar and Tigray regions (special forces and militia), and all prosecution works will be done impartially, transparently and meeting with national and international standards.
30. All criminal investigations will be undertaken by a joint team of professionals drawn from the Ministry of Justice, Ministry of Defense, Federal Police Commission, and Bureau of Justice/Police Commission of the concerned region - under the coordination of the Ministry of Justice. Depending on the nature of the findings, all prosecution proceedings ensuing from such investigations will be carried out in two tracks - by the military prosecution sub-team and civil prosecutions sub-team - both of whom shall be responsible to the Investigation and Prosecution Committee. In collaboration with pertinent institutions of the GoE such as the Federal Supreme Court, special benches dedicated for GBV cases will be established to bring to justice perpetrators of such crimes.
31. Hence, despite the difficulties owing to the complexity of the crime and actors involved in perpetrating the crimes, the Ethiopian Government remains committed to its duty to conduct effective investigation and bring perpetrators to justice.

III. Orders Given to Armed and Security Forces Prohibiting GBV and any other Violations of IHRL and IHL

32. To ensure the full adherence to international humanitarian laws and human rights norms, the GoE has been implementing effective due diligence guidelines prior to, during and after the law enforcement operation. Accordingly, the GoE has implemented measures aimed at preventing and mitigating violations of international humanitarian laws and

human rights norms.

33. Prior to the law enforcement operation, the Government of Ethiopia had given continuous training for its military and security personnel on preventing or eliminating gender-based violence, principles of international humanitarian law, international human rights laws and other norms applicable to the context of armed conflict.
34. In addition, the GoE has issued and distributed a pocket-sized Rules of Engagement Booklet. The Booklet lists basic duties of the service men and women such as the protection of civilians and other pertinent norms of international humanitarian law applicable to the context of the law enforcement operation in Tigray.
35. The consecutive pocketbooks prepared by the ENDF include instructions on the use of force by soldiers. In all three of the pocketbooks carried by every soldier one of the core values of the ENDF that cannot be breached is the duty to protect people with disabilities, the elderly, women, and children among others. It further indicates violations of the rules and crimes committed in the field will not be tolerated and entail liability to be tried in military courts.
36. Besides, the GoE has put in place clear monitoring and evaluation guidelines that include remedial measures when violations of international norms occur during the operation. Particularly, the GoE has taken all the necessary measures to differentiate civilians from combatants.
37. Accordingly, the Government of Ethiopia has been taking plenty of measures to prevent any violation of IHL and/or IHRL in general and gender-based violence in particular.

IV. Measures Taken to Support Victims of GBV

38. Ethiopia has been providing, in collaboration with stakeholders, medical and psycho-social support to individuals who needed these services through one-stop centers made available in the Tigray region. Besides, Ethiopia has made available a safe house with the view to facilitate the recovery of survivors of SGBV and to ensure the delivery of appropriate services in a protected environment. Further, a free hotline has been operating in the region to enable individuals to seek assistance and to provide protection services before the occurrence of the violations.

39. Further, as it is stated under paragraph 25, Ethiopia constituted the IMTF to enforce key findings and recommendations of the investigation conducted by the Ethiopian Human Rights Commission and the UN High Commissioner for Human Rights. One of the core mandates of the IMTF is providing redress and psycho-social support needed for victims of human rights violations including victims of GBV. Furthermore, Ethiopia adopted Strategic Approach and Action Plan for implementing recommendations of the EHRC-OHCHR Joint Investigation Team and for addressing subsequently committed serious human rights violations in Ethiopia.
40. As it is mentioned under paragraph 27, Sex/Gender-Based Violations Committee is tasked, inter alia, with responsibilities of designing a system for the organization of a comprehensive inventory, documentation and recording of GBV complaints across all areas affected by the conflict and creating, expanding, and strengthening the provision of free and comprehensive medical/psychosocial services to all survivors of GBV; availing safe houses for those in need; set in place reparative programs of rehabilitation, restitution, compensation and satisfaction measures for survivors.

V. Vetting ENDF for Peace Keeping Operations

41. The track record of the ENDF, all in its domestic, regional and international peace operations engagements, is immaculate and well-established. Gallant members of the Ethiopian National Defense Force and other police personnel paid supreme sacrifice to bring peace to the world. The ENDF has built an international reputation for sending its gallant peace keepers as a part of UN peace keeping missions both in Africa and beyond.
42. The Ethiopian peace-keepers deployed as a part of UN peace keeping missions are particularly known for their discipline, courage, institutional character and full obedience to international human rights and humanitarian norms. This is partly because of Ethiopia's commitment to due diligence principles while selecting soldiers for peace missions, and largely because of the ENDF's training, rules of engagement and operation, and fully intolerant military justice system to any human rights violations including GBV. Ethiopia's support to UN peace missions is nothing other than an indication of its commitment to UN's values and principles including its core purpose of maintaining international peace and security.

43. In line with these, Ethiopia would like to assure the Special Rapporteurs and the Working Group that it would implement a thorough screening and comprehensive due diligence measures while selecting peace keepers it contributes to the AU or UN peace keeping missions or other contributions based on bilateral treaties. Besides, the findings of the investigation that Ethiopia is conducting into the alleged involvement of Ethiopian security forces in the commission of human rights abuses would form a key component of the eligibility requirement for recruiting members to deploy as peace keepers, and any member of the ENDF or other security personnel credibly implicated in the violations of international human rights law or humanitarian norms would not be selected or deployed for any peace keeping missions and services.

VI. Measures Taken to Grant the Commission of Inquiry of ACHPR in to the Situation in Tigray Region to Carry out Investigation.

44. On June 15, the African Commission on Human and Peoples' Rights (ACHPR), announced that in accordance with its mandate of promotion and protection of human rights in Africa under Article 45 of the African Charter on Human and Peoples' Rights (the African Charter), a Commission of Inquiry (CoI) on Tigray was formed

45. According to ACHPR, the Commission of Inquiry will begin its work from its headquarters in Banjul, Republic of The Gambia. The Commission of Inquiry has a mandate, inter alia, to investigate allegations of violations of international human rights law and international humanitarian law, and to gather all relevant information so as to determine whether the allegations constitute serious and massive violations of human rights.

46. Although Ethiopia was engaged in good faith to facilitate the necessary conditions for the joint investigation at the beginning, the unilateral announcement of ACHPR on establishing a "Commission of Inquiry" undermines the cooperative spirit and the ongoing efforts of the Government of the Federal Democratic Republic of Ethiopia to formalize the modalities of the stated investigation. It is also inconsistent with the African Charter on Human and Peoples' Rights as well as the Rules of Procedure of the Commission itself.

Grounds of Reservation on the ACHPR's Commission of Inquiry (CoI) by the Government of Ethiopia

➤ **Regarding 'Unilateral' Nature of the Investigation**

47. The Government of Ethiopia expressed its strong objection on the ACHPR's decision and the Commission of Inquiry's unilateral moves so far in the 'investigations'. It is to be recalled that in his address to the summit of the AU Peace and Security Council on 9 March 2021, H.E. Dr. Abiy Ahmed, the Prime Minister (P.M), expressed the Government of Ethiopia's commitment to engage the ACHPR in undertaking investigations **jointly with the Ethiopia Human Right Commission (EHRC)**.
48. The PM's call was offered as a means of empowering continental institutions/instruments under the motto of '**African solutions to African problems**' which was very clear and conditioned on the ACHPR engaging the EHRC. On 11 March 2021 a follow-up meeting was held by Chairperson of AU Commission with Deputy Prime Minister of Ethiopia. The discussion focused on modalities of engagement of ACHPR in investigation of alleged human rights violations in Tigray region of Ethiopia that was informed by the same principle of investigation proposed above by the Prime Minister.
49. Apparently, also, the correspondence (and invitation) effected by Chairperson of the AU Commission to ACHPR on 16 March 2021 informing Ethiopia's willingness to engage the ACHPR jointly with the EHRC - was tendered based on such understanding. The African Commission also **wrote a letter addressed to the P.M accepting the proposal for a joint investigation, to which the GoE responded confirming its commitment**
50. In spite of this, it is unfortunate that the ACHPR opted for a 'self-initiated investigation' process by establishing a 'Commission of Inquiry' which does not involve the EHRC. This is outside of the scope of invitation tendered by the Government of Ethiopia.

➤ **Duplication of Investigation**

51. Although the CoI's investigation was principally initiated on the basis of a call by the Prime Minister of Ethiopia, it is also noted that a similar fact-finding mission was launched through the joint enterprise of the UNHCHR and the EHRC on 18 March 2021.

It is understood that the mandates of each of the three institutions are sourced from different legal instruments; yet, it is also known that all of them share a solid common objective in the cause of human rights.

52. Most importantly, it has been noted with concern that the temporal and spatial scope of the investigations of the joint mission as well as the CoI mission is very much overlapping.

53. In this light, the GoE wish to direct the CoI/ACHPR to seriously consider cooperation and participation in joint missions as a means of achieving its objectives and expressed its strong reservation on the unilateral move of the Commission of Inquiry. It requested the Commission to strongly consider cooperation in joint mission as such disjointed one adds little value to each other.

➤ **Mission Constitutes undue Interference**

54. The GoE expressed its openness and paved way for a joint fact-finding mission being undertaken by the ACHPR - subject to condition of cooperation with a national human rights institution. Yet, the Commission's self-initiated investigation is being carried out on unilateral basis; this raises several legal and political issues.

55. The GoE remains very concerned, and is in fact dismayed, by ACHPR's decision to set up CoI and the little effort exerted so far to seriously consider and comply with one of the cardinal principles of the UN Charter and Art.4 of the AU Constitutive Act which clearly instruct non-interference in the internal affairs of member states.

56. These issues (detailed below) need to be addressed promptly: **First**, the ACHPR not only established the CoI, it also wrote a letter to PM Abiy Ahmed on 6 April 2021 informing its decision to unilaterally set up a fact-finding mission, and requesting to 'receive the necessary authorization to carry out the mission'. Yet, the CoI proceeded with its virtual fact-finding mission without receiving any such response from the GoE; such a procedure - pursued against the spirit of the communications and without complying with the conditions (indicated below) - constitutes an unwarranted interference in affairs of a sovereign Country. **Second**, by jump-starting an investigation procedure in Ethiopia, the

ACHPR also breached the tenets established under the Charter, its own guidelines and the principles of int'l law.

➤ **The Commission's Power to Establish a CoI is itself founded on a Dubious Article of the African Charter on Human and Peoples' Rights**

57. Art.45 (2) (on mandates) ambiguously states the Commission's powers as including 'to ensure the protection of human and peoples' rights under conditions lay down in the Charter. Art.46 (on procedures) states the Commission 'may resort to any appropriate method of investigation; it may hear from the Secretary General of OAU or any other person capable of enlightening it. Under Chap.3 on 'Consideration of Communications', Art.101 of the Rules of Procedure of ACHPR (2020) - naturally deriving authority from the Charter (Art.46) allows the Commission, mainly in the context of inter-state communications, to engage in investigative measures, of its own initiative or at the request of a party and to adopt any investigative measures which it considers capable of clarifying the facts of the case.
58. In Ethiopia's case, it can be noted that the Commission's resolution to launch a self-initiated investigation is based on the creation of 'analogous case-setting' which it assumed would have existed if the matter was under consideration based on 'communication' (complaint); however, the truth remains that Ethiopia's case is not launched based on complaint (as is implicit under Art.45, 46 of the Charter and Art.101 of the Rules); there is no state party we know of which had submitted such communication to the Commission, nor is specific authorization secured by the Peace and Security Council of the African Union, (AU-PSC).
59. In such context, the procedural guide under Art.46 which, in the context of communications, allows it to adopt 'any appropriate method of investigation', cannot be understood as allowing the Commission to jump-start investigation at will.
60. Even in a situation where the Commission is convinced that a serious human rights violation exists and wishes to initiate investigation, the correct procedure to follow

should have been that which is provided under Art.58 of the Charter and Art.99 of the Rules, not to directly launch an investigation; more or less both articles similarly provide that: ‘when the Commission considers that one or more Communications apparently relate to special cases which reveal the existence of a series of serious or massive violations of human and peoples’ rights, it shall bring the matter to the attention of the Assembly and the AU-PSC in accordance with Article 58 of the Charter and Article 19 of the Protocol on the Peace and Security Council’

61. Art.58(2) establishes that ‘the Assembly of Heads of State and Government may then request the Commission to undertake in-depth study of these cases and make a factual report, accompanied by its finding and recommendations’. Obviously, this is very restrictive in terms of the Commission’s discretion to choose whether or not to initiate investigation in Ethiopia. We are not aware of any decision by the Assembly to such effect.
62. Not least, even if looked at liberally, Art.46 on ‘any appropriate method’ cannot be construed as allowing the Commission to undertake investigation without formal consent of a host country or at its will; this clause must be read in conjunction with other principles of int’l law; in fact, if the Commission is indeed interested in the unearthing the truth, it must seek to receive the invitation and consent of the GoE and/or AU political bodies before commencing any work; it had in the past sought and obtained the consent of countries on several occasions; the fact that the Commission had in the past found a violation without deploying missions within requested African countries or had undertaken missions based on communications is irrelevant to the present situation.
63. Available legal and institutional arrangements at the national level are always the most relevant mechanisms to investigate and address grave human rights violations. Common practice and diplomatic courtesy to a host nation presumes the ACHPR should have adhered to principles of complementarity and deference - demonstrating its commitment not to engage in undue interference in national affairs of countries;
64. This expectation flows from the reading of African Charter on Human and Peoples’ Rights. Art.1 demands parties to the Charter to adopt legislative or other measures to give

effect to rights enshrined in the Charter, and indirectly, Art.45(3) requires the Commission to cooperate with African and international institutions concerned with the promotion and protection of human and peoples' rights.

65. At the very least, any major decision to launch investigation in a sovereign country on the basis of allegations of massive human rights violations should have been premised on a cardinal principle established under Art.56(7) of the Charter itself (principle drawn in the context inter-state communication procedures). It states: communication relating to human rights abuses sent to it is eligible for receipt by the Commission only 'after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged. Logically, if an inter-state communication is subjected to such serious condition before receipt by the Commission, the Commission's own decision to initiate investigation must likewise be pursued only after compliance with the same condition. Such decision cannot be taken arbitrarily (i.e. the same principle of exhaustion of remedies applies before it resolves to initiate investigation).
66. Hence, it is a serious point of concern/suspicion for the GoE that the Commission dubiously chose to proceed with establishment of the CoI - even after the GoE and the EHRC have launched a series of high profile investigations; Ethiopia's courts are already seized with some of the issues, other domestic parallel procedures are not unreasonably prolonged, and that a joint mission has also been deployed by EHRC and UNOHCHR to look into the same allegations;

➤ **Data Collection Methods, Standards of Proof and Issues of Credibility**

67. As per the establishment resolution, the CoI's fact finding mission works from Banjul/will travel to Ethiopia or neighboring countries when conditions are met. The CoI deploys investigative methods in accordance with Art.46 of the ACHPR which includes: desk top reviews, talking to witnesses, experts, virtual meetings, first hand testimonies from all parties to conflict (victims, survivors, other witnesses, local officials, public/private institutions and governments by all means (e-mail, letter, facsimile, courier, telephone, virtual oral conferences). The CoI adopt same standard of proof as most international CoI on human rights ("reasonable grounds to believe).

68. Given the nature and complexities of the allegations of human rights violations, it is only common sense that CoI deploys high standard data gathering methods and cautiously applies threshold to prove/disprove allegations - as defined in its establishment resolution and the experience of other UN mandated investigations in the past.
69. This entails that CoI seriously undertake successive field missions-interviewing a range of stakeholders on ground (survivors, witnesses, local leaders, medics, parties to conflict etc.) Obviously, the CoI's declared intention to rely on virtual interviews and field missions to 'neighboring countries/refugee camps in Sudan' cannot be taken seriously as standard approach. Very concerning to note that months since it started operation, the CoI has literally focused on virtual (and rather indirect/sub-standard) methods to gather data for such critical mission.
70. Although conditions in Tigray are far from ideal for data gathering, the mission has not at all tried to travel to areas still controlled by GoE and adjoining districts, nor engage with EHRC and key justice sector institutions of GoE - to understand first-hand the experiences and testimonies of various actors/victims.
71. The GoE's concerns/reservations is very significant that any conclusions and finding drawn on the basis of weak evidence collected virtually (and very controversially since the identity of the interviewees could not be wholly verified), undermines credibility of the mission's investigation,
72. Taking the above mentioned grounds into consideration, the GoE criticized the Commission of Inquiry as "misguided" and lacking a legal basis; proposed a joint probe instead.

VII. Measures Taken to Implement the Recommendations of the Office of the United Nations High Commissioner for Human Rights and Ethiopian Human Rights Commission Joint Investigation Report

73. The Joint Investigation Team of the Ethiopian Human Rights Commission (EHRC) and UN Office of High Commissioner for Human Rights (OHCHR) into alleged violations

committed by all parties to the conflict in Tigray were initiated pursuant to a formal request tabled by the EHRC on March 10, 2021. Its establishment was announced on March 18, 2021 and a Joint Investigation Team (JIT) constituted on March 26, 2021. The team conducted the investigation from 16 May to 31 August 2021 - covering different zones in Tigray namely Mikelle, Southern, Western, and parts of Eastern Zones, as well as relevant locations outside Tigray - including Addis Ababa, Bahar Dar and Gondar.

74. The JIT concluded its investigations and issued a report on November 3, 2021. The Government of Ethiopia (GoE) expressed its appreciation and gratitude for the commitment showed by the JIT in shouldering this difficult task, for its professional and in-depth investigation undertaken into what had transpired, and for submitting a credible report within the scheduled time. The GoE has generally viewed the process and the institutions involved in the investigation as credible.
75. While the GoE holds reservations with regard to certain aspects of the context analyses, findings and conclusions drawn in the JIT report, it has nonetheless admitted the commission of serious violations and abuses by members of its agencies, and furthermore pledged to undertake a comprehensive and impartial investigation into the alleged incidences of serious violations.
76. In line with the recommendations of the JIT, the Government of the Federal Democratic Republic of Ethiopia has set up an Inter-Ministerial Taskforce to oversee redress and accountability measures in response to human rights violations committed in the context of the conflict in northern Ethiopia.
77. The Taskforce officially commenced its work on 29 November 2021 by adopting a comprehensive strategy and action plan for the implementation of the recommendations contained in the Joint Report of the Ethiopian Human Rights Commission (EHRC) and the Office of the United Nations High Commissioner for Human Rights (OHCHR).
78. The strategy and action plan cover all serious violations that have been committed including gender based violence in the context of the conflict. To carry out its work, the Taskforce has established committees that focus *on*:

I. Investigation and Prosecution committee (Ministry of Justice, Federal Police, Regional Police, Regional Justice Bureau)

The Committee is coordinated by the Minister of the Ministry of Justice.

The Committee:

- Oversees the investigation of all alleged incidences of serious violations of IHL/IHR laws committed by all parties in the context of/in connection with the conflict in Tigray, Afar and Amhara regions;
- Designs a comprehensive roadmap/action plan, including a preliminary listing of physical and fiscal resources required for carrying out investigation and prosecution works and associated task-lines; seeks approval of the same by IMTF; and implements;
- Studies, designs, carries out diplomatic/legal procedures leading to formal request of extradition of persons from Sudan found guilty of perpetuating serious crimes; failing extradition, works towards cooperation with Sudan and the int'l community to hold the perpetrators accountable within the jurisdictions they may be found;
- Undertakes investigations on all serious violations alleged to have been committed by members of the Defense Force;
- As necessary, reviews, designs, reinforces and implements a more rigorous training program involving Ethiopia's military and security personnel on JIT's recommended principles of IHL/IHR laws applicable in the context of armed conflicts; further ensures that armed forces/groups acquire sufficient knowledge of prohibited and permissible appropriation/destruction of property and attacks against persons; reviews and as necessary strengthens the contents of the booklet on Rules of Engagement of such personnel;
- With respect to detentions under State of Emergency declared on November 2, 2021, swiftly operationalizes the review mechanism envisaged under State of Emergency (SoE) decree; without prejudice to purposes of the SoE law, empowers the Ministry of Justice to ensure that conditions of detentions under SoE do not violate minimum non derogable requirements of IHR law;

- Ensures, within available means and through programmatic collaboration with int'l organizations, that basic conditions of detention such as food, water, sanitation and facilitation of visits to detention centers by independent observers (including EHRC and ICRC) are fulfilled/realized;
- Designs/rolls-out a program for comprehensive provision of psychological and medical treatment (and follow-up services) to victims of torture, inhuman and degrading treatment identified during the investigation (to strengthen resilience and recovery);

II. Refugees and IDP Affairs Committee (ARRA, Regional Administrations, Ministry of Peace, National Disaster/Risk Management Commission)

The Committee is chaired by the Minister of the Ministry of Peace.

The Committee:

- Designs a comprehensive roadmap/action plan, including a preliminary listing of physical and fiscal resources required for carrying out its task-lines; seeks approval of the same by IMTF; and implements;
- Establishes/reinforces a strong monitoring system to ensure and maintain peace/security of IDPs by deploying security forces and/or through other measures;
- Establishes/strengthens a more pragmatic scheme to ensure that all IDPs are received without discrimination of any kind, and live in satisfactory conditions of safety, dignity, security;
- Designs/carries out specific training programs to raise awareness of government officials and local communities where IDPs reside on the rights of IDPs and responsibilities of the government;
- Designs/carries out special protection schemes for/assistance to IDPs with special needs, including separated/unaccompanied children, female heads of households, expectant mothers, mothers with young children, elderly, persons with disabilities, and persons with communicable diseases;
- Reinforces existing mechanism/initiatives to trace/reunify families separated during displacements;

- Quickly studies and evaluates the effectiveness/impact of humanitarian assistance delivered to IDPs throughout the conflict areas;
- Proactively facilitates, in cooperation with the int'l community, that IDPs are provided to fullest extent practicable and with least possible delay, with adequate humanitarian assistance;
- Deploys a practical and functioning system/safeguards which ensures that no IDP is forcibly returned/resettled in any place where his/her life, safety, liberty and/or health would be at risk;
- Designs and rolls-out a comprehensive strategy to inventorize displacement patters and bring lasting solution to displacements in Tigray, Amhara and Afar regions by promoting and creating satisfactory conditions for voluntary return, local integration or relocation of all IDPs; including a system that enables IDPs to make free and informed choice on whether to return, integrate locally or relocate;
- Designs a strategy, in collaboration with humanitarian agencies, to rehabilitate IDPs once returned, reintegrated or relocated;
- In areas where ethnic diversity has exacerbated displacement patterns and serious violations, conceptualizes a comprehensive thinking approach/strategy that could be used for redressing victims and communities through the initiation of transitional justice process - focusing on addressing multiple grave violations and facilitating peace, healing and reconciliation (in close coordination with the pertinent agency of the GoE);

III. *Sexual and Gender-Based Violations Committee (Ministry of Justice, Federal Police, Regional Justice Bureau, Ministry of Health)*

In addition to the tasks stipulated in paragraph 20 and 37; the Committee:

- Designs a comprehensive roadmap/action plan, including a preliminary listing of physical and fiscal resources required for carrying its task-lines; seeks approval of the same by IMTF; and implements;
- Speedily sets-up/delivers special, multi-disciplinary capacity building and skills training to police officers, prosecutors and other professionals working on SGBV cases and survivors; supports the Investigation and Prosecution Committee, the teams

- and the proceedings (regular/military) with personnel having expertise in psychosocial counseling; reinvigorate the panel of experts (drawn from social work, federal police, prosecution, medical experts) to inform the composition and functioning of SGBV investigation and prosecution teams;
- Based on availability of resources and effectiveness of the int'l communities' responses (also in coordination with the resource mobilization committee):
 - Creates, expands, and strengthens the provision of free and comprehensive medical/psychosocial services to all survivors of SGBV; avails safe houses for those in need;
 - Rolls-out reparative programs of rehabilitation, restitution, compensation and satisfaction measures for survivors;
 - Leads institutional synergy to abolish media propaganda fueling sexual violence, using SGBV cases for political gains, and instilling a culture of tolerance to SGBV;

IV. Resource Mobilization Committee (Ministry of Justice, Ministry of Foreign Affairs, National Disaster/Risk Management)

The Committee is chaired by the State Minister of the Ministry of Finance.

The Committee:

- Designs a comprehensive roadmap/action plan, including a preliminary listing of physical and fiscal resources required for carrying its task-lines; seeks approval of the same by IMTF; and implements;
- Sets-up a multi-disciplinary scientific task-force that is responsible for undertaking a comprehensive assessment of damages caused in Tigray, Afar and Amhara regions due to the conflict, looting and destruction of properties (focusing on private property);
- Based on concrete feedback from the respective committees, designs and implements a comprehensive scheme focusing on the identification of partners, and the solicitation, mobilization and deployment of technical, material and financial resources from domestic sources as well as through proactive collaborations with international agencies and non-governmental organizations to facilitate the effective realization of the deliverables identified under the Strategy;

- Designs/carries-out a comprehensive reparations approach and scheme (restitution, compensation, rehabilitation) to support victims, victims' families and relatives seriously affected by the conflict; works on economic empowerment of survivors through vocational trainings, financial aid or micro-finance services to start small businesses and resume normal life;
- Without prejudice to any pre-existing national initiative working on emergency coordination, rehabilitation and other responses in post-conflict settings, designs and implements a specific national scheme focusing on the reconstruction/rehabilitation of civilian properties directly impacted by the conflict in Northern Ethiopia;

72. Depending on the nature of the findings, all prosecution proceedings ensuing from the investigations shall be carried out in two tracks - by the military prosecution sub-team and civil prosecutions sub-team - both of whom shall be responsible to the Investigation and Prosecution Committee.

73. The secretariat is established to facilitate, monitor and coordinate the day-to-day function of the Taskforce and its committees. The Taskforce has directed the *Committee on Investigations and Prosecutions* to operationalize a specialized joint civil-military investigative and prosecutorial unit with the requisite operational autonomy to ensure accountability through a transparent and robust legal process.

74. All committees are directed to adopt a victim-centered approach, focusing on the rights of victims to know the truth, to seek and secure redress, and the need to implement programs of rehabilitation, restitution, and compensation to the extent resources permit.

Conclusion

75. Ethiopia is currently going through deep-rooted reforms. Popular demands for human rights and democracy have culminated in the Government's undertaking of the most meaningful series of political reforms in Ethiopia's recent history. These reforms are centered on enhancing the protection and promotion of human rights as well as widening the democratic space.

76. The Government of Ethiopia has taken seriously allegations of any kind and believes that the primary responsibility of investigating and holding accountable perpetrators of human

rights rests on it. Furthermore, in addition to the investigations being conducted by the relevant agencies of the Government of Ethiopia, it has taken seriously the recommendations forwarded by Joint Report of the Ethiopian Human Rights Commission (EHRC) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), and has set up an Inter-Ministerial Taskforce to oversee redress and accountability measures in response to human rights violations committed in the context of the conflict in northern Ethiopia.

77. The Government of Ethiopia would like to reiterate its commitment to ensure accountability and we firmly believe that there would never be a situation under which anyone who commits a crime within Ethiopian borders will enjoy impunity, whether he/she is member of the security, defense force or otherwise.
78. Therefore, kindly reminding the UN Special Rapporteurs and the Working Group on Discrimination against Women and Girls to remain wary of the usual duplicitous tactics of the TPLF (and thereby the unsubstantiated allegations), Ethiopia requests the UN Special Procedures and working group to dismiss the allegations as there are ongoing investigations by the Government of Ethiopia and as we have reaffirmed our stand to establish accountability in accordance with the outcome of these investigations which we have proved as there are trials of individuals some of them are convicted and sentenced already.

RESPECTFULLY SUBMITTED,
THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA
08 February, 2022
Addis Ababa, Ethiopia