



FAQ: Complaint to the African Commission on Human and Peoples’ Rights

On 8 February 2022, Legal Action Worldwide (LAW), the Pan-African Lawyers’ Union (PALU), and Debevoise & Plimpton LLP filed a complaint with the African Commission on Human and Peoples’ Rights (‘African Commission’). It alleges that the Government of Ethiopia and associated forces have committed, and continue to commit, massive human rights violations against Tigrayan civilians. This document explains the background of the case and details the allegations made in the complaint.

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 that has necessitated this case?

Since the beginning of the internal armed conflict in Tigray in November 2020, extrajudicial killings, torture, sexual violence, and enforced disappearances have been perpetrated 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 many Tigrayans living in famine conditions. There is strong evidence that Ethiopian state security forces and associated security forces and militias are responsible for these atrocities.

2. Whom are we representing?

The complaint is filed on behalf of civilian victims of widespread rights violations in Tigray. Many civilian victims represented by LAW have provided evidence of human rights violations and what could amount to war crimes, but could not be listed as complainants in this case due to fear of reprisals by the Government.

3. Why is the case significant?

- This is the **first time** that a case has been taken against Ethiopia alleging that the state has committed and continues to commit horrific human rights violations and abuses against its own citizens in Tigray.
- Filed before the African Commission, this is the **first opportunity** for an African institution to address the situation in Tigray, and to order Ethiopia to stop committing and to prevent these crimes.
- It is the **first** step towards legal recognition of the atrocities perpetrated by the Ethiopian military, and towards accountability.
- This case gives Tigrayan victims **a voice** and a means of ensuring the international community remains focused on the violations committed in Ethiopia.

4. Who are the alleged perpetrators?

- The Government of Ethiopia is alleged to be primarily responsible for the violations alleged in the complaint.
- Credible sources consistently describe the Eritrean Defence Force (EDF) and Amhara ethnic militias as acting on behalf of Ethiopia and as playing a critical supporting role in key offensives throughout Tigray.

5. What crimes are alleged to have been committed by Ethiopia in the case?

The case argues that several rights guaranteed under the African Charter on Human and Peoples' Rights ('African Charter') and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa ('Maputo Protocol') have been violated by the following crimes:

- the indiscriminate shelling of civilians;
- the 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; and
- enforced information blackouts.

6. Why should the Government of Ethiopia be held responsible for the alleged actions of the security forces and other forces?

Under international law, the alleged actions of Ethiopian troops, Government-aligned ethnic militias, and the EDF are attributable to Ethiopia because:

- the state security forces are organs of the State under the command of the Government of Ethiopia;
- the EDF is an organ of Eritrea that it has placed at Ethiopia's disposal;
- the ethnic militias have allegedly committed violations while acting on Ethiopia's instructions and under its direction or control; and

- Ethiopia has allegedly failed to uphold its legal responsibility to exercise due diligence in preventing the EDF's and the ethnic militias' violations or to hold anyone responsible for those violations.

7. What specific rights are alleged to have been violated in the case?

- **The right to life and integrity of person.** According to witness accounts, Ethiopian forces executed civilians, including children, who were trying to flee the fighting. Refugees have also reported a massacre in the town of Mai-Kadra, where witnesses saw hundreds of bodies which had been shot, stabbed, or hacked with knives and axes. Other massacres, extrajudicial killings, and acts of sexual violence have also been documented in Tigray. The right to life is enshrined in Article 4 of the African Charter and Article 4 (1) of the Maputo Protocol.
- **The right to dignity and freedom from degradation.** The indiscriminate shelling and mass displacement of civilians, as well as the occupation and destruction of agriculture, medical facilities, and other civilian infrastructure represent violations of the right to dignity. The inhuman treatment of Tigrayan girls and women, particularly through widespread sexual and gender-based violence is also a violation of this right. The right to dignity is guaranteed under Article 5 of the African Charter and Article 3 of the Maputo Protocol.
- **The right to liberty and security of person.** Arbitrary arrests and detention of Tigrayan civilians in secret military facilities violate this right. The right is enshrined in Article 6 of the African Charter.
- **The right to non-discrimination.** Hate speech targeting the Tigrayan people and attacks on Tigrayans on the basis of their ethnic identity, including mass arrests of Tigrayan civilians in Addis Ababa, are violations of this right. The right is guaranteed under Articles 2, 3, 19, and 22(1) of the African Charter.
- **The rights to residence, return, and family.** Forced displacement of Tigrayan civilians and the failure to ensure their safe return are violations of these rights. These rights are enshrined in Articles 12(1)-(2) and 18 of the African Charter).
- **The rights to property, housing, health, food, and education.** These rights were violated through the deliberate destruction of crops, medical facilities, and civilian infrastructure (e.g. schools) in Tigray, as well as the blockade of food and other humanitarian aid into Tigray. Articles 14, 16, and 17 of the African Charter and Articles 16 and 15 of the Maputo Protocol protect these rights.
- **The right to receive and disseminate information.** The internet blackout imposed on Tigray has prevented Tigrayans from disseminating information or expressing opinions, violating this right. This right is guaranteed under Article 9 of the African Charter.
- **The rights to cultural heritage and free practice of religion.** The looting, destruction, and desecration of significant cultural sites in Tigray represent violations of the right to



cultural heritage. Attacks on religious sites and the killing of religious personnel violated the right to free practice of religion. Article 17(2) of the African Charter guarantees the right to cultural life and requires States Parties to protect cultural heritage. Article 8 of the African Charter protects the free practice of religion.

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

Ethiopia is also alleged to have failed to uphold several responsibilities required by the African Charter and Art. 11 of the Maputo Protocol, including the duty to respect rules of international humanitarian law applicable to civilians 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. How did Ethiopia allegedly fail to uphold its duty to investigate, prosecute, and remedy violations?

Our case argued that Ethiopia has consistently failed to investigate and prosecute human rights violations or to provide effective remedy to victims, breaching Art. 1 of the African Charter. It has consistently failed to intervene, cooperate with international investigations, and refused to remove a blockade on all humanitarian assistance. Most recently Ethiopia has refuted the UN Human Rights Council resolution on an international, independent investigation into Tigray.

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

The African Commission is a quasi-judicial body with the power to review the complaint and to request Ethiopia to stop committing violations in Tigray, to take measures to prevent continued violations and abuses, to acknowledge the suffering of the Tigrayan community and issue an apology.

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. For the last decade and more the African justice institutions have been building their capability to respond to serious human rights violations, now is their moment to respond.

This complaint requests the African Commission to order:

1. Provisional or emergency measures: the severity and extent of the violations and abuses in Tigray demand that provisional measures are ordered to immediately cease the killings, sexual violence, and all other violations committed against civilians in the country.
2. Ethiopia to allow access of humanitarian aid including food and medical aid to the region.



3. Recognition of the violations of the African Charter and Ethiopia to issue an apology for those violations.
4. Ethiopia to allow and support victims who have fled their homes to return.

11. How does this case complement the African Commission's ongoing inquiry?

This complaint includes information which is directly relevant to, and can be used to inform and assist, the Commission's Inquiry, established in June 2021 to investigate allegations of violations of international human rights law and international humanitarian law in Tigray and determine whether those alleged violations constitute serious and massive violations of human rights.

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

The violations and abuses that have been committed against Tigrayan civilians have taken place in Ethiopia. Ethiopia has primary responsibility for civilians within its borders, which includes both the responsibility not to commit violations against its people, and responsibility to prevent violations and abuses taking place within its borders.

To date, evidence suggests that Tigrayan civilians constitute the overwhelming majority of victims of the conflict. They have been subjected to more violations and abuses and many have been forced to flee their homes and the country, becoming refugees in neighbouring countries.

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