

**Mandates of the Special Rapporteur on minority issues and the Special Rapporteur on the right to food**

Ref.: AL ETH 1/2023

(Please use this reference in your reply)

24 January 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on minority issues and Special Rapporteur on the right to food, pursuant to Human Rights Council resolutions 43/8 and 49/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **deprivation of food and other essential needs, large-scale killings and other serious attacks specifically targeting civilian members of the Tigrayan minority group.**

According to the information received:

Belonging to a minority ethnic group in Ethiopia, Tigrayans constitute approximately 6% of the population and are reported to be particularly affected by the current hostilities in the country.

During the first months of the conflict in the Tigray region of Ethiopia, which started in November 2020, Ethiopian federal forces and their allies looted Tigrayan businesses, hospitals, livestock and harvests which has forced Tigrayans to depend on assistance from outside. As a result, due to the chronic shortage of supplies, Tigrayans were hindered from securing food, basic services or adequate healthcare services. For months, federal forces blocked off roads stopping the access to the region for non-governmental organizations and humanitarian actors which would distribute needed medical and food supply.

Although the cease-fire announce in March 2022 was perceived as a relief for Tigrayan people, the aid reaching the region was extremely scarce. The government kept the banks closed, telecommunications shut off preventing the aid organizations to work in their desired and necessary pace.

After having endured the consequences of two years of conflict and following a five-month cessation of hostilities between the Federal Government and its allies, which had resumed on 24 August 2022, civilian population has been now faced renewed risks, particularly in the Tigray region<sup>1</sup>. Shortages of food, medicine and fuel contribute to worsening the humanitarian situation in the region. Tigray also remained disconnected from Ethiopia's telecommunications, banking and electricity networks, while the tension escalated<sup>2</sup>.

Humanitarian organizations were forced to drastically scaled down their activities due to insecurity because of the ongoing conflict, suspending some

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<sup>1</sup> A/HRC/51/46, para. 1.

<sup>2</sup> A/HRC/51/46, para. 2.

of their operations at times since the conflict escalated, between 2020-November 2022. Some withdrew their staff from the conflict-affected areas, while others maintained a minimal presence. Deliveries of humanitarian supplies by ground and air transportations were suspended between Addis Ababa and Tigray's capital of Mekelle. Besides, the supply of fuel and cash were restricted in Tigray, except availed by humanitarian partners under strict scrutiny by the Disaster Risk Management Commission (DRMC). The blockade of the region has resulted in limited deliveries of fertilizers and seeds, preventing farmers from continuing with their activities. The Tigrayan people continue to face food deprivation and remain in vulnerable conditions.

In addition, the use of air power and armed drones by the ENDF has killed and injured civilians or caused serious damage in civilians objects. On 22 August 2022, an air raid hit a children's playground within a kindergarten resulting in the death of four individuals. Homes near the kindergarten were also affected by the air raid. On 13 September 2022, a drone strike on Mekelle University caused injuries and property damage. On the same day, a Tigray People's Liberation Front (TPLF)-affiliated TV network broadcasting in Tigray was also hit, causing heavy human and material damage. On 27 September 2022, an airstrike hit the town on Adi Daero, which resulted in the injury of 16 civilians and the destruction of several homes.

In September 2022, the International Commission of Human Rights Experts on Ethiopia reported that it found "reasonable grounds to believe that the Federal Government and allied regional State governments have implemented a widespread range of measures designed to systematically deprive the population of Tigray of material and services indispensable for its survival, including healthcare, shelter, water, sanitation, education and food"<sup>3</sup>. The Commission also outlined that the members of Ethiopian National Defence Force (ENDF) committed extrajudicial killings, rapes, and sexual violence as part of a widespread attack directed against the Tigrayan civilians<sup>4</sup>, together with large-scale killings that seem to target Tigrayan men and boys perceived to be of fighting age, as well as community and religious leaders<sup>5</sup>.

Without prejudging the allegations raised, we express our grave concerns regarding the serious violations of international human rights law and humanitarian law and particularly the situation of the civilian members of Tigrayan minority group. Tigrayans seem to have been targeted in terms of: (i) deprivation of food, medical supplies and other essential services, such as transportation and telecommunication; (ii) air power attacks and destruction of civilian properties; and (iii) large-scale killings, rapes and sexual violence in the context of those hostilities.

We would like to draw the attention of your Excellency's Government that the differentiated treatment of ethnic Tigrayans in the respect and protection of human rights have already been object of other communications sent by the experts of the United Nations Special Procedures, in which were reported that Tigrayans have been victims of ethnic profiling, discrimination in various sectors of the society since the outbreak of the conflict as well as victims of hate speech, particularly by public

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<sup>3</sup> A/HRC/51/46, para. 84.

<sup>4</sup> A/HRC/51/46, para. 98.

<sup>5</sup> A/HRC/51/46, para. 101.

authorities<sup>6</sup>.

Moreover, the International Commission of Human Rights Experts on Ethiopia recently affirmed that there are reasonable grounds to believe that the Federal Government and allied regional State governments have committed and was committing inhumane acts intentionally causing great suffering or serious injury to body or to mental or physical health based on their denial and obstruction of humanitarian assistance to Tigray as well as crimes against humanity of persecution on ethnic grounds<sup>7</sup>.

We also would like to remind your Excellency's Government that Special Procedures mandate holders have raised similar concerns several times in the recent past regarding the humanitarian situation and the human rights violations against Tigrayan people. In April 2021, we expressed our alarm about the allegations of violations of human rights and international humanitarian law committed in the context of the conflict in the Tigray region in Ethiopia, including deliberate attacks against civilians and summary executions, indiscriminate attacks, sexual violence, arbitrary detention, destruction and looting of civilian property, and arbitrary displacement of ethnic Tigrayans<sup>8</sup>. In November 2021, we expressed our concerns regarding allegations of widespread rape and other forms of gender-based violence against women, girls by members of the Ethiopian National Defense Force, Tigrayan Forces, Tigrayan militias, the Amhara Regional/Special Force and Fano militia and informal Amhara militia group in the context of the armed conflict in the Tigray region since November 2020 and later in neighboring Amhara and Afar regions<sup>9</sup>.

We further would like to raise the attention of your Excellency's Government that the Federal Government and allied regional State governments have implemented a widespread range of measures designed to systematically deprive Tigrayans of material and services indispensable for its survival, including healthcare, shelter, water, sanitation, education and food during the period mentioned here above<sup>10</sup>. The deprivation of food and other essential needs, together with killings, rapes, sexual violence and other forms of attack meet the threshold of pain and suffering for torture and ill-treatment against Tigrayans<sup>11</sup>.

At last, we remind your Excellency's Government that international human rights law binds States at all times, during peace and conflict, including both international and non-international armed conflicts<sup>12</sup>. In any event, we recall that international humanitarian law also prohibits racial or ethnic discrimination and requires humane treatment of all persons taking no active part in the hostilities. Likewise, customary international human rights law prohibits torture and extrajudicial killings. We observe that several of the rights allegedly violated are non-derogable rights under article 4 of the ICCPR and even otherwise-lawful derogations or limitations of human rights may not involve discrimination solely on the ground of ethnic or racial origin, as the police and practices alleged above do.

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<sup>6</sup> AL ETH 1/2021 and AL ETH 3/2021.

<sup>7</sup> A/HRC/51/46, para. 98.

<sup>8</sup> AL ETH 1/2021.

<sup>9</sup> AL ETH 2/2021.

<sup>10</sup> A/HRC/51/46, para. 84.

<sup>11</sup> A/HRC/51/46, para. 88 and 89.

ICJ, *Nuclear Weapons case*, Advisory opinion, para. 25.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please list the concrete steps taken to prevent human rights violations and ensure full respect for international human rights all and put an end to violations committed against civilian members of Tigrayan group and particularly the current situation following the cessation of hostilities agreement in November 2022.
3. Please explain the reasons for imposing a blockage of ground and air transportation causing the deprivation of food, medical supplies of Tigrayan people. Please also explain the reasons for closing banks and shutting off telecommunications in the Tigray region.
4. Please provide further information on the measures that have been taken to improve the vulnerable conditions of Tigrayan people and their access to food and other essential supplies.
5. Please provide more information on the measures adopted to prevent civilians and civilian properties of Tigrayans to be attacked by air power and armed drones.
6. Please provide information on investigations that have been carried out on allegations related to the human rights violations mentioned above and the steps taken to ensure that perpetrators are brought to justice and that victims have access to legal remedies, reparation and guarantees of non-repetition.
7. Please provide information on how you are considered to implement the ceasefire agreement particularly the obligations on the respect of human rights and their accountability.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Fernand de Varennes  
Special Rapporteur on minority issues

Michael Fakhri  
Special Rapporteur on the right to food

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer to your Excellency's Government to the International Covenant of Civil and Political Rights (ICCPR), acceded by Ethiopia on 11 June 1993, which states that: certain rights are non-derogable and cannot be suspended even in a state of emergency (article 4); all people possess an inherent right of life and that no one should be arbitrarily denied this right (article 6 (1)); no one should be subjected to torture, cruel, inhuman or degrading treatment or punishment (article 7); everyone has the rights to liberty and security of person (article 9); (article 10); everyone has the right to liberty of movement (article 12); all persons are equal before the courts and tribunals (article 14); everyone has the right to recognition everywhere as a person before the law (article 16); no one is to be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence, or to unlawful attacks on their honour and reputation (article 17); everyone has the right to be free of discrimination (article 26).

In particular, article 27 of the ICCPR stipulates that ethnic, religious or linguistic minorities shall not be denied the right to enjoy their own culture, to profess and practise their own religion, or to use their own language. This right is also enshrined in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities also affirms the rights of minorities. This Declaration obliges States to protect the existence of minorities along with their rights and identity.

As a State party to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), acceded to on 23 June 1976, Ethiopia must also prohibit discrimination on the grounds of race, colour, descent or national or ethnic origin and take effective measures to amend or eliminate racially discriminatory acts and provide effective protection and remedies.

We would like to draw the attention of your Excellency's Government to Human Rights Committee's General Comment No. 36 on the right to life (CCPR/C/GC/36), which specifies that the duty to protect the right to life requires States parties to take special measures of protection towards persons in vulnerable situation whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence. It also requires that States take measure to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity.

According to article 4 of the ICCPR, no derogation from articles 6 and 7 among others are permitted. Article 4 also requires that any derogations from the rights enshrined in the other articles of the ICCPR must be consistent with other international law and must not discriminate solely "on the ground of race, colour, sex, language, religion or social origin". In regards to limitations and derogations of obligations under the ICCPR, we recall the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, which provide guidance to states on derogating from the Covenant in times of public emergency and stipulate that the "severity, duration, and geographic scope of any

derogation measure shall be such only as are strictly necessary to deal with the threat to the life of the nation and are proportionate to its nature and extent.”

We also wish to refer to article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), acceded by Ethiopia on 14 March 1994 which states that “Each State Party shall ensure (...) that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible (...)”. Furthermore, failure to take the measures required by law to ensure accountability for torture and ill-treatment gives rise to legal responsibility, including not only State responsibility but also, in some circumstances, individual responsibility under international criminal law. This responsibility to prevent torture and other forms of ill-treatment is enshrined in article 2 of the CAT.

We would like to refer to **article 25** of the Universal Declaration of Human Rights WHICH recognizes the right of everyone “to a standard of living adequate for the health and well-being of himself and of his family, including food.” **Article 11 (1)** of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by your Excellency’s Government on 11 June 1993, recognizes “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions.” ICESCR requires States to “take appropriate steps to ensure the realization of the right to food” (article 11 (1)). The Committee on Economic, Social and Cultural Rights (CESCR) has defined the corresponding obligations of States to respect, protect, and fulfil the right to food in its General Comment No. 12. According to the Committee, the obligations to respect existing access to adequate food requires State parties to refrain from taking any pressures that result in preventing such access. The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food.

Whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil that right directly. States are required to respect existing access to adequate food and to take no action to prevent such access.

While the right to food is to be progressively realised, the right to be free from hunger is immediate. In the view of the CESCR in its General Comment No. 12, the ICESCR requires States to take "whatever steps are necessary to ensure that everyone is free from hunger and as soon as possible can enjoy the right to adequate food."

Article 2 of the ICESCR, states that the States Parties to the Covenant undertake to guarantee that the rights enunciated in the Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Access to adequate food, and to the means and entitlements for its procurement, must not be restricted or denied based on prohibited grounds of discrimination.

We wish to further draw your Government’s attention to international humanitarian law. According to customary international humanitarian law applicable in non-international armed conflict, attacks must not be directed against civilians. Common article 3 of the Geneva Conventions requires that “Persons taking no active part in the hostilities, including members of armed forces who have laid down their

arms and those places 'hors de combat' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria." Article 17 of Additional Protocol II, acceded by Ethiopia on 8 April 1994 states that states that "The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition. Civilians shall not be compelled to leave their own territory for reasons connected with the conflict."

In addition, civilian and military superiors, including political leaders, failing to prevent or suppress torture or ill-treatment amounting to war crimes or crimes against humanity, or failing to prosecute their subordinates for such crimes, may well incur individual criminal responsibility by omission, in accordance with article 28 of the Statute of the International Criminal Court and customary international criminal law.

Similarly, Rule 129 of the International Committee of the Red Cross (ICRC) Study on Customary International Humanitarian Law also prohibits the deportation or forcible transfer of the civilian population of "the civilian population of an occupied territory, in whole or in part, unless the security of the civilians involved or imperative military reasons so demand. Parties to a non-international armed conflict may not order the displacement of the civilian population, in whole or in part, for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand". In the conduct of military operations, constant care must be precautions must be taken to avoid, and in any event minimize incidental loss of civilian life, injury of civilians and damage of civilian objects (rule 15). Torture is also prohibited (rule 90). Particularly, the rule 88 states that: "Adverse distinction in the application of international humanitarian law based on race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or any other similar criteria is prohibited".

Moreover, the rule 15 states in the conduct of military operations, constant care must be precautions must be taken to avoid, and in any event minimize incidental loss of civilian life, injury of civilians and damage of civilian objects (rule 15). Torture is also prohibited (rule 90). Particularly, the rule 88 states that: "Adverse distinction in the application of international humanitarian law based on race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth". Finally, each State party to the conflict must respect and ensure respect for international humanitarian law by its armed forces (rule 139), and States must investigate war crimes allegedly committed by their nationals or armed forces and prosecute suspects (rule 158).