

FAQ: Communication to the African Commission on Human and Peoples' Rights

On 13 December 2022, Legal Action Worldwide (LAW), the Pan-African Lawyers' Union (PALU), and Debevoise & Plimpton LLP, on behalf of Tigrayan victims of the armed conflict in Ethiopia, filed submissions on admissibility and merits in a communication before the African Commission on Human and Peoples' Rights (the "African Commission").

This follows a decision of 14 October 2022, when the African Commission issued emergency provisional measures against Ethiopia, requesting the Government to cease all allegations of abuses and to allow unfettered humanitarian access into the region.

The complaint was originally filed on 8 February 2022, alleging that the Government of Ethiopia and associated forces have committed, and continued to commit, widespread human rights violations against Tigrayan civilians. The African Commission notified the parties of its decision to seize itself of the case on 14 October 2022.

You will find below key questions and answers about the case. For further information, contact: hare@legalactionworldwide.org

1. What is the situation in Tigray?

Since the beginning of the armed conflict in Tigray in November 2020, Ethiopian and allied forces have perpetrated horrific extrajudicial killings, torture, sexual violence, and enforced disappearances against Tigrayan civilians. Thousands of civilians have been killed and many more have been driven from their homes as a result of these crimes. Those who remain in Tigray face what the UN Secretary-General has described a "humanitarian catastrophe," with thousands of Tigrayans living in famine-like conditions. While the parties to the conflict signed a peace agreement on 2 November 2022, there remain serious concerns about Ethiopia's and allied forces' compliance with the terms of the agreement, following reports of continued violence in the region.

2. What is the African Commission, and why should it hear this complaint?

The African Commission is a quasi-judicial human rights body tasked with promoting the rights enshrined in the African Charter of Human and Peoples' Rights (the "African Charter") and ensuring their protection across Africa. The Commission has the power to review this complaint and to indicate remedies, including requesting that Ethiopia stop committing violations in Tigray, take measures to prevent continued violations and abuses, acknowledge the suffering of the Tigrayan community, and issue an apology.

As one of Africa's highest human rights bodies, the African Commission speaks with legal and moral authority as to States' obligations under the African Charter. It is crucial that African

institutions lead and provide solutions for problems in the continent, and ensure protection and safety for all civilians in the region.

3. Why is the case significant?

This case represents the **first time** that evidence of Ethiopia's violations will be placed before a human rights body competent to consider claims arising out of the armed conflict in Tigray. We hope it will be the **first step** towards legal recognition of the atrocities perpetrated by the Ethiopian military from a human rights perspective, and towards accountability under international law.

Importantly, this case gives Tigrayan victims of the war **a voice** and a means of ensuring the international community remains focused on the violations committed in Ethiopia. Despite the peace agreement signed between the Government of Ethiopia and the TPLF, there are **still** reports of violence. We have therefore brought this case, in part, to maintain pressure on both sides to **permanently cease all violations**.

4. Whom are we representing?

The complaint is filed on behalf of Tigrayan civilian victims of widespread human rights violations. Each of the victims represented by the complainants has provided credible evidence of serious human rights violations committed by Ethiopian and associated forces, including Eritrean forces.

5. Who are the alleged perpetrators and why should the Government of Ethiopia be held responsible for violations committed by allied forces?

The communication alleges that violations were committed by the Ethiopian National Defense Forces (ENDF), the Eritrean Defense Forces (EDF), the Amhara Special Forces (ASF), and various ethnic militias. Under international law, any violations committed by any of these pro-Government forces are attributable to Ethiopia because:

- state security forces, such as the ENDF, ASF, and police are all organs of the State under the command of the Government of Ethiopia;
- the EDF is an organ of Eritrea that has been placed at Ethiopia's disposal, and Ethiopia has assisted Eritrea in committing violations of international law;
- Amhara ethnic militias have allegedly committed violations while acting on Ethiopia's instructions or under its direction or control; and
- Ethiopia has failed to uphold its legal responsibility to exercise due diligence in preventing the violations by these allied forces or to hold anyone responsible for those violations.

6. What violations are alleged?

The case argues violations of several rights guaranteed under the African Charter and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa ("Maputo Protocol") by the following acts:

- indiscriminate shelling of civilians;
- occupation and destruction of agriculture, medical facilities, and other civilian infrastructure;
- massacres and extrajudicial killings;
- sexual and gender-based violence;
- arbitrary detention and torture;
- destruction, looting, and desecration of religious and cultural heritage;
- anti-Tigrayan hate speech;
- enforced information blackouts;
- massive forced displacement; and
- failure to investigate and prosecute violations.

These actions constitute violations of multiple rights enshrined in the African Charter, including:

- the right to life and integrity of person;
- the right to dignity and freedom from degradation;
- the right to freedom from sexual and gender-based violence;
- the right to liberty and security of person;
- the right to non-discrimination;
- the rights to residence, return, and family;
- the rights to property, housing, health, food, and education;
- the right to receive and disseminate information;
- the rights to cultural heritage and free practice of religion;
- the right to redress for Charter violations.

8. How did Ethiopia allegedly fail to uphold its duty to respect rules of international humanitarian law applicable to civilians?

We also allege that Ethiopia failed to uphold its duty to respect rules of international humanitarian law applicable to civilians under the Charter and Art. 11 of the Maputo Protocol, as a result of the indiscriminate shelling, deliberate killings, massacres, acts of sexual violence, displacement of civilians, destruction of civilian property, and the deliberate blocking of humanitarian aid.

9. What is the impact of the new Peace Agreement on this case?

On 2 November 2022, the Government of Ethiopia and the TPLF signed a peace agreement in Pretoria, South Africa. The provisions of the peace agreement are consistent with the emergency provisional measures issued by the African Commission on 14 October 2022. In the weeks following the signing of the peace agreement, however, there have been reports of continued abuses and killings of Tigrayans. Continued international pressure, including through this case, is crucial to bringing about a permanent end to the violence.

In addition, the peace agreement provides very little direction on any future domestic justice mechanism, and Tigrayans have voiced scepticism about the Federal Government's commitment to bringing about meaningful justice. We hope this case will help ensure that accountability remains central to the peace process.

10. What are the next steps in this case?

Ethiopia will now have 30 days from the date of notification of our filing to submit preliminary objections to the case. If it does not do so, it will have 60 days to respond on the merits. Then, the complainants will have 30 days to file our rejoinder. The Commission will then deliberate and decide on admissibility, and if found to be admissible, the Commission will deliberate and decide on the merits.

11. Why does this complaint only focus on alleged violations by the Ethiopian State and on Tigrayan victims?

While reports suggest that a number of parties to the conflict have committed violations and abuses against civilians of different ethnicities, this case focuses on the Tigrayan community as the overwhelming victims of the conflict, and the violations committed by the state of Ethiopia, as the party with primary responsibility for its citizens. This includes both the responsibility not to commit violations against civilians, and the responsibility to prevent violations and abuses committed by other parties against civilians in its territory.

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