“ALL OF US ARE IN CONSTANT HUNGER”
Ethiopia’s Responsibility for Starvation in Tigray

Allard K. Lowenstein International Human Rights Clinic • Yale Law School
June 2023
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COVER IMAGE
Tigrayans stand in line to receive food donated by local residents at a reception center for the internally displaced in Mekele, in the Tigray region of northern Ethiopia, on Sunday, May 9, 2021. Source: AP Photo/Ben Curtis.
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A NOTE ON THE CESSATION-OF-HOSTILITIES AGREEMENT

This legal analysis was finalized in early 2023 amid ongoing efforts to implement the cessation-of-hostilities agreement signed by the Ethiopian federal government and the Tigray People’s Liberation Front in November 2022. According to the United Nations, civilian access to humanitarian aid in Tigray was, as of February 2023, “continu[ing] to gradually improve,” and public services, including telecommunications, electricity, and banking, had partially resumed in Tigray’s major towns. But, serious challenges remained. Aid organizations have reported that high levels of humanitarian need and shortages of essential goods, including cash and medical supplies, persist in much of the region. One Mekelle resident told the New York Times in March 2023, “The sound of a bullet has stopped, but the sound of starvation is still here.”

In late April, the United Nations and the United States Agency for International Development (USAID) temporarily suspended all food assistance to Tigray. USAID Administrator Samantha Power said that the suspension came in response to reports that “food aid, intended for the people of Tigray suffering under famine-like conditions, was being diverted and sold on the local market.”

Civilians in Tigray continue to bear the burden of harms that they suffered during the conflict, including harms caused by the extensive looting, siege tactics, and denial of humanitarian relief that are discussed in this analysis. The ongoing crisis in Tigray makes it imperative for the Ethiopian federal government and Tigray regional authorities to take critical steps, in addition to those outlined in the Recommendations section below, to alleviate the intense suffering in the region.

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1 UN Office for the Coordination of Humanitarian Affairs, Ethiopia–Northern Ethiopia Humanitarian Update Situation Report, p. 2 (Feb. 23, 2023), https://reliefweb.int/report/ethiopia/ethiopia-situation-report-20-mar-2023. Some 4,000 trucks carrying humanitarian cargo and fuel supplies had arrived in Tigray by early February, the United Nations said, and "the price of consumer supplies in Mekelle and other towns [was] stabilizing." Id.


5 Associated Press, “Suspending food aid,” see above note 4. The Associated Press reported that “USAID Administrator Samantha Power … told the Senate Foreign Relations Committee on April 26 that the food theft appeared to involve ‘collusion between parties of both sides of the conflict.’” Id.

The Ethiopian federal government and Tigray regional authorities must remove remaining restraints on humanitarian access, implement credible safeguards to ensure that aid reaches those in need, and guarantee civilian protection. The African Union Monitoring, Verification and Compliance Mission (AU-MVCM)\(^7\) in Tigray should make regular, public reports on humanitarian access and civilian protection. The Ethiopian federal government should take immediate steps to halt abuses against civilians, including those reported in areas of Tigray where Eritrean or Amhara forces remain present.\(^8\)

Ethiopia and its allies, as well as authorities in Tigray, should grant immediate, unfettered access to Tigray and all other conflict-affected areas of Ethiopia for independent journalists and human rights investigators, including members of the International Commission of Human Rights Experts on Ethiopia, the African Commission’s Commission of Inquiry on the Human Rights Situation in the Tigray Region of Ethiopia, and relevant UN special procedures. International documentation, investigation, and reporting efforts are crucial to establishing responsibility for grave international crimes and for documenting the harms that serious violations of international human rights and humanitarian law have caused civilians. Ultimately, these efforts are critical for the pursuit of justice and peace in Ethiopia.

In January 2023, the Ethiopian government released a draft policy paper exploring options for transitional justice in the country.\(^9\) The government’s policy paper does not address accountability for starvation-related violations during the conflict. It also fails to address the responsibility of Eritrean government officials and armed forces for grave abuses, including starvation-related violations, during the war. Without accountability for the international-law violations and gross abuses of human rights committed by warring parties during the conflict in Tigray, including those that deprived millions of people in Tigray of essential items on which they relied to survive, Ethiopia will likely continue to experience recurrent cycles of violence, starvation, and repression.

This legal analysis aims to support calls for: 1) unrestricted access to humanitarian aid for civilians in all parts of Tigray; 2) credible, independent investigations, in line with international standards, of alleged violations of international law; 3) holistic and rights-based prosecutions of individuals responsible for grave international crimes; and 4) the delivery of adequate, effective, and prompt reparations for civilian victims who have endured the most serious harms of war.

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“This is how we are living: in so much suffering,” said “Kidane” (a pseudonym), a 45-year-old farmer who was forced to flee his home in Kafta Humera district in Western Tigray, Ethiopia, in November 2020.¹⁰

Before the war, I had quite a good life. I owned a water pump, and I was working hard … on my orange, papaya, and mango fields. But due to attacks by Amhara Fano militia and the Ethiopian army, now I am left with nothing. I cannot even move my body to fetch water to drink.

After Kidane was displaced, Ethiopian soldiers and members of Fano militia beat him “with the iron of a gun,” leaving him with severe back pain and unable to walk without a cane. Kidane now lives with his family in a camp for internally displaced people in Mekelle, the capital city of the Tigray region. “I have six children, and I am the head of the family,” Kidane told a humanitarian relief worker, “but all of us are now in constant hunger and suffering.”

The two-year-long war between forces fighting on behalf of the Tigray People’s Liberation Front (TPLF) and the Ethiopian government and its allies, including Amhara regional authorities and the Eritrean government, has caused the suffering of millions of people in Tigray, Amhara, and Afar Regional States in Ethiopia. Between November 2020 and November 2022, warring parties killed hundreds of thousands of people and displaced millions more; damaged or destroyed thousands of sites important for civilian life, including schools, hospitals, and public infrastructure projects; and harmed the livelihoods, safety, and dignity of millions of people in Tigray, Amhara, and Afar.¹¹ The Ethiopian federal government’s restrictions on telecommunications and journalistic access have made it difficult to assess military or civilian casualties; however, estimates indicate that the war in Tigray was one of the largest and most lethal armed conflicts of the twenty-first century.¹²

Throughout the conflict, as well as in the months since the signing of the cessation-of-hostilities agreement, millions of people in the Tigray region have suffered from starvation.¹³ Although many factors have limited the availability of safe and nutritious food in Tigray, international law violations

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¹⁰ Transcribed and translated for the Lowenstein Clinic by a humanitarian relief worker in Mekelle, June 2022.
¹¹ See generally David Pilling & Andres Schipani, “War in Tigray may have killed 600,000 people, peace mediator says,” Financial Times (Jan. 15, 2023), https://www.ft.com/content/2f385e95-0899-403a-9e3b-ed8c24ad4e7. For a more detailed discussion of estimated civilian casualties and other conflict-related harms, see below Overview of the Conflict and Its Effect on Food Security, section 2 [Overview].
¹³ See below Overview, section 2; see above A Note on the Cessation-of-Hostilities Agreement. For a definition of the term "starvation," see below Overview, section 3, note 146.
by Ethiopian government forces, Eritrean government forces, Amhara regional forces, and other allied groups have significantly contributed to the starvation of civilians in Tigray.

This report, “All of Us Are in Constant Hunger”: Ethiopia’s Responsibility for Starvation in Tigray, prepared by the Allard K. Lowenstein International Human Rights Clinic at Yale Law School (the Clinic), provides an international legal analysis of the responsibility of the Ethiopian government and its allies for conflict-induced hunger and the starvation of civilians in the Tigray region of Ethiopia. It assesses how the Ethiopian government and its allies caused or contributed to food insecurity, starvation, and, possibly, famine in Tigray and analyzes that conduct under relevant international law.

The United Nations has estimated that more than 5.2 million people in Tigray—roughly 90% of the region’s population—need emergency food aid.14 For more than two years, civilians have struggled

to survive on limited and nutritionally inadequate diets. As of January 2022, at least 2 million civilians in Tigray were severely malnourished and suffering from “an extreme lack of food,” the United Nations reported. In August 2022, the United Nations warned that 80% of Tigray’s total population was “faced with extreme food shortages,” forcing millions of people to resort to “destructive coping strategies,” like begging or selling livestock, that have serious, long-term negative consequences. In addition, 55% of pregnant and lactating women were acutely malnourished, the United Nations said, and three quarters of the region’s parents were missing meals so that their children could eat.

The gap between pre-conflict conditions and the present catastrophe in Tigray is vast. Before the war, most households in Tigray were food secure. After two years of fighting, however, almost all of Tigray’s population was facing starvation.

Before the war, most households in Tigray were food secure. After two years of fighting, however, almost all of Tigray’s population was facing starvation.

This analysis focuses on patterns of conduct by Ethiopia and its allies—including looting and attacking Tigray’s food, water, and health-care systems, cutting off and restricting supplies of electricity, cash, and fuel, and delaying or denying the delivery of humanitarian relief—that significantly contributed to hunger in Tigray by systematically depriving civilians of the resources they needed to survive. The enormous scale and extended duration of these acts raises concerns that, as discussed in detail below, Ethiopia and its allies have used starvation of civilians as a weapon of war.

All parties to the armed conflict in Tigray, including the Tigray forces opposing Ethiopia and its allies, have committed many well-documented violations of international law. This report focuses specifi-
cally on violations by Ethiopia and its allies that contributed to civilian food insecurity and starvation in Tigray. The analysis does not cover warring-party conduct, including by Tigray forces, that resulted in food insecurity and hunger among millions of civilians in Amhara and Afar. Work on this report began in 2021 as a response to the extremity of humanitarian need in the Tigray region, where, at that time, the war’s effects had deprived millions of civilians of food, water, essential public services, and humanitarian assistance for many months.

The report is based primarily on a review of publicly available information. The Clinic examined hundreds of reports from UN agencies, human rights and humanitarian organizations, journalists, and academics. By systematically reviewing and analyzing publicly available information in light of international legal standards, the Clinic hopes to identify and encourage pathways for future investigations and, ultimately, to contribute to the pursuit of justice, accountability, and peace. To inform and supplement its study of secondary sources, the Clinic also conducted interviews with human rights experts, humanitarian relief workers, academics, health professionals, and former officials from the federally appointed interim administration of Tigray.

Many publicly available reports indicate that after the war began on November 4, 2020, Ethiopian and allied forces extensively looted and destroyed the agricultural, water, and health systems that sustain civilian life in Tigray. Members of the Ethiopian National Defense Forces, Amhara Special Forces, Amhara Fano militia, and the Eritrean Defence Forces looted and destroyed food reserves, crops, agricultural equipment, livestock, seeds, water pumps, jerrycans, irrigation schemes, health facilities, and essential medicines on a massive scale. Civilians saw Ethiopian federal and allied forces transport truckloads of looted items across Tigray’s northern border into Eritrea and south into Amhara region.

In Tigray, a rural society in which people depend heavily on agriculture, these acts of looting and destruction decimated the civilian population’s means of survival. As early as December 2020, humanitarian needs assessments by the United Nations and the Ethiopian federal government acknowledged

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25 See generally Amnesty International & Human Rights Watch, “We Will Erase You From This Land”: Crimes against Humanity and Ethnic Cleansing in Ethiopia’s Western Tigray Zone (2022), https://www.hrw.org/sites/default/files/media_2022/04/etiopia0422_web_1.pdf [“We Will Erase You”], See also Warring-Party Conduct, section 1(a-c).

26 See generally Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26, pp. 104, 107, 111.
For more than two years, the Ethiopian government and its allies compounded these harms by encircling and laying siege to Tigray, which cut the region’s six million inhabitants off from essential public services and from the rest of the world.

that, because of looting, insecurity, and the shutdown of essential services, humanitarian needs among the civilian population of Tigray were dire.\(^\text{28}\) Over the course of the war, conditions for civilians in Tigray progressively worsened, as insecurity and the looting of seed stores, fertilizer, and livestock resulted in successive harvests that produced only meager yields.

Yet for more than two years, the Ethiopian government and its allies compounded these harms by encircling and laying siege to Tigray, which cut the region’s six million inhabitants off from essential public services and from the rest of the world. Between November 2020 and June 2021, the Ethiopian government restricted civilian access to cash and fuel, shut down electricity and telecommunications, and restricted the flow of humanitarian aid into Tigray.\(^\text{29}\) Then, from July 2021 onward, the Ethiopian government tightened its siege, refusing entry of almost all humanitarian aid to Tigray\(^\text{30}\) and continuing to cut off access to cash, fuel, and electricity.\(^\text{31}\) These tactics pushed millions of people into darkness, desperation, and hunger. One study by the Tigray Region Health Bureau found that thousands of people, especially young children and the elderly, died from malnutrition and related diseases between July and October 2021.\(^\text{32}\)

On November 2, 2022, after two months of intense fighting that left tens of thousands of combatants dead and half a million civilians displaced,\(^\text{33}\) the Ethiopian federal government and the TPLF signed


\(^{29}\) See below Warring-Party Conduct, sections 2(a-c), 3(a).


\(^{31}\) See below Warring-Party Conduct, sections 2(a-c), 3(a). See also UN Office for the Coordination of Humanitarian Affairs, Ethiopia—Situation Report, Aug. 5, 2022, see above note 30, p. 2.


an agreement concerning the “permanent cessation of hostilities.”\textsuperscript{34} Although the implementation of the agreement has improved civilians’ access to humanitarian aid and basic services, the population of Tigray, especially in the region’s rural areas, continues to suffer the disastrous effects of the starvation-related violations committed by warring parties during the previous two years, and access to all parts of the region has yet to be fully restored.\textsuperscript{35}

This analysis aims to illustrate the gravity of the violations that Ethiopia and its allied forces committed during the armed conflict and to suggest areas for additional research. The report’s legal conclusions are tentative, based on available factual sources. This analysis underscores the need for further investigation of starvation-related violations and for accountability, justice, and reparations for these violations in the pursuit of a durable peace.

Based on publicly available information, the report finds:

- Overwhelming evidence that Ethiopia, with its allies, violated the human rights to life, food, water, and the highest attainable standard of health.
- Overwhelming evidence that Ethiopia, with its allies, including Eritrea, violated the prohibition against starving civilians as a method of combat and the international-humanitarian-law obligation to allow and facilitate rapid and unimpeded passage of humanitarian relief to civilians in need in Tigray.
- Strong evidence that members of the Ethiopian government and allied forces committed the war crime of starvation. The role played by members of Ethiopian and allied forces in causing starvation in Tigray might, in some cases, amount to crimes against humanity or genocide, although further investigation is required, including to establish whether relevant actors had the requisite intent for either crime.

Further investigations into the rights abuses, law-of-war violations, and possible international crimes committed during the armed conflict in Ethiopia are crucial both to determining the extent to which warring parties—Ethiopia, allied forces, and opposing forces, including Tigray forces—have violated international legal obligations and to achieving justice, reconciliation, and peace.

Credible investigations into warring-party conduct in Ethiopia have entailed considerable challenges. The reports that form the basis for this analysis involved considerable risk-taking by journalists, aid workers, human rights experts, academics, civil society actors, and civilians in Tigray. The Lowenstein Clinic was not able to verify the facts included in these reports, and this analysis does not claim to definitively attribute responsibility for specific civilian harms to particular actors. In addition,


\textsuperscript{35} See above A Note on the Cessation-of-Hostilities Agreement.
many complex and fact-specific determinations, relating, for example, to intent or control of territory at a specific time, are beyond the scope of this analysis.

Ethiopia and Eritrea have a legal obligation to credibly investigate and remedy past violations of international law and abuses of human rights, including unlawful attacks against food, water, and health-care systems and the use of starvation as a weapon of war. The Ethiopian and Eritrean governments should cooperate fully with domestic and international investigations and provide public guarantees that civilians who provide information to such investigations will not face retribution. Regional authorities in Amhara, Afar, and Tigray, as well as non-state armed groups involved in the conflict, should also cooperate with independent investigations and publicly provide similar guarantees against retribution for civilians who choose to participate in such investigations.

Foreign governments and international civil-society actors should exert considerably more pressure on Ethiopia and its allies to immediately cease ongoing violations of international law, ensure credible accountability, and provide adequate, effective, and prompt reparations to civilians harmed as a result of international wrongs by warring parties.

For more than two years, the population of Tigray suffered immensely under siege. “We are hungry,” said “Ngisti,” a 36-year-old farmer who fled her home in Dansha, Western Tigray, in November 2020.36 In May 2022, Ngisti told a humanitarian relief worker: “The little food we have been able to get is not enough to sustain our family, and I often go hungry for days just so my children can eat.” At the time, Ngisti had four young children and a chronically ill husband, “Gebrehiwot.” As Ngisti explained: “I am tired. My husband cannot get the treatment he needs to survive, since there is no medicine, and I am scared he will not live for much longer. My husband cannot eat and … I do not know what he will die from first, starvation or sickness.” Two weeks after Ngisti’s statement, Gebrehiwot died.

Without accountability for the gross abuses of human rights and egregious violations of international law committed by warring parties during the conflict in Tigray, Ethiopia will likely continue to experience recurrent cycles of violence, starvation, and repression. The consequences will be particularly ruinous for civilians who have endured—as civilians do in war everywhere—the most serious harms.

Even as peace returns to Tigray, civilians throughout the region will continue to suffer the devastating physical and psychological effects of hunger, malnutrition, and starvation.

36 Transcribed and translated for the Lowenstein Clinic by a humanitarian relief worker in Mekelle, May 2022.
not decades, to rebuild the sophisticated agricultural systems that Tigray’s farmers have refined over the centuries. Those responsible for international wrongs during the conflict are obligated to repair the egregious, long-lasting harms that the war has inflicted on civilian life in Tigray.
METHODOLOGY

The Allard K. Lowenstein International Human Rights Clinic is a Yale Law School course providing first-hand experience in human rights advocacy under the supervision of international human rights lawyers. The Clinic undertakes research, legal analysis, and reporting, as well as litigation and other advocacy, on behalf of human rights organizations and individual victims of human rights abuses. The Clinic has prepared briefs and other submissions for various bodies of the United Nations, the African Court and Commission on Human and Peoples’ Rights, the European Court of Human Rights, the Inter-American Court of Human Rights, the Inter-American Commission on Human Rights, and national courts, including courts within the United States and other countries. The Clinic has a longstanding commitment to protecting against violations of international human rights, including economic, social and cultural rights, and international humanitarian law.

Four Clinic students, with supervision from two faculty members, researched and wrote this legal analysis between August 2021 and March 2023. The analysis applies international human rights law, international humanitarian law, and international criminal law to the conduct of the Ethiopian government and its allies in order to assess whether acts contributing to food insecurity and starvation in Tigray violated these actors’ international legal obligations. The analysis has a particular focus on the Ethiopian government’s use of siege. Other types of abuse, such as extrajudicial killings and arbitrary detention, are included when relevant to the legal analysis of food insecurity and starvation. Non-human causes that have exacerbated food insecurity, like desert locust swarms, are briefly discussed in the report but do not constitute a significant part of the research or analysis.

This analysis relied primarily on a review of publicly available information. The information that the Lowenstein Clinic examined included hundreds of reports from relevant United Nations agencies, reports from human rights and humanitarian organizations, news articles, and academic studies. Most of these secondary sources were prepared by researchers or analysts who based their reporting on primary sources (for example, interviews with witnesses or data collected in Ethiopia) and conducted their own fact checking. The Clinic was not able to independently verify the facts reported by these sources. The Clinic also reviewed press statements and reports from the Ethiopian government and statements made by other parties to the conflict.

To inform its study of secondary sources, the Clinic also conducted ten key-informant interviews with staff of human rights and humanitarian organizations, academics, former Ethiopian government officials, and medical professionals. Those interviewed did not receive any financial compensation. The Clinic also reviewed internal Ethiopian government documents related to Tigray and written transcripts of testimonials from displaced people in Mekelle. Given significant security concerns, including risks of retaliation by the Ethiopian government and its allies against individuals and organizations, the Clinic agreed not to publish identifying details and to ensure the anonymity of interviewees who provided information on which the analysis relied.
Several factors limited the quantity and quality of the information available to the Clinic. Since the start of the conflict, the Ethiopian government has tightly controlled physical access to Tigray for humanitarian organizations, journalists, and human rights organizations, which, although they have worked to report on the conflict, have faced significant challenges. The Ethiopian government has also blocked and surveilled telecommunications in Tigray since November 2020. It has been extremely difficult, and often impossible, for researchers outside of Tigray to communicate with civilians in the region.

This analysis covers conduct by the Ethiopian government and its allies that caused or contributed to food insecurity and starvation. If the analysis does not discuss a particular violation of international law, it should not be assumed that the violation did not occur. There are many credible reports of severe international law violations during the conflict in Ethiopia, including by Ethiopia and its allies and by armed groups, like the Tigray forces, that are fighting against Ethiopia and its allies in the conflict. Many potential violations of international law are beyond the substantive scope of this project, occurred outside the relevant time period, have been examined elsewhere, or, because of access constraints and the telecommunications shutdown, have not been sufficiently documented. As discussed in the recommendations section of this analysis, further investigations into the human rights abuses and violations of the laws of war by all warring parties during the war in Tigray are crucial to achieving justice, reconciliation, and a durable peace.

KEY RECOMMENDATIONS

TO ALL PARTIES TO THE CONFLICT:

- Immediately cease all violations of international law.
- Fully implement the cessation-of-hostilities agreement and facilitate immediate, unrestricted, and sustained humanitarian access to all parts of Tigray.
- Allow immediate and unrestricted access for independent journalists and human rights investigators to all parts of Tigray, including by cooperating fully with the International Commission of Human Rights Experts on Ethiopia and the African Commission’s Commission of Inquiry on the Human Rights Situation in the Tigray Region of Ethiopia.
- Provide appropriate redress to victims of starvation-related violations of international law, including prompt, adequate, and effective reparations.

TO THE FEDERAL GOVERNMENT OF ETHIOPIA:

- Fully lift the siege and make every effort to restore the provision of basic public services to people throughout Tigray and in affected areas of Amhara and Afar.
- Make regular, public reports about the implementation of the cessation-of-hostilities agreement, including the withdrawal of non-ENDF forces from all parts of Tigray.
- Take all available steps toward remedying the serious, starvation-related violations of international humanitarian and human rights law that, as outlined in this analysis, Ethiopia and its allies have committed in Tigray and other areas of Ethiopia affected by the conflict.

TO THE ERITREAN GOVERNMENT:

- Immediately and unconditionally withdraw Eritrean armed forces from all parts of Ethiopia.
- While Eritrean forces withdraw, do not impede humanitarian aid efforts, human rights investigations, or media access in any areas of Ethiopia where Eritrean forces remain present.
- Take all available steps toward remedying the serious, starvation-related violations of international humanitarian and human rights law that, as outlined in this analysis, Eritrean troops and officials have committed in Tigray and other areas of Ethiopia affected by the conflict.

TO THE TIGRAY REGIONAL GOVERNMENT:

- Facilitate the rapid and unimpeded distribution of humanitarian aid in Tigray and ensure that humanitarian supplies of food, medicine, fuel, and cash in Tigray are used exclusively to meet civilian needs.
- Take all available steps toward remedying serious, starvation-related violations of international humanitarian and human rights law committed by Tigray forces in Tigray, Amhara, Afar, and other areas of Ethiopia affected by the conflict.
TO THE AFRICAN UNION AND ITS MEMBER STATES:

- Support the rapid and complete implementation of the cessation-of-hostilities agreement by all parties to the conflict.
- Publicly urge the Ethiopian government to immediately restore basic services and facilitate the provision of humanitarian relief to civilians throughout Tigray.

TO ETHIOPIA’S INTERNATIONAL PARTNERS:

- Monitor compliance with the cessation-of-hostilities agreement by all parties to the conflict and review funding to and cooperation with the Ethiopian government in light of the speed and completeness of its implementation of the agreement.
- Urge the Ethiopian government and allied forces to adopt and support the implementation of the above recommendations, especially to resume basic services for civilians in all parts of Tigray and to allow full, unfettered access for humanitarian relief and for independent journalists and human rights investigators.
Overview of the Conflict and Its Effect on Food Security

1. Progression of the Conflict

On November 4, 2020, the Prime Minister of the Federal Democratic Republic of Ethiopia (Ethiopia), Abiy Ahmed Ali, announced the start of a military operation in Tigray Regional State (Tigray) in northern Ethiopia. Prime Minister Abiy described the military action as a “law enforcement” operation to capture the leaders of the Tigray People’s Liberation Front (TPLF), who no longer recognized the legitimacy of the federal government. Prime Minister Abiy said that the “military confrontation” was in response to a TPLF attack on an army base of the Ethiopian National Defense Force (ENDF). Politicians and military leaders in Tigray, on the other hand, have characterized the military operation as a coordinated and pre-planned “invasion” of Tigray by the Ethiopian federal government, the government of Amhara Regional State (Amhara), and the government of Eritrea.

After Abiy’s announcement, the ENDF, the Eritrean Defence Forces (EDF), Amhara Special Forces, and allied Amhara militia (Fano) launched a military offensive against the TPLF and Tigray Special

Forces. Troops from the Federal Republic of Somalia were also reportedly present alongside EDF forces in Tigray for an unconfirmed period of time, taking part in hostilities. During the early period of the armed conflict, Tigray Special Forces, militia groups, soldiers who defected from the ENDF, and members of Tigray political parties collectively reorganized as the Tigray Defense Forces (TDF).

On November 28, 2020, Prime Minister Abiy announced that military operations in Tigray had been “successfully concluded,” with the federal government “fully in control” of Tigray’s capital city, Mekelle, and an interim administration in place to govern the region. Despite the Prime Minister’s announcement at the end of November 2020, fighting continued in various parts of Tigray. On March 23, 2021, after international condemnation of the continued fighting, Prime Minister Abiy publicly acknowledged, for the first time, that Eritrean troops were present in Ethiopia. Soon after, Prime Minister Abiy said that Eritrea had agreed to withdraw its troops from Tigray. The New York Times reported in April 2021, however, that humanitarian agencies in Tigray had “seen no evidence” that Eritrean troops had withdrawn. A year later, Eritrean forces remained in parts of Eastern and Western Tigray and, reportedly, elsewhere in Ethiopia.

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44 “PM Orders Defense Forces To Start Military Offensive Against TPLF,” Fana Broadcasting Corporate S.C. (Nov. 4, 2020), https://www.fanabc.com/english/pm-gives-order-to-defense-forces-to-start-military-offensive-against-tplf/; Paravicini & Endeshaw, “Ethiopia sends army into Tigray region,” see above note 42 (quoting Prime Minister Abiy’s office as stating: “The last red line has been crossed with this morning’s attacks and the federal government is therefore forced into a military confrontation.”).


Between November 2020 and June 2021, Tigray was governed by an interim administration established by the Ethiopian federal government. On November 7, 2020, Ethiopia's House of Federation, the upper house of Ethiopia's parliament, voted to establish the interim administration, sometimes called the “Transitional Government of Tigray” or the “Tigray Provisional Administration” (referred to in this report as the “federally appointed interim administration” or the “interim administration”).

The following week, Prime Minister Abiy appointed Mulu Nega, the federal deputy minister for science and higher education, as chief executive of the interim administration. On May 5, 2021, the Prime Minister’s Office replaced Mulu Nega with Abraham Belay, then president of the Tigray regional branch of the Prosperity Party and a member of Abiy’s Council of Ministers, as the interim administration’s chief executive.

On June 28, 2021, Tigray forces recaptured much of the Tigray region, including the capital city, Mekelle, from the ENDF and its allies, and the Ethiopian federal government declared a unilateral ceasefire. Most members of the federally appointed interim administration fled the region. The following day, the TPLF claimed administrative control of Tigray. On July 4, 2021, the TPLF issued a statement rejecting the government’s unilateral ceasefire declaration and listing seven conditions for a negotiated ceasefire. Tigray forces then began military offensives in Afar and Amhara Regional States. On August 11, 2021, as Tigray forces pushed south toward Ethiopia’s capital city, Addis

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Ababa, the leader of the Oromo Liberation Army (OLA), Kumsa Diriba, announced that the OLA had formed an alliance with Tigray forces.62

In November 2021, after Tigray forces took control of two major cities in Amhara region, Dessie and Kombolcha,63 and advanced south jointly with OLA forces, Prime Minister Abiy called the armed conflict an “existential war.”64 On November 2, Ethiopia’s Council of Ministers approved a nationwide state-of-emergency proclamation, suspending the country’s constitution and granting Prime Minister Abiy significant powers to deploy security forces, arrest and detain civilians, impose curfews, restrict telecommunications, and limit media freedoms.65 In late November and early December 2021, a renewed government offensive—with support from additional militia forces and newly acquired combat drones from the United Arab Emirates, Turkey, and Iran66—reversed the Tigray forces’ advance and recaptured key cities, including Dessie and Kombolcha.67

On December 20, 2021, Debretsion Gebremichael, chairman of the TPLF and the president of the Tigray regional government, said that, in response to the “unanimous international call” to halt the TDF’s offensive toward Addis Ababa, Tigray forces would “withdraw to the borders of Tigray with immediate effect.”68 On December 23, 2021, an Ethiopian federal government spokesperson announced that the ENDF and its allies had been ordered to remain in areas of Amhara and Afar regions where the government had reestablished control, rather than advance into Tigray.69 In January 2022, Prime Minister Abiy’s office stated that “the threat is now at a level that can be countered by

formal law enforcement action.” On February 15, 2022, Ethiopia’s parliament voted to lift the nationwide state of emergency.71

On March 24, 2022, the Ethiopian Federal Government Communication Service announced that the Ethiopian government had declared “an indefinite humanitarian truce effective immediately.” In response, the Tigray regional government said that it would agree to the truce if the people of Tigray received an amount of humanitarian assistance that was “commensurate with needs on the ground, and within a reasonable timeframe.” On April 25, 2022, a TPLF spokesperson said that Tigray forces had withdrawn from Afar region.74

On August 24, 2022, Tigray forces and Ethiopian federal and allied forces fought around the towns of Bisober and Kobo near Tigray’s southern border.76 The Ethiopian federal government and Tigray regional authorities accused each other of ending the truce.77 On September 1, the Tigray Military Command said that Ethiopian and Eritrean forces had begun military offensives towards Abergale, in Central Tigray, and Adiabo, North Western Tigray.78 On September 20, a TPLF official said that Eritrea had launched a “full-scale offensive” on “all fronts” along Tigray’s northern border, with support from Ethiopian federal forces, Amhara Special Forces, and Amhara Fano militia.79 By October 24,
Ethiopian and allied forces had taken control of key cities in North Western, Central, and Southern Tigray.

Peace talks between Tigray authorities and the Ethiopian federal government began in Pretoria, South Africa on October 25, 2022. On November 2, 2022, the Ethiopian federal government and the TPLF signed an agreement on the “permanent cessation of hostilities.” Senior commanders from Ethiopian and Tigray forces signed a declaration on the modalities for the implementation of the agreement in Nairobi, Kenya on November 12. At the time of this report’s publication, implementation of the cessation-of-hostilities agreement was ongoing.

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82 “Ethiopia says army has captured three towns from Tigray forces,” Reuters (Oct. 18, 2022), https://www.reuters.com/article/ethiopia-conflict-idAFKBN2RD0MY.


84 Walsh, Dahir & Chutel, “Ethiopia and Tigray Forces Agree to Truce, see above note 34.


Since November 4, 2020, the war between Tigray forces and the Ethiopian government has killed hundreds of thousands of people.\textsuperscript{87} The fighting has displaced more than three million civilians\textsuperscript{88} and left nearly ten million others in need of humanitarian assistance.\textsuperscript{89} Armed conflict has decimated health systems and social institutions,\textsuperscript{90} destroyed livelihoods,\textsuperscript{91} disrupted schooling for millions of children,\textsuperscript{92} and caused immense human suffering and trauma.\textsuperscript{93}

The Ethiopian federal government’s extensive shutdowns of banking, electricity, fuel, transportation, and telecommunications systems, in particular, have deprived civilians in Tigray of basic goods and services for more than two years.\textsuperscript{94} Journalists, human

\textsuperscript{87} Due to the Ethiopian government’s denials of access to Tigray and shutdown of telecommunications, the exact number of conflict-related deaths is unknown. Opposition parties in Tigray estimated in February 2021 that 50,000 civilians had been killed. Cara Anna, “More than 50,000 Ethiopia civilians have been killed, Tigray opposition says,” \textit{Los Angeles Times} (Feb. 2, 2021), https://www.latimes.com/world-nation/story/2021-02-02/tigray-opposition-parties-assert-50-000-plus-civilian-deaths. By November 2021, an independent researcher in Sweden had confirmed 3,080 civilian casualties in Tigray. Cara Anna, David Reykjavik & Nat Castaneda, “You can’t even cry loudly’: Counting Ethiopia’s war dead,” (Nov. 15, 2021), https://apnews.com/article/Counting-Ethiopias-War-Dead-ee2b9a1666352a5a43f0f767c109104. Researchers led by a scholar at Ghent University have estimated that up to 500,000 people have died from violence and starvation. Geoffrey York, “Tigray war has seen up to a half million dead from violence and starvation, say researchers,” \textit{Globe & Mail} (Mar. 14, 2022), https://www.theglobeandmail.com/world/article-tigray-war-has-seen-up-to-half-a-million-dead-from-violence-and/


\textsuperscript{94} See below Warring-Party Conduct, section 2(a-c).
rights and humanitarian organizations, and UN agencies have documented widespread human rights abuses and grave violations of international law committed by parties to the conflict: extrajudicial executions and other unlawful killings; the forced displacement of civilians; sexual and gender-based violence; attacks on refugee settlements and violations of the principle of non-refoulement; and attacks against cultural property. Parties to the conflict have attacked and destroyed or damaged civilian institutions and infrastructure—including schools, health facilities, places of worship and cultural property, and public infrastructure projects—on a significant scale throughout Tigray, and Tigray forces have attacked, damaged, or destroyed many civilian institutions in Amhara and Afar. Warring parties have reportedly committed

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100 Human Rights Watch, Tigray Schools Occupied, see above note 92.


102 Mersie, “Toll on cultural heritage,” see above note 99.


The UN Office for the Coordination of Humanitarian Affairs (OCHA) has estimated that the war has left more than 5.2 million people in Tigray—roughly 90% of the population—in need of emergency food aid.113 In January 2022, based on face-to-face interviews with 980 households in the Tigray region in November and December 2021,114 the UN World Food Programme (UN WFP) reported that 4.6 million people in Tigray (83% of the population) were food insecure, including 2 million people (37% of the population) who were severely malnourished and suffering from “an extreme lack of food.”115 The WFP study indicated that, as of mid-December 2021, more than four

acts of collective punishment,105 arbitrary arrest and detention,106 enforced disappearance,107 and torture108 and violated citizens’ rights to free expression and access to information.109 They have also reportedly violated the rights of migrants.110 Human Rights Watch, Amnesty International, and the International Commission of Human Rights Experts on Ethiopia (ICHREE) have found that some of these abuses and violations amount to war crimes111 and crimes against humanity.112


108 Amnesty International & Human Rights Watch, New Wave of Atrocities, see above note 96.


114 According to the WFP study, interviews were conducted between November 15 and December 16, 2021. Due to operational constraints, the analysis excluded Western Tigray, border areas with Eritrea, and some border areas of North Western and Southern zones. World Food Programme, Emergency Food Security Assessment: Tigray Region, Ethiopia, p. 7 (Jan. 2022), https://reliefweb.int/sites/reliefweb.int/files/resources/WFP-0000136281.pdf [Tigray Emergency Food Security Assessment, January 2022].

115 World Food Programme, Severe hunger tightens grip, see above note 15. See also World Food Programme, Tigray Emergency Food Security Assessment: January 2022, see above note 114. In August 2022, WFP found that the percentage of
of every five households in Tigray were surviving on limited and inadequate diets, with the average household consuming nutritious foods like fruit, vegetables, or animal proteins less than one day per week.\textsuperscript{116} WFP also found that 61\% of pregnant or lactating women were malnourished; it estimated that rates of global acute malnutrition (GAM) and severe acute malnutrition (SAM)\textsuperscript{117} for children under five years old were 12.7\% and 3.6\%, respectively.\textsuperscript{118} Three quarters of the population in Tigray were relying on “severe consumption-based coping strategies,” like limiting the number of meals per day or reducing portion sizes for adults so that children can eat, WFP said, and 29\% of households had resorted to emergency mechanisms like begging.\textsuperscript{119}

Given the extremity of the hunger crisis in Tigray, some domestic and international observers have used the term “famine.”\textsuperscript{120} Famine is both a commonly understood word that describes an extreme scarcity of food\textsuperscript{121} and a technical term that can trigger particular responses from and responsibilities for the UN system.\textsuperscript{122} In May 2021, a team from the Ethiopia country office of the Integrated Food Security Phase Classification (IPC) initiative—a collaborative research program established to provide governments, UN agencies, humanitarian organizations, and other relevant civil society actors with

\textbf{As of mid-December 2021, more than four of every five households in Tigray were surviving on limited and inadequate diets.}

Tigray’s population classified as food insecure had increased to 89\%, with 47\% considered severely food insecure. WFP recorded particularly alarming rates of food insecurity in Central Tigray (98\% of the population), North Western Tigray (95\% of the population), and South Eastern Tigray (90\%). World Food Programme, \textit{Tigray Emergency Food Security Assessment, August 2022}, see above note 16, p. 5.

\textsuperscript{116} World Food Programme, \textit{Tigray Emergency Food Security Assessment, January 2022}, see above note 114, p. 5.

\textsuperscript{117} As defined by the WFP-led Global Food Security Cluster, “[g]lobal acute malnutrition (GAM) is the prevalence, or proportion, of children ages 6-59 months in a given population considered severely acutely malnourished (SAM) or moderately acutely malnourished (MAM).” Children are classified as MAM or SAM based on their weight-to-height ratio or the presence of nutritional oedema. Food Security Cluster, “Section 2: First Level Food Security Outcome Indicators,” in \textit{FSC Indicator Handbook}, https://fsccluster.org/handbook/assets/images/project/FSL%20Indicator_handbook_17.03.2020.pdf (last visited Sept. 27, 2022). Children who are classified as SAM have been shown to be at an increased risk of mortality. \textit{Id.} GAM can also be an important indicator of food security among the general population. \textit{Id.}


\textsuperscript{119} World Food Programme, \textit{Tigray Emergency Food Security Assessment, January 2022}, see above note 114, p. 6. WFP recorded similar percentages in August 2022, finding that 20\% of households in Tigray relied on extreme coping measures like begging, 38\% used crisis-level coping strategies like reduced spending on agricultural inputs, and 25\% of households used stress-level coping strategies like selling livestock. World Food Programme, \textit{Tigray Emergency Food Security Assessment, August 2022}, see above note 16, p. 6.


“rigorous, evidence- and consensus-based” analyses of food insecurity and acute malnutrition—conducted an analysis of food insecurity in Tigray and neighboring zones of Amhara and Afar. The IPC Analysis Team in Ethiopia estimated that more than 350,000 people in Tigray were facing “famine-like conditions” that the team determined to fit the criteria for IPC Phase 5 (Catastrophe). This was the highest estimated number of people facing catastrophic, acute food insecurity that the IPC had recorded in any country since the 2011 famine in Somalia.

In July 2021, the IPC Famine Review Committee—a team of independent food security and nutrition experts who review IPC Phase 5 classification decisions in order to confirm or disprove a “famine” classification—found “clear evidence to support the Analysis Team findings that roughly 400,000 people [in Tigray] are acutely food insecure in IPC Phase 5 (Catastrophe).” The Committee noted that a famine classification was, in many ways, beside the point, given the already-evident, “extreme human suffering and humanitarian needs” among people in Tigray.

Gathering the data necessary to conclusively demonstrate the existence of famine during any armed conflict is exceptionally difficult. In Ethiopia, the conduct of hostilities and the Ethiopian federal government’s restrictions on telecommunications and humanitarian access have created an especially challenging information environment. For this legal analysis of warring-party conduct that harms food security, it is not necessary to show that a famine has occurred. The most relevant and tragic fact is that, throughout the war, technical experts repeatedly confirmed the extreme scarcity of food in

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125 Integrated Food Security Phase Classification, Ethiopia: Famine Review Committee confirms very high levels of acute food insecurity and Risk of Famine in Tigray (Jul. 2021), https://www.ipcinfo.org/ipcinfo-website/alerts-archive/issue-42/en/ [Risk of Famine in Tigray]. IPC Phase 5 (Catastrophe) and IPC Phase 5 (Famine) are not identical. “Famine is a classification of IPC Phase 5 at area level. In a given area, famine occurs when food security, nutrition and mortality altogether portray famine conditions, meaning at least 20% of the population is affected, with about one out of three children being acutely malnourished and two people dying per day for every 10,000 inhabitants due to outright starvation or to the interaction of malnutrition and disease. Catastrophe: Households may be classified in IPC Phase 5 Catastrophe even if the area is not classified in IPC Phase 5 Famine. This is the case when less than 20% of the population is experiencing famine conditions and/or when malnutrition and/or mortality levels have not (or not yet) reached famine thresholds. Even if an area has not been classified as being in Famine, it is still crucial to identify households that are facing Catastrophic levels of acute food insecurity.” Integrated Food Security Phase Classification, The IPC Famine Fact Sheet, p. 2 (Dec. 2020), https://www.ipcinfo.org/ipcinfo-website/resources/resources-details/en/c/1152968/ [Famine Fact Sheet].
127 Integrated Food Security Phase Classification, Famine Fact Sheet, see above note 125, p. 3.
128 Integrated Food Security Phase Classification, Risk of Famine in Tigray, see above note 125.
129 Id.
Tigray.\textsuperscript{131} Despite these findings, no Ethiopian government or international responses commensurate to the crisis occurred.

3. **KEY CAUSES OF FOOD INSECURITY AND STARVATION**

Many parts of Ethiopia have previously suffered from chronic food insecurity and recurrent crises of acute malnutrition, hunger, and starvation.\textsuperscript{132} According to the UN Food and Agriculture Organization (FAO), people are food insecure when they lack regular access to enough safe and nutritious food for normal growth and development and an active and healthy life.\textsuperscript{133} Many factors limit the availability of safe and nutritious food in Ethiopia, including unstable weather conditions, recurrent

![Projected food security outcomes in Tigray from July to September 2021. Source: Famine Early Warning Systems Network, 2021.](image)

\textsuperscript{131} Integrated Food Security Phase Classification, *Risk of Famine in Tigray*, see above note 125.


\textsuperscript{133} UN Food and Agriculture Organization, *An Introduction to Basic Concepts in Food Security*, p. 1 (2008), https://www.fao.org/3/a0936e/a0936e.pdf. Also, according to FAO, “Hunger is usually understood as an uncomfortable or painful sensation caused by insufficient food energy consumption.” *Id.*, p. 3. The relationship of hunger to food insecurity is, generally, that “all hungry people are food insecure, but not all food insecure people are hungry as there are other causes of food insecurity, including those due to poor intake of micro-nutrients.” *Id.*, p. 3. FAO uses the term “undernourishment” to describe its measure for hunger, based on “the proportion of the population whose dietary energy consumption is less than a pre-determined threshold.” *Id.*, p. 2.
droughts and severe weather events, pests and disease, population growth, inadequate infrastructure and social services, and economic conditions.134

Even prior to November 2020, food insecurity and undernourishment affected a large proportion of Ethiopia’s population.135 The country depended heavily on food aid.136 In the past, the highland areas of northern Ethiopia have been particularly vulnerable to drought and famine, including the devastating 1972-75 and 1983-85 famines in the former Tigray and Wollo provinces.137

Over the last three decades, Ethiopian federal government interventions like the Productive Safety Net Programme (PSNP) led to marked improvements in food security for many households in Ethiopia.138 But, in January 2022, humanitarian organizations warned that the combined effects of armed conflict, drought, and economic downturn would soon push millions of Ethiopians—including some 850,000 children—into situations of severe food insecurity and hunger.139

In Tigray, the disparity between pre-conflict conditions and the present catastrophe is vast.140 According to the World Food Programme, approximately 400,000 people in Tigray were food insecure in October 2020.141 By early 2022, after fifteen months of fighting, at least 4.6 million people in Tigray were food insecure—an increase of 1,050%.142 Due to the conduct of hostilities and the Ethiopian federal government’s siege of the region, the humanitarian response to the crisis has been severely inadequate: The United Nations estimated in July 2021 that 100 truckloads of humanitarian supplies had to enter Tigray each day to meet the population’s basic needs, but, according to UN OCHA, less than ten percent of the required amount entered the region between July 2021 and March 2022.143

140 See generally World Food Programme, Tigray Emergency Food Security Assessment, January 2022, see above note 114.
141 Id., p. 5.
142 Id.
Although the conflict in Tigray unfolded in a context of pre-existing food insecurity significantly exacerbated by the COVID-19 pandemic and the 2020 desert locust infestation, the conduct of the warring parties has clearly and directly contributed to the scale and severity of the hunger crisis. The hunger crisis is largely man made. Civilians in Tigray have suffered from starvation due to specific actions taken by the armed forces and armed groups engaged in the fighting, including Ethiopian federal and allied forces’ looting of foodstuffs and household items, looting of and destroying irrigation systems and improved water sources, attacking and occupying health facilities, and shutting down essential public services, particularly banking and electricity, as well as closing nearly all overland and air routes into Tigray, limiting civilian mobility, restricting fuel supplies, impeding humanitarian relief operations, and attacking aid workers.

By early 2022, after fifteen months of fighting, at least 4.6 million people in Tigray were food insecure—an increase of 1,050%.
WARRING-PARTY CONDUCT CAUSING OR CONTRIBUTING TO STARVATION IN TIGRAY

1. EXTENSIVE LOOTING

Since November 4, 2020, warring parties in Ethiopia have looted and destroyed public and private property in Tigray on a massive scale. Many journalists, humanitarian aid workers, and human rights investigators have confirmed the looting or destruction of food and agricultural systems, health-care institutions, schools, and household items. This section describes acts of looting or property destruction that have directly affected the survival of the civilian population, including the looting of foodstuffs, agricultural equipment and livestock, drinking water and irrigation systems, and medicines and equipment from health-care institutions.

Many of these reports characterize Ethiopian and allied forces’ looting of food, water, and health systems in Tigray as deliberate, widespread, and systematic.

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158 See, e.g., Human Rights Watch, Tigray Schools Occupied, see above note 92; UN Human Rights Council, Report of the International Commission of Human Rights Experts on Ethiopia, see above note 111, para. 73.

159 This list reflects a category of items protected by international humanitarian law, called “objects indispensable to the survival of the civilian population,” that will be discussed in the Legal Analysis section. See Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), adopted 8 June 1977, at art. 54.
cific warring parties. In many instances, information about the quantity of looted items, the specific context in which an act of looting took place, and the looters’ intent remains unavailable.

Despite these challenges, many public reports indicate that, since the start of the conflict, Ethiopian and allied forces have extensively looted and destroyed food stores, agricultural systems, water and irrigation systems, and health supplies and health systems throughout Tigray. Many of these reports characterize Ethiopian and allied forces’ looting of food, water, and health systems in Tigray as deliberate, widespread, and systematic.

Unattributed acts of looting and property destruction in Tigray are also relevant to this legal analysis. Regardless of which actors carried out particular acts of looting that affected food, water, and health supplies in Tigray, the overall damage that widespread looting caused to civilians’ food security was known to warring parties early in the conflict; looting is relevant to the analysis of the subsequent actions or omissions of the Ethiopian government and its allies. For example, after conducting joint humanitarian rapid needs assessments with the United Nations in December 2020 and attending Emergency Coordination Center meetings in Tigray before July 2021, the Ethiopian federal government knew that looting had caused severe food insecurity among civilians. Nevertheless, the government continued to partially or completely obstruct aid to areas controlled by Tigray forces.


163 See, e.g., UN Human Rights Council, Report of the International Commission of Human Rights Experts on Ethiopia, see above note 111, para. 73 (“[T]he ENDF, EDF, and their allies began to systematically loot and destroy goods indispensable to the survival of the civilian population in Tigray, ransacking homes, businesses, medical facilities, and schools on a widespread scale.”); Anna, “Eritrean soldiers loot, kill,” see above note 157 (citing a human rights investigation that documented the “widespread looting” of crops by Eritrean and Amhara forces in Western Tigray); Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26, p. 91 (“In addition, Fano militias and other security forces, and in some cases non-Tigrayan farmers, systematically looted [Tigrayan civilians’] crops and livestock.”). Lowenstein Clinic interviews corroborated these accounts. Lowenstein Clinic interviews with former interim administration officials, April 2022; Lowenstein Clinic interview with a staff member at a humanitarian organization, October 2021; Lowenstein Clinic interview with an academic expert who studies Tigray, October 2021; Lowenstein Clinic interview with a health professional in Sudan, May 2022.


165 Lowenstein Clinic interview with a former interim administration official, April 2022. The Ethiopian federal government established the Emergency Coordination Center (ECC), a coordination body led by the interim administration in Mekelle, in February 2021. According to a Commissioner from the National Disaster Risk Management Commission, the ECC brought together “personnel from Ethiopia government ministries, Tigray interim administration bureaus, United Nations agencies, bilateral partners and International non-governmental organizations to help it [the ECC] effectively coordinate humanitarian aid supplies in Tigray region.” See “Ethiopia establishes emergency coordination center to address humanitarian needs of 2.5 mln people,” Xinhua (Feb. 5, 2021), http://www.xinhuanet.com/english/2021-02/05/c_139723835.htm.

166 The International Commission of Human Rights Experts on Ethiopia has said that the Ethiopian federal government “acknowledged that some 4.5 million people in Tigray were in need of emergency food assistance by January 2021.” UN Human Rights Council, Report of the International Commission of Human Rights Experts on Ethiopia, see above note 111, para. 73.

167 See below Warring-Party Conduct, section 3(a).
(a) Food and agricultural systems

Witnesses, journalists, human rights and humanitarian organizations, and former government officials have consistently reported that, after November 4, 2020, Ethiopian and allied forces looted food and agricultural systems, including public and private property, throughout Tigray on an enormous scale.168 Members of the ENDF, EDF, Amhara special forces, and Fano militia have looted, burned, and deliberately spoiled crops;169 looted food supplies, farm equipment, livestock, and household items from individual households;170 looted public property from the Tigray regional bureau of agriculture;171 and destroyed animal-health structures like veterinary clinics and feed-production plants.172

The impact on agricultural systems in Tigray has been severe.173 The UN Food and Agriculture Organization and the World Food Programme have estimated that an overwhelming percentage—more than 90%—of the 2020 harvest in Tigray was looted, burned, or destroyed by parties to the conflict.174 In February 2021, UN OCHA reported that “agricultural systems have been devastated by months of fighting and extensive looting and destruction. Crops and animals have been looted or burned, particularly notably in eastern and central zones. Farmers are becoming increasingly desperate, with

168 Rodney Muhumuza, “‘Our season’: Eritrean troops kill, rape, loot in Tigray,” Associated Press (May 28, 2021), https://apnews.com/article/only-on-ap-eritrea-africa-religion-9fe9140b76da946e4fa65005a1db9a4f [“‘Our season’”]; Lowenstein Clinic interview with a former interim administration official, April 2022; Lowenstein Clinic interview with a medical professional in Sudan, May 2022; Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26, pp. 87-94.
169 See below notes 196-199.
170 See below notes 185-190. See also Jan Nyssen et al., “Crop Cultivation at Wartime—Plight and Resilience of Tigray’s Agrarian Society (North Ethiopia),” Defence and Peace Economics (May 1, 2022), pp. 4-5.
173 Id. Additionally, the Tigray interim administration’s Bureau of Agriculture and Rural Development prepared several emergency response plans that discussed the extent of the damage. For example, the Livestock and Fisheries Development Sub-Section estimated in January 2021 that 60-80% of the region’s animal feed resources had been damaged or destroyed by the war; 75% of Tigray’s pre-war livestock population of seventeen million cattle, goats, camels, horses, mules, and donkeys had been “slaughtered/looted” or otherwise lost due to insecurity; 80% of the region’s 198 veterinary clinics had been looted and partially or totally destroyed; and that all of the Bureau’s clinic and woreda offices had been damaged by warring parties, who destroyed office furniture and looted electronic devices and other office materials. As discussed in the Overview section of the report, the interim administration was appointed by the Ethiopian federal government. Tigray interim administration emergency response plan (Jan. 2021), on file with the Lowenstein Clinic. An assessment by the Ethiopian federal government’s Ministry of Agriculture and the Tigray regional Bureau of Agriculture in April 2021 found that due to “[f]acility and infrastructure destruction and looting at grassroots [sic] level,” agricultural offices at the woreda level in five zones (Southern, South Eastern, Eastern, Central, and North Western) required at least 200 million birr [approximately US $3.8 million] worth of emergency aid to resume activities, and that “[f]armers’ cooperatives and their stores [had been] looted (fertilizer, seed, and other items).” Tigray interim administration planning document (Apr. 2021), on file with the Lowenstein Clinic.
174 UN Food and Agriculture Organization, Emergency livelihood support for conflict-affected communities, see above note 91; World Food Programme, Tigray Emergency Food Security Assessment, August 2022, see above note 16, p. 9.
partners describing their food security status as catastrophic.” Researchers have estimated that the 2021 harvest yielded, on average, only 33% as much as the region’s typical pre-war harvest, chiefly because important agricultural inputs had been looted or destroyed and ongoing conflict restricted farmers’ access to their fields.

There are many credible reports of Eritrean troops looting food and agricultural items from civilians, including via house-to-house operations. For example, Eritrean soldiers conducted extensive looting of food and agricultural items in the city of Axum, in Central Tigray, and its surroundings. According to Amnesty International, EDF forces looted Axum “systematically and on a massive scale, leaving residents without food or drink.” The looting began when Eritrean forces entered Axum on November 19, 2020 and escalated significantly after Eritrean forces massacred hundreds of civilians on November 28 and 29. Axum residents told Amnesty International that Eritrean soldiers had looted grain stores, supermarkets, bakeries, and small vendors’ shops throughout the city. One resident told investigators that he watched Eritrean soldiers loot “all the groceries and cooking oil, butter, teff, flour, the kitchen cabinet, clothes, the beers in the fridge, the water pump” and many other items from his home.

Journalists have reported similar accounts from witnesses in many parts of Central, North Western, and Eastern Tigray. In Debre Harmaz, a village in Central Tigray, one inhabitant told VICE World News that, on January 10, 2021, Eritrean soldiers “set our crops on fire, then they started burning the homes.” Farmers in another village, Adi Mendi, reported that EDF soldiers forced them to slaughter their cows and prepare food for Eritrean troops. Civilians also reported that EDF forces later attacked several nearby villages, including Adi Mengedi, Adi Berbere and Haftom, and that Eritreans

176 Abay & Demissie, “Tigray’s Wounded Agriculture,” *see above* note 172.
177 Id.
180 Id.
181 Id. Specifically, residents reported that Eritrean soldiers stole sugar and flour from a store called Guna Trading; robbed a large community store, May Akko, of truckloads of sugar, cooking oil and lentils; took flour and animal fodder from the Dejen Flour Factory; and looted the budget student grocery store of Axum University. Id., p. 21.
182 Id.
183 Id.
184 See, e.g., Muhumuza, “‘Our season,’” *see above* note 168 (quoting a witness from Gulomakeda as saying: “‘They [Eritrean troops] burnt our crops and took everything else.’”) The *Associated Press* also reported that, according to witnesses, Eritrean forces had “looted and burned sacks of grain and killed livestock” in Hawzen. Id.
“took all the cattle, camels and food as loot.” As reported by Reuters, after aid workers visited Ziban Gedena, in North Western Tigray, on June 6, 2021, UN briefing notes indicated that Eritrean soldiers had killed 300 civilians, looted or slaughtered 90% of the village’s oxen and livestock, burnt 150 houses, burnt and stolen harvests, and set fire to animal fodder.

In Dengelat, in Eastern Tigray, a witness told a team of investigative journalists from CNN that Eritrean troops, who were present in several encampments around the town during the first two weeks of December 2020, had terrorized the civilian population by “burning crops and killing livestock before eventually moving on.” A medical professional who fled Hawzen, in Central Tigray, in mid-December 2020 told the Associated Press that Eritrean forces’ conduct included “house-to-house looting of civilians [in Hawzen], weaponry hunger, [and] merciless killing.”

Members of the ENDF also engaged in large-scale looting. In Mekelle, according to the International Commission of Human Rights Experts on Ethiopia, ENDF soldiers “carried out well-orchestrated looting. Official properties at several government offices, including the Mayor’s office, the Supreme Court, schools, and hospitals were thoroughly looted by ENDF soldiers.” In Western Tigray, Amnesty International and Human Rights Watch reported, Ethiopian federal government forces committed acts of looting and destruction. In some cases, Ethiopian federal government forces who did not partake in the looting did little to intervene. For example, a witness told Amnesty International that, in Axum, as Eritrean troops massively looted the city on November 20, “[t]he Ethiopian soldiers did nothing—[they] just controlled the city, looking for hidden weapons and controlling government buildings.”

Human rights investigations have found that, in Western Tigray, federal and allied forces—including Amhara special forces, members of Fano and Welkait militia, and, in some cases, Eritrean military

187 Id.
188 Giulia Paravicini & Katharine Houreld “Exclusive: UN official accuses Eritrean forces of deliberately starving Tigray,” Reuters (Jun. 14, 2021), https://www.reuters.com/world/africa/exclusive-un-official-accuses-eritrean-forces-deliberately-starving-tigray-2021-06-11/ [“UN official accuses Eritrean forces of deliberately starving Tigray”]. Local farmers also told the visiting UN aid workers, “Continuing harassment from Eritrean forces meant that no one was plowing the land for the next crop.” Id.
190 Anna, “Eritrean soldiers loot, kill,” see above note 157.
191 UN Human Rights Council, Report of the International Commission of Human Rights Experts on Ethiopia, see above note 111, para. 32. ENDF forces also “forcibly seized jewellery from women, as well as money and other household items,” the Commission said. Id.
192 Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26, pp. 4-5.
193 Human Rights Watch, Eritrean Forces Massacre Tigray Civilians, see above note 37; Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26, p. 102.
194 Amnesty International, Massacre in Axum, see above note 95, p. 20.
195 According to Amnesty International & Human Rights Watch, the term “Welkait” (also spelled Wolkait, Wolqaat, or Walqayt) “refers to a group of people historically inhabiting the highland areas collectively known as Kaffa Humera, Welkait, Tegeeda (or Tegeeda in Amharic) who speak Tigrinya and Amharic.” Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26, p. 16, note 16.
forces—extensively looted crops, livestock, and household items from Tigrayan civilians. For example, a Tigrayan farmer from May Woini village, near Adi Goshu, reported that, on January 29, 2021, Amhara militia fighters took “almost 4,000 cattle and 90 camels, 8,000 sheep and goats” from Tigrayan farmers in a single day. In farmland near Mai Kadra, a seventy-year-old woman said that, in early December 2020, “[t]he Amhara militia … brought daily laborers … who started looting what Tigrayans harvested from last summer. … We saw them putting the harvest on trucks and taking it in the direction of their region.”

According to Human Rights Watch and Amnesty International, the looting of food, livestock, and crops in Western Tigray was often the first of a deliberate series of actions that, by “depriv[ing] Tigrayan communities of their means of survival,” eventually forced hundreds of thousands of Tigrayan civilians to flee their homes. As one farmer in Adi Goshu explained, the looting of harvested crops, especially sorghum, by militia and security forces caused “extreme hunger.” Another Tigrayan civilian in nearby May Woini agreed: “We want to move to any other place that is safe and accessible for food. There’s no food. … Things are critical. I have no words to explain it.”

Amhara security forces and members of the Fano militia—often with the knowledge and, in some cases, participation of ENDF and EDF troops, as well as Amhara regional officials—also indefinitely detained tens of thousands of Tigrayan civilians in overcrowded, informal detention centers in Western Tigray. Witness reports suggest that armed forces deliberately withheld food and water from Tigrayan civilians in detention sites. For example, a civilian who was held in Yetbarek warehouse in Humera told Human Rights Watch and Amnesty International that if civilians “asked for any food,” the armed forces guarding the warehouse would reply: “Your food is a bullet. We will kill you!”

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A civilian who was held Yetbarek warehouse in Humera reported that if civilians asked for any food, the armed forces guarding the warehouse would reply: “Your food is a bullet. We will kill you!”

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196 Id., p. 102.
199 Id., p. 107.
200 Id., pp. 102-7. See also Human Rights Watch & Amnesty International, New Wave of Atrocities, see above note 96.
201 Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26, p. 106.
203 Id., pp. 6, 43, 77, 122.
204 Id., pp. 2, 123. Lowenstein Clinic interview with a health professional in Sudan, May 2022.
205 Id., p. 79.
206 Id., p. 175.
Prime Minister Abiy denied reports of looting and specifically defended the conduct of Amhara forces. In a speech to parliament on March 23, 2021, Abiy denied allegations of “targeted, intentional ethnic cleansing” in Western Tigray and said: “Portraying this [Amhara] force as a looter and conqueror is very wrong.”

(b) Water and irrigation systems

Northern Ethiopia is, on the whole, a drought-prone area. In Tigray, the amount of seasonal rainfall varies considerably between the region’s lowlands, middle highlands, and upper highlands (known locally as kola, weina-degua and degua, respectively). Historically, the insufficiency and vulnerability of water-supply systems in Tigray have damaged agricultural production, livestock productivity, and health outcomes in the region. Most households in Tigray, for example, rely on groundwater sources, such as wells, boreholes, and reservoirs, that are vulnerable to water shortages. In highland areas in the north of Ethiopia, including Tigray, dry periods and droughts can reduce or exhaust water levels in groundwater sources, especially springs or rivers, and have, in the past, worsened health and social outcomes and resulted in interpersonal and inter-communal violence.

Over the past three decades, public and private investments in water, sanitation, and hygiene (WASH) systems significantly expanded the reach and quality of the water supply in many parts of northern Ethiopia. As of 2016, according to the Central Statistics Agency of Ethiopia (CSA), roughly 72% of households in Tigray had sufficient access to clean drinking water within a reasonable

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207 Houreld, Georgy & Aloisi, “How ethnic killings exploded,” see above note 95.
208 Id.
213 A. M. MacDonald et al., “Groundwater and resilience to drought in the Ethiopian highlands,” see above note 211.
distance from their home. Although these official statistics are likely somewhat inflated, including by underreporting the non-functionality of water sources in rural areas, they nonetheless provide a sense of baseline access to water before the current conflict, as well as an official benchmark against which to measure the Ethiopian federal government’s response to the crisis.

Since November 2020, access to water for civilians in Tigray has decreased dramatically. After the conflict began, humanitarian agencies expressed immediate concern about the interruption of essential services, including water supplies, for the general population, due, at least in part, to the “damage and destruction of water infrastructure.” By February 2021, humanitarian agencies had restored access to clean water for just 120,000 people in Tigray—around 27% of the 455,000 people that humanitarian organizations had intended to reach and a tiny fraction of Tigray’s general population. In January 2022, UN OCHA reported: “About 9,300 water points or more than 54 per cent of the 17,080 water points in Tigray are not functional[,] affecting the access of more than 3.5 million people to safe drinking water.” In other words, more than half of the boreholes, wells, springs, and other water sources in Tigray were not supplying civilians with safe drinking water in January 2022, a sharp increase from the estimated 7.1% non-functionality of Tigray’s water points before the war.

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216 Lowenstein Clinic interview with an academic expert who studies Tigray, October 2021. Statistical estimates of water coverage in Ethiopia vary considerably. One study found that the nationwide rate of access to water in Ethiopia was 49.6%. See Muluken Azage et al., “Exploring geographical variations and inequalities in access to improved water and sanitation in Ethiopia: mapping and spatial analysis,” Heliyon, vol. 6 (2020). One study in Eastern and Southern Tigray found that rainwater-harvesting ponds were the most important source of water for most households. G. Honor Fagan et al., “Rural households’ access to water resources under climate impacts based on field evidence in Tigray Region, Ethiopia,” Journal of Environmental Science and Technology, vol. 13, p. 233 (2019).

217 Lowenstein Clinic interview with an academic expert who studies Tigray, October 2021.

218 Humanitarian organizations report that most water points in Tigray have been damaged or destroyed by the armed conflict. See People in Need, Having access to water is a matter of survival in conflict-affected areas in the Tigray region of Ethiopia (May 13, 2022), https://reliefweb.int/report/ethiopia/having-access-water-matter-survival-conflict-affected-areas-tigray-region-ethiopia. Another important reason, as discussed extensively below in Warring-Party Conduct 2(b), has been the federal government’s indiscriminate shutdown of electricity. In urban areas, groundwater pumping, as well as distribution, depend on electricity. Lowenstein Clinic interview with an academic expert who studies Tigray, October 2021.


Humanitarian agencies and journalists have reported that looting and other attacks on improved water sources—including on developed springs, reservoirs, and boreholes fitted with hand pumps—have diminished access to water. In January 2021, UN OCHA estimated that more than 300 motorized pumping systems were dysfunctional due to damage, looting, or lack of fuel. Humanitarian officials reported that parties to the conflict had looted electromechanical equipment, crane lifts, and water trucks. The Gereb Geba dam in Enderta was non-functional for the early period of the conflict, due to insecurity and, allegedly, looting. In mid-April 2021, UN OCHA reported that water, sanitation, and hygiene services were still “largely disrupted” across much of Tigray because “electromechanical equipment, including switchboards, generators, pumps, solar panels, transformers, reservoirs and spare parts, were damaged or looted, while all water offices building had been looted or vandalized.”

Witness accounts have attributed some acts of looting water-infrastructure supplies and equipment to Eritrean armed forces. For example, a refugee who was captured by Eritrean soldiers in his hometown, Adigrat, told a team of investigative journalists, “I was forced to dismantle my native city.” According to the journalists, “He and other Tigrayans were forced to drive from factory to factory and shop to shop in the old Italian trucks belonging to the Eritreans, loading them up with generators, water pumps and other machines.” The witness alleged that the trucks then took the looted items back to Eritrea.

Similarly, a man displaced from the town of May Gaba, Western Tigray, told Human Rights Watch that he witnessed Eritrean soldiers looting water supplies from a neighbor’s home: “There was a big

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223  Muhumuza, “Our season,” see above note 168; Amnesty International, Massacre in Axum, see above note 95, p. 21; Human Rights Watch, Eritrean Forces Massacre Tigray Civilians, see above note 37.
225  UN Office for the Coordination of Humanitarian Affairs, Tigray Situation Report, Jan. 7, 2021, see above note 224, pp. 2-3.
228  Lowenstein Clinic interview with a former interim government official, April 2022. See also World Peace Foundation, Starving Tigray, p. 43 (Apr. 6, 2021), https://sites.tufts.edu/wpf/files/2021/04/Starving-Tigray-report-final.pdf [Starving Tigray].
231  Id.
232  Id.
water tank, they emptied all the water, then stole the tank and pump. … They took everything, all they could, on a truck.”

In Axum, Amnesty International reported, Eritrean soldiers stole generators and water pumps. A woman told Human Rights Watch that, in December 2020, Axum had become “a dark city where everyone lived in fear of soldiers. Everything was looted, shops weren’t open, and there was no food, light, or water. I drank water dug from a hole.”

In some rural communities in Tigray, witnesses told the Associated Press, Eritrean soldiers had inserted sand into water pumps to disable them.

Armed forces in Tigray have also reportedly looted jerrycans, an important household item that is essential to safe water consumption, especially in rural areas. In late December 2020 and early January 2021, a joint rapid needs assessment in northern Wollo and southern Tigray by three international humanitarian organizations found, “Most of the households don’t have jerrycans to fetch water as many houses were looted or destroyed during the conflict.”

One civilian who fled from Mekelle through Tembien toward Adet in January 2021 reported that Eritrean soldiers took jerrycans from individual households, “perhaps to deprive farmers from accessing water.”

In some rural communities in Tigray, witnesses told the Associated Press, Eritrean soldiers had inserted sand into water pumps to disable them.

Warring parties have reportedly looted government property crucial to maintaining the water system in Tigray. In December 2020, the United Nations and the Ethiopian government found that “most woredas [districts in Southern Tigray] have experienced looting of repair kits and tools for water supply infrastructure.”

236 Muhumuza, “Our season,” see above note 168.

According to one former interim administration official, after Eritrean troops looted or destroyed “pots and vessels used to get water from rivers,” farmers in rural Tigray were forced to go to rivers daily to drink water.

Lowenstein Clinic interview with a former interim administration official, April 2022.


241 A *woreda* is a district-level administrative unit in Ethiopia. See Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26, p. iii.
In Chercher town, for example, the Tigray Bureau of Water Resources’ maintenance tools and computers were stolen. In June 2021, UN OCHA reported delays in resuming WASH services in urban centers throughout Tigray due to “looting and destruction of water utilities offices.” The vice head of the interim administration’s Bureau of Water Resources told the state-run Ethiopian Press Agency that water-resource management offices in more than 30 cities and 53 woredas in Tigray had been “mercilessly” looted, resulting in a severe lack of drinking water in the region. He did not identify the perpetrators.

Reports suggest that Ethiopian federal government and allied armed forces have been responsible for looting of water systems in Tigray, as well as for the obstruction and looting of humanitarian water, sanitation, and hygiene (WASH) supplies. On May 19, 2021, when OCHA denounced the “military take-over of some water sources, reservoir sites in Shire, Mekelle (Endagabriel) and water offices in Adishihu town and Hagere Selam town,” in Central Tigray, those locations were reportedly under ENDF and EDF control. In June 2021, OCHA said that Ethiopian federal forces had seized a truck from an international humanitarian organization that was carrying water treatment chemicals, among other aid items, and “confiscated” the contents of the truck.

Most access to clean water in pre-conflict Tigray was the result of long-term investments in and management of water infrastructure. The predictable effect of the looting and destruction of water points and public resources has been a severe reduction in civilians’ access to clean water. For example, when a team of humanitarian relief workers from Médecins Sans Frontières arrived in Adigrat on December 19, 2020, they saw “queues of 500 people next to a water truck waiting to get 20 litres of water per family at most.” Prior to the conflict, roughly 75% of households in Adigrat had reliable and convenient access to safe water. The MSF team also reported that Adigrat hospital had “no

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243 Id., p. 4.
247 Lowenstein Clinic email correspondence with an academic expert who studies Tigray, March 2022.
249 Médecins Sans Frontières, Ethiopia: “If seriously ill people can’t get to hospital, you can imagine the consequences” (Feb. 1, 2021), https://www.msf.org/people-finding-access-healthcare-difficult-tigray-ethiopia [People can’t get to hospital].
250 World Health Organization, Climate-Resilient Water Safety Plan, see above note 215, p. 31.
water.” During the same period, in Southern Tigray, the United Nations and the Ethiopian government found “a significant reduction in water supply” because “water schemes lack treatment chemicals; some irrigation schemes have been destroyed.” UN OCHA found in December 2020 that many women in Tigray were travelling up to 25 kilometers to fetch water, and were thus at heightened risk of sexual and gender-based violence.

Moreover, in places where maintenance equipment and other specialized tools had been looted, restoring functionality to damaged water sources was delayed or impossible. In northern Wollo and southern Tigray, international humanitarian organizations found in early January 2021 that many improved water sources had been “broken during the conflict and no one from the communities or the local authorities have been able to repair them, as the water resource authorities are no longer functioning in Raya Azebo, Raya Chercher, Ofila and Wajirat.” As late as June 2021, UN OCHA, UNICEF, and Save the Children found entirely “dysfunctional water systems” in Maryknetal, Edega Arbi, and Nebelet towns in Central Tigray.

(c) Health supplies and health-care systems

A wide array of journalists, humanitarian aid workers, human rights organizations, and UN agencies have documented the large-scale looting and destruction of Tigray’s health system.

251 Médecins Sans Frontières, People can’t get to hospital, see above note 249.
254 Oxfam et al., Multiagency and Multisectoral Rapid Need Assessment, see above note 239, p. 14.
256 See, e.g., Médecins Sans Frontières, Few healthcare options in Tigray, see above note 101 (reporting that of the 106 health facilities visited by MSF teams between mid-December 2020 and early March 2021, nearly 70% had been looted and more than 30% had been damaged by the fighting; just 13% were functioning normally); UN Office for the Coordination of Humanitarian Affairs, Ethiopia — Tigray Region Humanitarian Update Situation Report, p. 10 (Jul. 19, 2021), https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-19-july-2021 (“9 out of the 10 health facilities visited in critical locations” — including hospitals in Adigrat, Edaga Arbi and Engabaguna, as well as health centers in Kisad Gaba, Adaga Hebret, Hitsats, and Nebelet, and the health post in Dedebit — “had been looted, with medical equipment destroyed.”); Human Rights Watch, “I Always Remember That Day,” see above note 97, pp. 29-30 (quoting a humanitarian relief worker who said: “[We found] a huge amount of destruction of healthcare facilities in most places we looked at [in Tigray]. A half to a third being completely destroyed or demolished or looted to the extent that it’s
of Tigray’s medical facilities to Ethiopian federal and allied forces, including Eritrean troops.\textsuperscript{257} The Ethiopian government’s restrictions on cash, fuel, and electricity, detailed below, have reduced and, in some cases, eliminated civilian access to life-saving health-care services in Tigray.\textsuperscript{258} In January 2022, staff at Ayder Referral Hospital in Mekelle told journalists that 80-90\% of Tigray’s hospitals and clinics were “non-functional.”\textsuperscript{259}

It is beyond the scope of this analysis to comprehensively discuss the myriad harms that civilians in Tigray suffered after losing access to health care. There are, however, important, well-established causal links between health care, malnutrition, and starvation deaths. Broadly, the collapse of an entire regional health-care system can be expected to cause, as the World Health Organization has warned, a surge in preventable illness and death as vaccination campaigns are interrupted and sanitation conditions deteriorate.\textsuperscript{260} Malnourished people, who are far more likely than adequately nourished people to get sick and die, are disproportionately threatened by that surge.\textsuperscript{261} For patients with chronic diseases—cancer, tuberculosis, and HIV/AIDS, for example—the lack of

\begin{quote}
\textbf{The destruction of health-care systems in Tigray has increased rates of malnutrition and reduced the availability of therapeutic foods, resulting in children dying of starvation.}
\end{quote}

\textsuperscript{a shell of a building and can’t be used as a health post anymore.”}; Amnesty International, \textit{Massacre in Axum}, see above note 95, p. 22.

\textsuperscript{257} See, e.g., UN Human Rights Council, \textit{Report of the International Commission of Human Rights Experts on Ethiopia}, see above note 111, para. 73 (reporting that in November 2020, “the ENDF, EDF, and their allies began to systematically loot and destroy goods indispensable to the survival of the civilian population in Tigray,” including medical facilities, “on a widespread scale.”); Muhumuza, “Our season,” see above note 168 (“Eritrean soldiers are in fact more firmly entrenched than ever in Tigray, where they are … looting hospitals and blocking food and medical aid, The Associated Press has found.”); Human Rights Watch, \textit{“I Always Remember That Day,”} see above note 97, p. 4 (“During the first nine months of the conflict, Ethiopian and Eritrean government forces, as well as Amhara militias, pillaged and destroyed health facilities in Tigray, … ”).


\textsuperscript{259} Hourdel & Paravicini, “Doctors say lives are lost,” see above note 258.


appropriate treatment and essential medicines can cause acute malnutrition, severe loss of strength and body mass, and, eventually, death.\textsuperscript{262}

Access to health care in Tigray has an immediate, direct impact on food security among children under the age of five. In Ethiopia, prior to the conflict, an estimated 11% of children suffered from severe acute malnutrition (SAM); SAM was the reason for almost 20% of pediatric hospital admissions in Ethiopia before the war.\textsuperscript{263} Globally, the risk of death among children with SAM is about ten times higher than for normally nourished children.\textsuperscript{264} Before the war, the majority of Ethiopian children with SAM came to the hospital for treatment in therapeutic feeding centers.\textsuperscript{265} In Tigray, hospitals that followed standardized SAM treatment guidelines from the WHO and the Ethiopian Ministry of Health often managed to significantly reduce fatality rates among children with SAM.\textsuperscript{266} Before the conflict, the health system in Tigray also successfully managed SAM cases via decentralized out-patient programs, where ready-to-use therapeutic foods like Plumpy’Nut were made available in primary health-care settings.\textsuperscript{267}

The destruction of health-care systems in Tigray has increased rates of malnutrition and reduced the availability of therapeutic foods, resulting in children dying of starvation.\textsuperscript{268} In November 2021, data from 14 hospitals in Tigray indicated that 7.1% of children in surveyed areas were severely and acutely malnourished, up from 1.3% before the war, and that nearly 200 children had died of starvation in the surveyed hospitals.\textsuperscript{269} As of January 2022, more than 40% of children under five years old at Ayder Referral Hospital in Mekelle were malnourished.\textsuperscript{270} Staff at Ayder said, though, that the hospital was “running out of therapeutic foods” to treat malnourished children because humanitarian agencies had

\begin{thebibliography}{99}


\bibitem{Gebremichael} Melaku Gebremichael et al., \textit{Treatment Outcomes and Associated Risk Factors of Severely Malnourished under Five Children Admitted to Therapeutic Feeding Centers of Mekelle City}, p. 2 (2014), https://www.scirp.org/pdf/OALibJ_2016030710065343.pdf [\textit{Treatment Outcomes and Associated Risk Factors}].

\bibitem{Guesh2} Guesh et al., “Survival status and predictors of mortality,” see above note 263.

\bibitem{Gebremichael2} Gebremichael et al., \textit{Treatment Outcomes and Associated Risk Factors}, see above note 264.


\bibitem{Lowenstein} Lowenstein Clinic interview with a health professional in Sudan, May 2022.


\end{thebibliography}
been unable to adequately restock therapeutic food supplies in Tigray since June 2021. At the end of January 2022, there were, according to UN OCHA, “[z]ero therapeutic nutrition supplies in Tigray, including for the treatment of children with severe acute malnutrition.”

2. SIEGE

The term “siege” refers, as a general matter, to a military effort to surround and isolate an area, often but not always a city. Military forces use a siege to deny external access or egress to an area and, in many cases, in an effort to compel opposing forces to surrender. After the beginning of the conflict in Tigray, and especially after June 2021, Ethiopian federal government and allied forces encircled areas under the control of Tigray forces and restricted the movement of weapons, ammunition, supplies, and people into or out of those areas. The Ethiopian government consistently blocked civilians’ access to supplies of cash, fuel, and electricity in encircled areas of Tigray and implemented a blanket shutdown of telecommunications services. The deprivation of these goods and services, which are essential to life in the 21st century, can also constitute part of a modern siege operation. For more than two years, these tactics have isolated Tigray and continuously deprived millions of civilians of basic, essential goods and services that sustain civilian life.

271 Id. (quoting a doctor at Ayder as saying: “It is now six months since any supply [of therapeutic food] has come here from Addis Ababa … . We’ve almost finished what we had since our last supply arrived in June [2021]. Everything is running out.”). UN OCHA has said, however, that in October 2021, an EU Humanitarian Air Bridge flight had arrived in Mekelle with “4.4 MT [metric tons] of ready-to-use therapeutic food for severely malnourished children.” UN Office for the Coordination of Humanitarian Affairs, Ethiopia—Northern Ethiopia Humanitarian Update Situation Report, p. 4 (Oct. 14, 2021), https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-14-oct-2021. However, OCHA’s reported figures reveal significant disparities between the 4.4 metric tons of therapeutic food supplies airlifted to Tigray and the amount delivered in Amhara and Afar, where “[s]ome 95 per cent of the 1,079 MT [metric tons] of allocated therapeutic and nutrition foods [for civilians in Amhara and Afar] were delivered to food distribution sites” during the same period. Id., p. 7.


(a) Cutting off access to cash

Since November 4, 2020, there have been acute shortages of cash throughout the Tigray region, especially in rural areas of Central, North Western, and Eastern Tigray. This section focuses on one of the key causes of the cash shortages in Tigray: policy-level decisions by the Ethiopian federal government and Ethiopian commercial banks.\(^{276}\) By closing banks and shutting down telecommunications, the Ethiopian government caused or significantly accelerated the collapse of Tigray’s banking system. Combined with skyrocketing prices that have resulted, in large part, from the siege imposed by the Ethiopian government and its allies, the banking collapse led to steep declines in household purchasing power.\(^{277}\)

Cash shortages have worsened food insecurity for civilians throughout Tigray. In times of peace, even for households that consume mostly food that they produce themselves, markets are a crucial way that households diversify and improve their diets.\(^{278}\) During periods of conflict or scarcity, most households, particularly households reliant on farmers whose harvests have failed or households whose members have been displaced, come to depend heavily or entirely on purchasing food products from markets.\(^{279}\) By disrupting market systems and decreasing household purchasing power, cash shortages and inflation in Tigray have contributed to civilians’ inability to secure food, including staple grains and other essential food items.\(^{280}\)

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277 World Food Programme, Tigray: Conflict Affected Areas Update #1, p. 3 (Sept. 23, 2021), https://docs.wfp.org/api/documents/WFP-0000132140/download/ [Conflict Affected Areas Update #1] (“Transport restrictions, shortage of cash, low fuel supplies, acute shortage of commodities and trader hoarding and price speculation have led to increased food prices between July and August 2021.”).


280 World Food Programme, Conflict Affected Areas Update #1, see above note 277, pp. 1-3.
After the start of the conflict, the National Bank of Ethiopia (NBE) closed banks in Tigray and drastically curtailed Tigrayan customers’ access to their accounts in other parts of Ethiopia. The NBE is an Ethiopian federal government institution; the federal government appoints the members of the NBE’s governing Board of Directors, and, under Ethiopian federal law, the NBE is directly accountable to the Prime Minister’s office. The NBE has a mandate to act as “banker, fiscal agent and financial advisor to the Government” and to license, supervise, and regulate the operations of banks, insurance companies, and other financial institutions. In November 2020, allegedly in response to looting by the TPLF, the NBE ordered all 616 commercial bank branches in Tigray to close.

About four weeks later, in early December 2020, banking services were partially restored in a few urban centers in Southern and Western Tigray, including Alamata and Humera, and, later, on December 28, 2020, in Mekelle. By March, in some parts of Tigray, including Shire, Axum, Adigrat, and Wukro, only one branch of one bank—the Commercial Bank of Ethiopia—had reopened, resulting in long queues and severe cash shortages. In most other areas, banking services were continuously offline for more than two years. After the TDF regained territorial control of parts of Tigray in June 2021, the Ethiopian federal government shut down commercial banking throughout the region for the second time, shuttering any banks that had reopened since the start of the conflict.

Discriminatory policies targeting Tigrayans have further limited civilians’ access to banking and cash in Tigray. On November 16, 2020, the NBE directed, via text message, the presidents of all Ethiopian commercial banks to freeze any accounts that were opened in Tigray Regional State, preventing customers in any part of Ethiopia from withdrawing cash or making transactions from accounts they
had originally opened in Tigray. The NBE reportedly reversed its directive the following month. But, after Tigray forces recaptured Mekelle on June 28, 2021, the Ethiopian federal government again directed banks to freeze any accounts opened in Tigray. Although the central bank technically left decisions to freeze accounts up to the banks, every major commercial bank in Ethiopia complied with the NBE’s request.

As a result, thousands of Tigrayans in Addis Ababa and other parts of Ethiopia lost access to their bank accounts twice in the span of a year, with the denial of banking services lasting months at a time. For example, any accounts that were originally opened at one of United Bank’s 23 regional branches in Tigray were deactivated after Ethiopian federal government and allied forces retreated from Tigray in June 2021. The repeated cutoffs of access to banking for Tigrayans thus affected Tigrayans in and outside of Tigray.

The government’s economic restrictions on Tigray have also shut down important microfinance institutions, harming farmers and individuals without bank accounts. On November 16, 2020, the Federal Attorney General’s Office froze the bank accounts of 34 subsidiaries of the Endowment Fund for the Rehabilitation of Tigray (EFFORT), alleging that the companies were “participating in financing ethnic-based violence, acts of terrorism, [in] connection with the TPLF, which seeks to overthrow the constitutional order.” Among the delisted companies was Dedebit Credit and Savings Institution SC, which is discussed below, some important microfinance institutions in Tigray include Ageday Microfinance Institution (Amfi) and various village savings and loan groups. See “Midre Geez Enters Microfinance Arena,” Addis Fortune (Apr. 4, 2020), https://addisfortune.news/midre-geez-enters-microfinance-arena/. For a discussion of village savings cooperatives, see Hagos Gemechu Haile, Impact Analysis of the Loan Interest Rate on the Poor: The Case of Tigray, Northern Ethiopia (Thesis submitted to the University of South Africa for the Doctoral Degree in Development Studies). Witnesses have reported that Ethiopian and allied forces extensively looted all of these types of institutions, which rely on offline infrastructure at small shops and branch offices. Lowenstein Clinic phone interview with a medical professional in Sudan, May 2022. See also Jan Nyssen et al., “Atlas of the humanitarian situation,” see above note 276, p. 62. Further investigations are needed to document the extent of the looting of farmers’ assets from microfinance institutions and savings groups, and to make determinations of intent and responsibility.

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294 Id.
295 Id.
296 Id.
297 In addition to Dedebit Credit and Savings Institution SC, which is discussed below, some important microfinance institutions in Tigray include Ageday Microfinance Institution (Amfi) and various village savings and loan groups. See “Midre Geez Enters Microfinance Arena,” Addis Fortune (Apr. 4, 2020), https://addisfortune.news/midre-geez-enters-microfinance-arena/. For a discussion of village savings cooperatives, see Hagos Gemechu Haile, Impact Analysis of the Loan Interest Rate on the Poor: The Case of Tigray, Northern Ethiopia (Thesis submitted to the University of South Africa for the Doctoral Degree in Development Studies). Witnesses have reported that Ethiopian and allied forces extensively looted all of these types of institutions, which rely on offline infrastructure at small shops and branch offices. Lowenstein Clinic phone interview with a medical professional in Sudan, May 2022. See also Jan Nyssen et al., “Atlas of the humanitarian situation,” see above note 276, p. 62. Further investigations are needed to document the extent of the looting of farmers’ assets from microfinance institutions and savings groups, and to make determinations of intent and responsibility.
Institution SC (Dedebit Microfinance), a microfinance institution with more than 460,000 account holders in Tigray. Prior to the conflict, Dedebit Microfinance was the most accessible financial institution in Tigray, especially in rural areas, and one of the largest microfinance institutions in Africa. The Federal Attorney General’s decision to freeze Dedebit Microfinance accounts has diminished the availability of cash or credit in rural Tigray, which has, in turn, curtailed farmers’ ability to secure agricultural inputs. Statements by humanitarian aid workers and civilians in Tigray have consistently noted that branch services of microfinance institutions were unavailable throughout the region for the duration of the conflict. Farmers’ inability to secure access to their savings or to receive loans has reduced their access to agricultural inputs, which, by reducing crop yields, worsens food insecurity for rural households. Farmers who managed to plant in spring 2021 had reduced access, not only to agricultural inputs, but also to assistance from humanitarian organizations and the regional Bureau of Agriculture and Rural Development, which, before the conflict, provided cash transfers.

Bank closures in Tigray have also disrupted the Productive Safety Net Programme, a government-run social-protection program in Ethiopia that provides support to food-insecure households. Prior to the conflict, approximately 1 million people in Tigray received financial assistance, food aid, or food vouchers through PSNP. An estimated 600,000 people in the region, including 96,000 Eritrean refugees and “a significant number of IDPs,” received in-kind food aid distributions through PSNP. At least 250,000 people, who, according to UN OCHA, “are among [the region’s] poorest,” qualified for monthly cash transfers. Beneficiaries of PSNP’s financial assistance could receive payments either in person at small shops or through an electronic payment system. Tigray was historically

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303 Lowenstein Clinic interview with a staff member of a humanitarian organization, October 2021.
304 Id.
305 See generally World Peace Foundation, Starving Tigray, see above note 228.
306 Lowenstein Clinic interview with a staff member of a humanitarian organization, October 2022.
one of the best-performing PSNP regions in Ethiopia, in terms of the percentage of participants who were eligible to graduate from the program.311

In late 2020, regional authorities stopped delivering PSNP assistance in Tigray, both because the Ethiopian federal government froze subsidies to Tigray’s regional government in October312 and because, after the federal government installed the interim administration in November 2020, insecurity, personnel shortages, and bank closures made transfers impossible.313 On December 20, 2020, a joint needs assessment in southern Tigray, conducted by the United Nations and the Ethiopian government, found that PSNP clients in Tigray had not received food distributions since July 2020 and that “the banks’ closure affected the PSNP program, and authorities expressed difficulty in getting cash assistance to beneficiaries.”314 In spring 2021, a group of humanitarian organizations in the Joint Emergency Operations Program (JEOP) — an emergency food assistance program funded by the United States Agency for International Development (USAID) Bureau for Humanitarian Assistance and led by Catholic Relief Services — took over responsibility for the PSNP caseload in Tigray.315 Although JEOP partners were able to organize a limited number of food distributions to PSNP clients under the interim administration,316 cash transfers to PSNP clients in Tigray did not resume during the period of interim administration control.317

Finally, the NBE decision in mid-September 2020 to introduce a 200 birr note and to change the color and security features of the 100 birr, 50 birr and 10 birr notes318 — and its corresponding decision to ban business transactions using old bank notes after December 1, 2020319 — compounded the cash crisis in Tigray. Prime Minister Abiy described the demonetization initiative as an attempt to fight corruption and reduce the number of Ethiopians without a bank account.320 When banking services resumed in Mekelle in December 2020, the NBE authorized a two-week extension to change old banknotes, but the policy allowed people to exchange only up to 100,000 birr per account (approximately US$2,200), instead of the earlier limit of 1.5 million birr (approximately US$33,000).321

312 Gebre & Marks, “Ethiopia Tightens Economic Clampdown,” see above note 298.
313 Lowenstein Clinic interview with a staff member of a humanitarian organization, October 2021.
316 Lowenstein Clinic interview with a staff member of a humanitarian organization, October 2021.
317 Id. See also Sabates-Wheeler & Lind, Social protection during conflict, see above note 310.
Civilians from other parts of the region who reached Mekelle after the deadline passed were reportedly unable to exchange any banknotes or to withdraw savings. People also reportedly bought new banknotes from Ethiopian or Eritrean soldiers at unfavorable rates.

The inaccessibility of cash in Tigray—which coincided with restrictions on inter-regional trade and civilian mobility and enormously high rates of inflation has left many essential items far out of reach for civilians. After the end of June 2021, the Ethiopian government and its allies’ siege of Tigray exacerbated cash shortages and severely limited the availability of food products throughout the region. Prices of essential goods skyrocketed.

In early July 2021, the World Food Programme found that prices of staple goods at markets in Shire rose by up to 40% in a single week. In October 2021, the Associated Press reported that, according to the United Nations, “[c]ooking oil prices [in Mekelle] have shot up 400% since June, fuel up 1200%, flour up 300%, and salt up 500%.” In March 2022, the World Food Programme reported that consumers in Tigray, who were “already constrained by [the] lack of cash and livelihood options[,]” were forced to pay “sky-rocketed price[s]” for staple items like maize, sorghum, wheat, rice, and cooking oil.

The rates of inflation in Tigray—which reportedly surpassed 1000% for certain products between November and December 2020, as well as after June 2021—have far exceeded inflation rates registered in other parts of the country during the same periods. In mid-December 2020, the World

323 Id.
324 World Food Programme, *Conflict Affected Areas Update #1*, see above note 277, p. 3.
Food Programme said that in Mekelle, the costs of staple food and non-food items had risen sharply compared to pre-war prices recorded in the first week of November, including a 56% change in the price of teff, a 650% change in the price of kerosene, and a 1,150% change in the cost of benzene.330 In October 2021, the Addis Fortune reported that, according to a UN OCHA rapid assessment, the price of benzene in Mekelle had increased to 600 birr per liter, a 2300% change from mid-June 2021, and the price of cooking oil in Shire had quintupled to 500 birr per liter.331

The Ethiopian federal government’s strangling of the banking system also reduced humanitarian organizations’ capacity to deliver life-saving aid to civilians. Throughout the conflict, especially after late June 2021, humanitarian organizations were unable to transfer money through the banking system.332 Instead, organizations had to physically transport cash via air or overland routes, subject to government approval.333 But such approval was severely limited and frequently withheld. From July 12 to September 2, 2021, for example, the Ethiopian government cleared only 4.2% of the money needed to sustain humanitarian operations to Tigray.334 By April 2022, that figure remained a paltry 8%.335 Without access to banking services or permission to transport cash, humanitarian organizations cannot buy critical supplies, transport goods, or pay staff salaries—and thus cannot sustain their operations.336

### Watch: Ethiopia, July 2021 (Jul. 2021), https://docs.wfp.org/api/documents/WFP-0000131765/download/ (citing the “rapid deterioration” of markets in Tigray and recording, for example, a 12% increase in the price of teff in Shire during just the first week of July 2021, compared to a 2% increase in teff prices in Addis Ababa in June 2021).


332 Lowenstein Clinic interview with a staff member of a humanitarian organization, October 2021; Lowenstein Clinic interview with a medical professional in Sudan, May 2022.


334 Id.


The Ethiopian federal government repeatedly cut off access to electricity in Tigray during the conflict. Some parts of Tigray, including most of the region's rural areas, have been deprived of access to electricity for more than two years. Civilians in Tigray reportedly lost access to electricity a few hours after the government’s military operation began on November 4, 2020. Electricity was partially restored in some urban areas two months later. In late December 2020 and early January 2021, residents of Mekelle, Alamata, and Mehooni regained access to electricity. Electricity was also restored in Adigrat, Axum, and Adwa towns on January 19, 2021. When Ethiopian and allied forces retreated from Tigray on June 28, 2021, the Ethiopian government again cut off electricity throughout Tigray. Apart from a brief restoration of electricity one week later, the Ethiopian government continuously blocked electricity to Tigray for the next eighteen months. On August 21, 2021, Tigray authorities partially restored electricity in major towns in

344 At the time of this report’s publication in December 2022, electricity services had reportedly been partially restored in some urban centers in Tigray. See, e.g., “EEP Reconnects Mekelle Power Control Center to National Electric Grid,” Ethiopian Monitor (Dec. 7, 2022), https://ethiopianmonitor.com/2022/12/07/EEP-reconnects-mekelle-power-control-center-to-national-electric-grid/.
Tigray by distributing electricity generated by the Tekeze dam.\(^345\) A few months later, on December 3, 2021, the Tigray regional government said that the Ethiopian Air Force bombed and destroyed the Tekeze Dam's electricity substation, cutting off power throughout the entire region for a third time.\(^346\)

Prior to the conflict, access to electricity in Tigray had expanded considerably over the past three decades; as of 2019, according to the Ethiopian Ministry of Water, Irrigation and Energy (MoWIE), nearly 90% of people in Tigray had some access to electricity.\(^347\) One effect of electrification in Tigray was that many households shifted to using mechanized grain mills to grind wheat, teff, sorghum, or other grains into flour for staple foods like bread or injera. Before electrification, most households manually ground grain with stones—a physically taxing and time-intensive practice\(^348\)—or transported grain to the nearest diesel-powered grinding mill.\(^349\) World Bank research indicates that, for many people in Tigray, especially in rural areas, the shift to electric grain milling was one of the most significant achievements of village electrification.\(^350\) Many households in Tigray reportedly no longer own grinding stones, and most internally displaced people have no way to obtain them.\(^351\)

Many improved water sources in Tigray are also motorized and cannot operate without electricity.\(^352\) In March 2021, UN OCHA found that around 250 motorized water pumps were non-functional due to a combination of a lack of electricity, a lack of fuel, looting of equipment, and damage.\(^353\)

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\(^352\) For example, in December 2020, the United Nations and the Ethiopian government jointly found that, in “Hawulti Tabia in Mehoni Woreda, there is one existing borehole (BH) that stopped functioning as power went off during the conflict.” Government of Ethiopia—National Disaster Risk Management Commission, *Joint Rapid Needs Assessment Mission*, see above note 28, p. 5.

OCHA also found that only 4 of 36 towns it surveyed had even partially operating water sources.\textsuperscript{354} Further investigation is needed to determine the specific impact of electricity shutdowns on access to clean water.

Shutdowns of electricity also damaged Tigray’s health-care system, including in ways that worsen civilian starvation.\textsuperscript{355} The use of medical oxygen to treat children for complications resulting from severe acute malnutrition,\textsuperscript{356} for example, typically requires specialized machines, called concentrators, that depend on a reliable power supply from either an electrical grid or a generator.\textsuperscript{357} In many of Tigray’s health-care facilities, medical professionals had little to no access to such power sources during the war.\textsuperscript{358} Doctors at a hospital in Adwa, Central Tigray, for example, reportedly said in March 2022 that “patients are dying because of a lack of oxygen, a lack of electricity and they cannot keep the babies breathing. The machines are failing.”\textsuperscript{359} Although information is not publicly available about how many of these children died specifically of malnutrition, many medical conditions, like pneumonia, that require oxygen therapy are exacerbated by malnutrition.\textsuperscript{360}

The Ethiopian government has publicly acknowledged its control over the provision of electricity in the country and its responsibility for the delivery of electricity to Tigray.\textsuperscript{361} During the war, the Ethiopian government repeatedly shut off electricity to areas where its forces did not exercise military

\begin{footnotes}
\item[359] Lizzy Davies, “Patients dying as conflict prevents supplies reaching Tigray hospitals,” The Guardian (Mar. 2, 2022), https://www.theguardian.com/global-development/2022/mar/02/patients-dying-as-conflict-prevents-supplies-reaching-tigray-hospitals. For the purposes of this analysis, further investigation is required to determine whether and how many of these children died of malnutrition, specifically.
\end{footnotes}
control, including throughout Tigray in late June 2021 and in Dessie and Kombolcha in Amhara region in November 2021. In July 2021, Prime Minister Abiy reportedly told the United Nations that electricity would “resume swiftly” in Tigray. For the next eighteen months, though, the Ethiopian federal government continued to block the region’s access to the national power grid.

Ethiopia’s two state-run utility firms, Ethiopian Electric Power (EEP) and Ethiopian Electric Utility (EEU), have repeatedly blamed Tigray forces for damaging electrical infrastructure, alleging that TPLF attacks on substations, electric towers, and transmission lines had caused damage amounting to more than 500 million birr. The EEP – providing sparse details – claimed that Tigray fighters sabotaged transmission lines in Adi Gudem, near Mekelle, on an unspecified date in February 2021, that Tigray fighters attacked transmission lines connecting the Tekeze Dam to the national grid, and that, in Afar region, artillery strikes by Tigray forces damaged two high-voltage transmission towers between Bati town and Mille.

Further investigation is required to determine the extent to which fighting, including military action by the TDF, damaged electrical infrastructure and interrupted access to electricity in Tigray. However, the specific incidents that the Ethiopian government and utility firms have alleged do not explain the full timeline of electricity shutoffs in Tigray. Neither the EEP nor the Ethiopian government has explained...
plained how the TPLF could have taken Tigray’s entire energy grid offline in a matter of hours when the conflict began on November 4, 2020, nor why Tigray authorities would have shut down electricity to areas under their control, as the government and EEP allege.

(c) Disrupting the fuel supply

During the war, several important fuel sources—including benzene for transport, diesel for transport and generators, and kerosene for cooking—became extremely scarce and prohibitively expensive throughout Tigray.371 Fuel shortages worsened inflation, disrupted market systems, and limited civilian mobility. Motorized water pumps and grain mills have been non-functional for extended periods,372 and humanitarian relief operations have been geographically constrained and repeatedly suspended.373 The deprivation of fuel supplies in Tigray reduced civilians’ access to food and worsened food insecurity.

Ethiopia depends heavily on imported petroleum products.374 According to data from the state-owned Ethiopian Petroleum Supply Enterprise (EPSE), Ethiopia consumes 2.2 million liters of benzene (gasoline) and 9 million liters of diesel fuel daily.375 Roughly 40% of Ethiopia’s annual gasoline demand is supplied by Sudan, with the rest imported through the port of Djibouti.376 The state-owned EPSE, which is Ethiopia’s sole importer and distributor of refined petroleum products, stores gasoline, diesel, and jet fuel in 13 fuel depots around Ethiopia.377 Thus, in Ethiopia’s regional states, the price and availability of fuel depends on policy decisions by the Ethiopian federal government. Authorities in the Ethiopian federal government, including in the Ministry of Trade and in the Fuel

Subsidization Fund, a federal agency established to absorb price shocks, work with the EPSE to manage the country’s fuel supply chain and regulate the price of fuel products.

To import petroleum products and to transport fuel to petrol stations across Ethiopia, the EPSE operates convoys of fuel trucks. The EPSE has previously acknowledged that the system is inefficient and prone to disruptions by armed groups. After November 4, 2020, the conduct of hostilities drastically constrained road passage into and within Tigray. Fuel shortages occurred almost immediately: In December 2020, the World Food Programme reported that “road transport continues to be impeded by fuel shortages, which is sold [sic] on the black market at skyrocketed prices.” As a result of the fuel crisis, public transport services in Tigray—where 91% of vehicles use gasoline and 9% use diesel—were either non-functional or up to 300% more expensive than before the conflict.

Severe disruptions to the fuel supply in Tigray continued long after Prime Minister Abiy declared the end of military operations in late November 2020. For example, on March 21, 2021, UN OCHA reported that fuel suppliers were unwilling to transport fuel on major roads around Shire without a military escort. Petrol stations across

Between June 2021 and November 2022, Ethiopian federal government and allied forces tightly controlled the Semera-Mekelle road and consistently prevented fuel tankers from reaching Tigray, even when other humanitarian aid convoys were intermittently permitted.

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382 The Reporter, “Fuel tanker trucks stranded,” see above note 376.
384 World Food Programme, Market Watch: Ethiopia, December 2020, see above note 326, p. 4.
386 World Food Programme, Market Watch: Ethiopia, December 2020, see above note 327, p. 4.
North Western Tigray were closed; some fuel was available on the black market but at inflated prices and with reduced quality.388 During the same period, UN OCHA reported that fuel supplies were declining in Mekelle because of “difficulties” transporting fuel from Afar region that were “due to recent insecurity there.”389 One Mekelle resident told the Associated Press in July 2021 that “the roads for fuel transport are closed,” and, as a result, “[f]uel stations are shut down;” black-market prices reached 100 birr (2.30 US dollars) per liter, more than triple the price of fuel elsewhere in Ethiopia.390

The chronic fuel shortages in Tigray worsened dramatically after June 28, 2021, when retreating soldiers destroyed two bridges over the Tekeze River that linked Western Tigray to the rest of the region391 and the Ethiopian federal government tightened the siege of Tigray.392 Humanitarian access by road into Tigray was reduced to one single route from Semera, in Afar region, to Mekelle.393 Between June 2021 and November 2022, Ethiopian federal government and allied forces tightly controlled the Semera-Mekelle road and consistently prevented fuel tankers from reaching Tigray, even when other humanitarian aid convoys were intermittently permitted.394

Fuel shortages in Tigray have limited civilians’ access to electricity. Ethiopia has, in addition to the electrical grid system described above, which is generally referred to as the interconnected system

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388 Id.
389 Id.
393 Id.
394 UN Office for the Coordination of Humanitarian Affairs, Northern Ethiopia Situation Report, Apr. 7, 2022, see above note 335, p. 3 (reporting the April 1 arrival of “one fuel tanker of 47,000 liters, the first fuel delivery to enter Tigray in eight months.”). During the period of the humanitarian truce, the federal government’s restrictions on fuel supplies relaxed somewhat, but fuel deliveries never came close to meeting humanitarian agencies’ needs. Between April 1 and August 3, 2022, around 1.8 million liters of fuel entered Tigray, which, in light of the fact that, according to UN OCHA, humanitarian agencies in Tigray require 2 million liters of fuel per month, represents less than a quarter of the needed supplies. UN Office for the Coordination of Humanitarian Affairs, Ethiopia— Situation Report, Aug. 5, 2022, see above note 30, p. 2. According to the UN Logistics Cluster, the movement of cargo, including fuel, to Tigray resumed in November 2022 for the first time since the end of the humanitarian truce. See UN Logistics Cluster, Ethiopia— Meeting Minutes—Addis Ababa, 13 December 2022 (Dec. 29, 2022), https://logcluster.org/document/ethiopia-meeting-minutes-addis-ababa-13-december-2022.
In Western Tigray, where UN OCHA reported that only one fuel tanker arrived between October 2020 and April 2021, the breakdown of water pumps forced girls and women to walk for nearly three hours to find water.

Diesel shortages thus exacerbated the effects of electricity shutdowns, increasing the number of water pumps and grain mills rendered non-functional. In November 2020, UNHCR warned that 96,000 Eritrean refugees in Tigray would lose access to water if humanitarian agencies could not deliver fuel for water pumps.\(^\text{399}\) In Western Tigray, where UN OCHA reported that only one fuel tanker arrived between October 2020 and April 2021, the breakdown of water pumps forced girls and women to walk for nearly three hours to find water.\(^\text{400}\)

Fuel shortages also had a detrimental effect on health services; at various points in the war, health facilities in Tigray had to close due to a lack of fuel to run generators, leaving patients without access to health services.\(^\text{401}\) Ayder Referral Hospital in Mekelle, for example, had to close its intensive care unit and its surgical operations in December 2020.\(^\text{402}\) Fuel shortages also reduced civilian mobility and

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396 *Id.*


398 AP Archive, “Ethiopia Tigray Hardship,” *see above note 390.*


access to transport, restricting civilians’ ability to reach health facilities and receive care, and limited the transport of essential medicines to health centers outside of Mekelle.

3. DENIAL OF HUMANITARIAN RELIEF

Since November 4, 2020, Ethiopia and its allies have repeatedly blocked or obstructed the distribution of humanitarian relief to civilians in Tigray. Officials in the Ethiopian federal government, as well as in the Amhara and Afar regional governments, have imposed onerous, unpredictable, and contradictory bureaucratic restrictions on the distribution of humanitarian relief. Ethiopian federal government and allied forces have used roadblocks to deny humanitarian access to certain areas or delay the distribution of humanitarian relief, sometimes for weeks or months at a time; have harassead, intimidated, attacked, and killed humanitarian aid workers; and have looted food aid and other humanitarian supplies.

Between November 2020 and June 2021, the Ethiopian government and its allies facilitated the distribution of only limited amounts of humanitarian aid to civilians in areas of Tigray under Ethiopian federal government control. Aid distributions were never sufficient to meet civilian needs. Over the same time period, the Ethiopian federal government and allied forces impeded the delivery of aid to millions of civilians living in rural areas or areas controlled by Tigray forces. Across Tigray, Ethiopian federal government and allied forces obstructed civilian access to aid by restricting the move-
ment of aid workers and supplies throughout the region,\textsuperscript{411} attacking and killing humanitarian aid workers,\textsuperscript{412} looting aid supplies,\textsuperscript{413} and drastically limiting humanitarian organizations’ fuel supplies.\textsuperscript{414}

\underline{Across Tigray, Ethiopian federal government and allied forces obstructed civilian access to aid by restricting the movement of aid workers and supplies throughout the region, attacking and killing humanitarian aid workers, looting aid supplies, and drastically limiting humanitarian organizations’ fuel supplies.}

After Tigray forces regained control over a portion of Tigray in late June 2021, the Ethiopian government tightened its siege; the UN called it a “de facto blockade.”\textsuperscript{415} Of the fifteen possible overland routes into Tigray, Ethiopia and its allies blocked all but one route, the route from Semera to Mekele, into Tigray.\textsuperscript{416} Convoys of food aid and fuel were delayed in Semera town for weeks or months at a time.\textsuperscript{417} At the same time, the Ethiopian federal government reinstated its blanket shutdowns of banking, fuel, and electricity, which—in addition to directly harming civilians—further restricted the distribution of humanitarian relief in Tigray.\textsuperscript{418} In total, between July and December 2021, the government and its allies allowed less than 12% of the necessary food aid, as estimated by the United Nations, to enter Tigray.\textsuperscript{419}

In the context of such severe disruptions of public utilities and basic services, the obstruction of humanitarian aid inevitably resulted in immense civilian suffering.\textsuperscript{420} On July 2, 2021, a senior UN humanitarian official told the UN Security Council that 400,000 people in Tigray had “crossed the threshold into famine,” with an additional 1.8 million civilians on the brink.\textsuperscript{421} Other UN officials


\textsuperscript{412} See, e.g., Marks & Walsh, “Finish Them Off,” \textit{see above} note 407.

\textsuperscript{413} See, e.g. “Eritrean troops block, loot food aid in Tigray,” \textit{see above} note 408.

\textsuperscript{414} \textit{See above} Warring-Party Conduct, section 2(e).


\textsuperscript{416} Walsh, “This Ethiopian Road Is a Lifeline for Millions,” \textit{see above} note 392.

\textsuperscript{417} United Nations, Statement by Acting Humanitarian Coordinator, \textit{see above} note 333.

\textsuperscript{418} \textit{See above} Warring-Party Conduct, section 2(a-c).


\textsuperscript{420} The overwhelming humanitarian needs of Tigrayan civilians were the result of a number of factors, including a combination of poverty and food insecurity that predated the armed conflict; desert locusts and other environmental hazards that damaged food supplies; interruptions to agriculture caused by the armed conflict; restrictions on cash, electricity, and fuel in the region; and looting and destruction of food, health, and water supplies. As discussed in Key Causes of Food Insecurity and Starvation above, the humanitarian need is primarily caused by the armed conflict.

and agencies, including the UN secretary-general, continued to cite those figures over the following months.422 Other experts argued that, in light of the deteriorating conditions, the real numbers were almost certainly higher.423 Throughout this period, the Ethiopian government continued to cut off access to cash, shut down electricity, disrupt the fuel supply, and restrict humanitarian access to Tigray.

(a) Refusing entry of humanitarian aid

Actions of the Ethiopian federal government and its allies severely hindered the initial humanitarian response to the crisis in Tigray, and poor coordination also caused grave delays.424 For the first six weeks of the conflict in November and December 2020, Ethiopian federal government and allied actors permitted almost no humanitarian organizations to enter Tigray.425 Insecurity, shortages of cash and fuel, and the government-imposed telecommunications blackout made it difficult for humanitarian organizations to coordinate logistics or assess needs.426

On November 29, 2020, the United Nations and the Ethiopian government signed an agreement to allow, as the United Nations announced a few days later, “unimpeded, sustained and secure access” for humanitarian supplies to reach civilians in areas of Tigray under the federal government’s con-

424 Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26, p. 112.
425 See, e.g., UN Office for the Coordination of Humanitarian Affairs, Ethiopia—Tigray Region Humanitarian Update Situation Report, p. 2 (Dec. 28, 2020), https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-28-december-2020 (reporting that, by the eighth week of the conflict, humanitarian organizations had officially requested federal government clearance for 10 humanitarian assessment missions and 12 humanitarian cargo deliveries to Tigray. However, just one assessment had been completed, one was ongoing, and only two cargo shipments had reached the region). Another indication that policy-level decisions were more significant logistical concerns is the fact that the JEOP consortium had reportedly “anticipated the potential for increased needs relating to violence in the run-up to [September 2020] elections and had imported large amounts of food aid.” Humanitarian Outcomes, Humanitarian Access SCORE Report: Tigray, Ethiopia, p. 15 (Apr. 2021), https://www.humanitarianoutcomes.org/sites/default/files/publications/score_tigray_report_2021_v2.pdf.
“Until now, no supplies have been allowed into the conflict zone,” the United Nations said. A week later, on December 9, the UN High Commissioner for Human Rights noted that, despite the agreement, the humanitarian situation remained “deeply distressing,” with an “appalling impact on civilians.” The first humanitarian convoy did not arrive in Mekelle until December 12, more than a month after the conflict began.

In late December 2020, the Ethiopian government and several humanitarian partner agencies conducted joint humanitarian needs assessment missions in Southern and Western Tigray. The assessments clearly established that civilian needs were severe: In assessed areas of southern Tigray, for example, “[a]ll the food stocks that people left in their homes were looted or destroyed.” The region had “run entirely out of medical and nutrition supplies,” the mission team reported, and all communities the team visited were suffering from “a significant reduction in water supply … [and] poor hygiene conditions.”

Despite its knowledge of the urgent needs in Tigray, the Ethiopian government did not take steps to facilitate an adequate humanitarian response. Reports from UN OCHA and its partner organizations indicate that between November 2020 and February 2021, the Ethiopian government consistently used bureaucratic processes to obstruct the movement of humanitarian staff and supplies. Under the terms of its November 29 agreement with the United Nations, the Ethiopian government had agreed to conduct its clearance review process for humanitarian personnel and cargo in 48 hours or less. However, in January 2021, UN OCHA reported that more than seventy “critical humanitarian staff deployment [requests] submitted to the federal Government have not been granted” and that clearance had been “pending … for several weeks.” Similarly, USAID said, in February 2021, that “de-
layed GoE [government of Ethiopia] approval processes … are preventing humanitarians from accessing [Tigray]” and that “[s]imilar procedures initially impeded the delivery of relief supplies in the region as well.”

Compounding the problem, other actors sometimes continued to deny humanitarian access at the local level even after clearances had been granted by the federal government. At military checkpoints dotting the region’s road network, Ethiopian federal government and allied forces routinely limited the movement of humanitarian aid workers and obstructed the distribution of food and other aid supplies. In June 2021, UN Under-Secretary-General for Humanitarian Affairs Mark Lowcock told Reuters that, on at least 50 occasions, Eritrean troops were “clearly” responsible for turning away aid agencies at checkpoints and assaulting staff members. Under-Secretary-General Lowcock said that men in Ethiopian military uniforms had been responsible for 50 similar incidents, members of Amhara militia for 27 incidents, and Tigray forces for at least one occasion.

In April 2021, humanitarian organizations criticized the “systemic denial” of humanitarian aid to civilians in Tigray and told the interim administration that Eritrean soldiers had looted food supplies at distribution points. Statements by some warring parties, such as members of Amhara Fano militia, suggest that the denial of humanitarian relief was, in some cases, intended to punish Tigrayan civilians. In Western Tigray, Tigrayan civilians held in detention sites in Mai Kadra told medical professionals in Sudan that on one occasion, an international humanitarian organization came to distribute biscuits, but that Fano militia denied the organization access after that day; members of Fano militia reportedly told humanitarian relief workers that they had “no right” to assist Tigrayan civilians. Civilians detained in Mai Kadra and Humera also reportedly said that armed guards told them: “We won’t spend bullets to kill all of you. We’ll punish you by hunger. That is what you junta deserve.”

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437 See, e.g., Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26, p. 117.

438 Lowenstein Clinic interview with a former interim administration official, April 2022.

439 Paravincini & Houreld, “UN official accuses Eritrean forces of deliberately starving Tigray,” see above note 188.

440 Id.

441 Lowenstein Clinic interview with a medical professional in Sudan, May 2022. For examples of similar conduct, see Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26, pp. 79-80, 117.

442 Lowenstein Clinic interview with a medical professional in Sudan, May 2022.

443 Id. For examples of similar statements, see Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26, p. 175.
Parties to the armed conflict have also looted, diverted, or resold food rations and water supplies intended for civilians. In February 2021, UN OCHA reported that in an Emergency Coordination Center meeting with the Tigray interim administration, aid agencies said that “it is unclear how much aid is reaching their [the agencies’] intended beneficiaries.” In April 2021, humanitarian organizations criticized the “systemic denial” of humanitarian aid to civilians in Tigray and told the interim administration that Eritrean soldiers had looted food supplies at distribution points. Based on interviews with aid workers, civilians, and government officials in Tigray in February 2021, researchers at the University of Ghent raised serious concerns about the diversion of aid, including: the use of aid as a political tool to incentivize civilians to join the Prosperity Party; the looting of aid by military forces; the fraudulent registration of inflated numbers of aid recipients by federal and interim administration officials; and collusion between interim administration officials and military officials to resell aid to flour factories.

Restrictions on humanitarian relief workers and supplies in Tigray, imposed by Ethiopian federal government policies and by local armed forces, significantly contributed to the inconsistency and inadequacy of the aid response. Two key coordination bodies, UN OCHA and the interim administration-led Emergency Coordination Center, consistently described the humanitarian response as unacceptably slow and “drastically inadequate” compared to civilian needs. To meet the minimum caloric needs of people in need of food aid, the distribution of rations was required every six weeks; in April 2022, UN OCHA warned that, in Tigray, where each round of distributions since November 2020 had “stretched over months, it is estimated that on average, the distributed rations covered significantly less than the minimum caloric needs of the people assisted.” Reported figures suggest that even during the peak of the aid response in the first half of 2021, food aid was nowhere near sufficient to meet civilians’ caloric needs.

444 Lowenstein Clinic interview with a former interim administration official, April 2022.
446 “Eritrean troops block, loot food aid in Tigray,” see above note 408.
448 Id., p. 56.
449 Id., p. 64.
450 Id., p. 62.
452 UN Office for the Coordination of Humanitarian Affairs, Northern Ethiopia Situation Report, Apr. 7, 2022, see above note 335, p. 5.
453 UN OCHA reported in April 2021 that 50-60% of Tigray’s population had received some form of humanitarian assistance since January. Based on the Lowenstein Clinic’s analysis, those food deliveries likely satisfied only a quarter of targeted civilians’ minimum caloric intake needs during that time. Since distributions every six weeks were necessary, targeted civilians would have needed to receive at least four rations over the five-month period between the start of the conflict and April 2021; according to UN OCHA, however, food assistance was “generally … delivered [to recipients in
Even in urban areas, civilian need far outstripped the humanitarian response. Ongoing violence and the absence of food aid in rural areas forced millions of civilians to seek safety and aid in urban centers across Tigray in the first half of 2021. The Ethiopian government failed to provide displaced people with adequate — or, in most cases, any — food aid. In February 2021, for example, the Tigray interim administration’s Bureau of Labor and Social Affairs surveyed 11,455 displaced people in Mekelle and found that 75% had not received any food assistance. Similarly, in Adwa and Axum, where, in mid-May 2021, rapidly rising numbers of displaced people were living in overcrowded schools and informal settlements, only one food distribution had taken place since the start of the armed conflict. Most displaced people in both cities had not received any food assistance. Even in urban areas where the interim administration exercised authority until June 2021, aid distributions were dramatically insufficient, forcing displaced people to resort to emergency measures, including begging.

When Tigray forces regained control of a substantial part of the region on June 28, 2021, civilian access to aid in Tigray changed significantly. Almost immediately, on July 9, UN OCHA reported “improved access within the [Tigray] region” but noted that “stock levels are currently low, and there are still huge challenges to bring in supplies from outside the region.” Those challenges were, in large part, the product of the Ethiopian federal government’s siege. Since July 2021, UN WFP has consistently stated that the arrival of 100 trucks of humanitarian aid in Tigray were needed each day to prevent mass hunger and starvation. UN OCHA reported, however, that, over the eight-month period between July 2021 and March 2022, less than ten percent of the required amount of humanitarian

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458 Id.
459 Lowenstein Clinic interview with a former interim administration official, April 2022.
460 See, e.g., Médecins Sans Frontières, ‘Tigray’s cities fill with displaced people fleeing insecurity and in need of aid’ (Mar. 29, 2021), https://www.msf.org/ethiopia-tigray%E2%80%98s-cities-fill-displaced-people-need-aid (quoting the experience of one internally displaced person, Worku: “I finally came to Abi Adi because there is more presence of humanitarian organisations,’ he [Worku] says. ‘Over the past few months, I had to beg from local people. At the most, I received an injera each day. I need food, clothes, water, shelter … . Everywhere I’ve been, I’ve been sleeping on the ground.”).
461 United Nations, ‘Statement by Acting Humanitarian Coordinator, see above note 333.’
food aid entered the region. Humanitarian food stocks in Tigray ran out repeatedly during this period.

The Ethiopian government also prevented the transport of humanitarian fuel supplies, which further limited the distribution of humanitarian aid in Tigray. Without fuel, humanitarian relief organizations are unable to transport food, water, or supplies, run generators, conduct needs assessments, or operate ambulances. The World Food Programme estimated that humanitarian agencies in Tigray needed at least 150,000 liters of fuel per week in order to deliver food aid to civilians.

The Ethiopian government allowed humanitarian agencies to transport only a tiny fraction of the necessary fuel supplies into Tigray during the war, especially after June 2021. In July and early August 2021, only two government-approved tankers reached Mekelle. Over the next eight months, no government-approved shipments of fuel reached Tigray, until one 47,000-liter fuel tanker entered

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463 United Nations, Statement by Acting Humanitarian Coordinator, see above note 333.


466 World Food Programme, World Food Programme convoy reaches Tigray, many more are vital to meet growing needs (Jul. 12, 2021), https://www.wfp.org/news/world-food-programme-convoy-reaches-tigray-many-more-are-vital-meet-growing-needs [World Food Programme convoy reaches Tigray]. More recently, UN OCHA has estimated that humanitarian organizations need 200,000 liters of fuel per week to meet civilian needs. See UN Office for the Coordination of Humanitarian Affairs, Northern Ethiopia Situation Report, Apr. 7, 2022, see above note 335, p. 3.

The Ethiopian government approved less than one percent of humanitarian fuel needs between July 2021 and April 2022. The shortages of key supplies limited the amount of aid that humanitarian organizations could deliver to civilians in Tigray. For example, UN OCHA reported that between October 7 and 13, 2021, it had, because of fuel and supply shortages, been able to deliver food aid to only 1% of the 5.2 million people it targeted in Tigray. In December 2021, UN OCHA reported that 37 of the United Nations’ 46 partner agencies in Tigray were non-operational because of shortages of fuel, cash, and essential supplies. When the World Health Organization delivered medical supplies to Tigray in February 2022, fuel shortages prevented it from making distributions to much of the region beyond Mekelle.

By March 2022, UN OCHA said that food distribution in Tigray had “reached an all-time low since March 2021,” with food distributions reaching only 68,000 people during the reporting period, and humanitarian partner organizations were forced to distribute “partial food baskets of reduced ration size, instead of a balanced three-commodity basket” of cereals, oil, and pulses. UN OCHA reported

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469 This calculation is based on the UN estimate that humanitarian organizations in Tigray need at least 150,000 liters of fuel per week. See above note 466.


that, in total, as of March 30, 2022, “almost half a year since the start of Round 3 of food distribution in Tigray in mid-October 2021,” humanitarian organizations had assisted “slightly more than 1.2 million people with food … out of the targeted 5.2 million in need of food assistance.”

In April 2022, as part of a humanitarian truce between the Ethiopian federal government and the regional government of Tigray, the Ethiopian federal government began to allow the movement of a more substantial amount of humanitarian aid into Tigray. Between April 1 and August 1, 6,105 trucks carrying more than 1.4 million metric tons of aid arrived in Mekelle from neighboring Afar. Throughout the period of the humanitarian truce, however, Ethiopia’s siege of the Tigray region remained in place, including the federal government’s shutdown of electricity, banking, and telecommunications services and severe restrictions on supplies of fuel and cash to Tigray. As of August 1, the United Nations said that humanitarian agencies had received less than a quarter of the fuel required to bring life-saving aid from warehouses in Mekelle to affected people in other parts of Tigray, and only 15% of the cash needed for humanitarian operations.

The months-long ceasefire ended on August 24, 2022, when Tigray forces and Ethiopian and allied forces fought around the towns of Bisober and Kobo. By the end of October, the resumption of hostilities had displaced hundreds of thousands of civilians and severely constrained distributions of humanitarian aid. On October 21, the World Food Programme said that humanitarian supplies had not entered Tigray by road since August 22; WFP also reported that the Ethiopian federal government had suspended clearances for humanitarian cargo flights since August 23. On November 1, UN OCHA reported that “road convoys to Tigray remain suspended,” leaving aid organizations in...
the region unable to meet the needs of internally displaced persons or treat at least 25,500 severely malnourished children.\footnote{UN Office for the Coordination of Humanitarian Affairs, \textit{Ethiopia—Situation Report}, p. 3 (Nov. 1, 2022), https://reliefweb.int/report/ethiopia/ethiopia-situation-report-1-nov-2022.}

nalists and other independent investigators have found little evidence to support either allegation.\footnote{See, e.g., James Okong’o, “Photo of World Food Programme trucks shows aid delivery, not transport of rebels,” \textit{AFP Fact Check} (Sept. 14, 2021), https://factcheck.afp.com/http%253A%252F%252Fwww%252Fafp%252Fen%252Fnews%252F348924; WFP Ethiopia (@WFP_Ethiopia), Twitter (May 23, 2022, at 10:16 AM EST), https://twitter.com/WFP_Ethiopia/status/152874170483625544; Mwai, “Aid trucks stranded,” \textit{see above note} 483.} Humanitarian organizations have indicated that delays and shortfalls were chiefly the product of Ethiopian government policy.\footnote{See above notes 435-436, 465; \textit{see below note} 490.} For example, on September 2, 2021, the United Nations said that there were “172 trucks stranded in Semera and substantial supplies … stockpiled in Djibouti, Adama and Kombolcha due to federal and regional administrative constraints.”\footnote{United Nations, \textit{Statement by Acting Humanitarian Coordinator}, \textit{see above note} 333.} The obstruction and denial of humanitarian assistance by Ethiopia and its allies, along with the Ethiopian government’s siege, had a disastrous impact on civilian food security in Tigray. As OCHA summarized in March 2022:

As the flow of humanitarian and commercial supplies into Tigray remains severely restricted and insufficient, the prices of basic goods continue to increase while people’s purchasing power has significantly decreased[,] having a direct impact on livelihoods. Diets, for instance, are increasingly impoverished as food items become unavailable and families rely almost exclusively on cereals while limiting portion sizes. Furthermore, the number of meals consumed each day [is] being stretched further.\footnote{See above notes 435-436, 465; \textit{see below note} 490.}

In November 2021, a senior USAID official summarized the Ethiopian government’s conduct affecting aid to areas held by Tigray forces as “perhaps the most egregious humanitarian obstruction in the world.”

Statements by Ethiopian government officials at the federal and regional level indicate that the obstruction and denial of relief to Tigray have been deliberate. As reported by the International Commission of Human Rights Experts on Ethiopia: “The Head of the Regional Government of Afar stated, ‘the road [going from Addis Ababa to Tigray through the Afar region] is their oxygen … . There is no way we will allow aid to get to Tigray and they know that.’”\footnote{UN Human Rights Council, \textit{Report of the International Commission of Human Rights Experts on Ethiopia}, \textit{see above note} 111, para. 83. The Commission’s report also said: “The former Head of the Regional Government of Amhara, now current speaker of the Ethiopian House of Federation, called for a ‘siege on Tigray from all four sides to turn Tigray into Biafra.’” \textit{Id.}} Prime Minister Abiy has, according to the UN investigators, “denied that there is hunger in Tigray, claiming that Tigray authorities are exploiting humanitarian
aid in an effort to overthrow his government.” In November 2021, a senior USAID official summarized the Ethiopian government’s conduct affecting aid to areas held by Tigray forces as “perhaps the most egregious humanitarian obstruction in the world.”

(b) Attacking humanitarian aid workers

In 2021, Ethiopia was one of the deadliest countries in the world for humanitarian aid workers. As of May 2021, armed forces and militia had killed at least seven aid workers in Tigray, and by the start of September 2021, that number had risen to twenty-three. Responsibility for many of these killings has yet to be definitively established. Throughout the armed conflict, the Ethiopian government’s shutdown of telecommunications in Tigray has made it difficult for aid organizations to keep their employees safe, document and investigate attacks, and contact the families of employees who were murdered.

Most humanitarian aid workers killed in Tigray were Tigrayan staff members of local or international aid agencies, including at least eleven aid workers from the Relief Society of Tigray (REST), seven employees of the Ethiopian Red Cross, and staff members of international organizations, including the Danish Refugee Council, the International Rescue Committee, and Médecins Sans Frontières (MSF/Doctors Without Borders).

In 2021, Ethiopia was one of the deadliest countries in the world for humanitarian aid workers.
Ethiopian federal government and allied forces have repeatedly harassed, threatened, attacked, detained, and killed humanitarian relief workers in Tigray. On December 8, 2020, Ethiopian government forces shot at a vehicle carrying four UN workers and detained them for trying to pass a checkpoint near Sheraro. Redwan Hussien, State Minister of Foreign Affairs and spokesperson for the Ethiopian federal government’s emergency task force for the Tigray crisis, confirmed that Ethiopian soldiers had shot at the UN vehicle, saying that the UN workers were trying to go “where they were not supposed to go.” On March 24, 2021, Ethiopian soldiers attacked a clearly marked MSF vehicle.

In June 2021, Ethiopian soldiers executed three MSF team members near Sheweate Hugum, a village in Abergele woreda, Central Tigray. Soldiers who witnessed the attack told the New York Times that the aid workers, who were wearing MSF uniforms and traveling in a clearly marked MSF vehicle, had their hands over their heads when they were shot. According to the soldiers, an ENDF colonel ordered his troops to fire on the MSF vehicle and then, as the aid workers walked toward the ENDF troops, to “finish them off.” ENDF troops then destroyed the MSF vehicle with a rocket-propelled grenade.

Eritrean forces, too, have attacked and killed aid workers in Tigray. In March 2021, the head of the Ethiopian Red Cross in Tigray told the New York Times that Eritrean soldiers had killed seven Red Cross employees, including “a driver who was dragged from his ambulance and shot.”

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Cross employees, including “a driver who was dragged from his ambulance and shot.” On April 28, 2021, Aman Desta Abay, an inventory control officer working for REST, was shot and killed in Kola Tembien; the US Embassy later attributed responsibility to Ethiopian and Eritrean soldiers.

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499 Reuters (@Reuters), Twitter (Nov. 30, 2020, at 6:42 AM EST), https://twitter.com/reuters/status/133337944682180608.
505 Id.
506 Id.
507 Id. See also Hagos, “Relentless Attack on Humanitarian Workers,” see above note 496.
In other parts of Ethiopia, Ethiopian security forces have arrested humanitarian relief workers during unlawful mass detentions of ethnic Tigrayans. On November 9, 2021, at least 16 United Nations staff and dependents, all reportedly Tigrayans, were detained in Addis Ababa amidst a wave of ethnically targeted mass arrests.509 Police forces in Addis Ababa accused the detainees of “directly or indirectly” supporting the TPLF.510 That same week, in Semera, Ethiopian authorities arrested and detained 72 truck drivers with whom UN WFP had contracted to deliver humanitarian aid.511

The Ethiopian government has publicly questioned the impartiality of humanitarian relief efforts and has accused aid workers of violating their humanitarian mandate.512 For example, in July 2021, State Minister Redwan Hussien said that the government had “encountered and caught certain aid organizations delivering weapons and equipment to the rebel groups.”513 The government did not identify the organizations in question or provide any evidence of arms transfers. State Minister Redwan said, without providing any specific examples or proof, that UN officials were “disrespecting and defaming Ethiopia.”514

The Ethiopian government has also suspended humanitarian relief efforts and expelled humanitarian officials. In August 2021, the Ethiopian Agency for Civil Society Organizations, a federal government body, announced a three-month suspension of MSF Holland, the Norwegian Refugee Council, and the Al-Maktoume Foundation.515 According to the Addis Standard, the Agency accused the organizations of “disseminating misinformation on social media … , employing foreign nationals without the appropriate work permit … , [and] illegally importing and using satellite radio equipment which was not authorized by the relevant authority.”516 At the end of September 2021, the Ministry of Foreign

510 Id.
514 Minister of Foreign Affairs Tweet, see above note 513; “Aid neutrality under fire,” see above note 513.
516 “Fed. government suspends operations,” see above note 515.
Affairs announced that it was expelling seven senior officials working for UN humanitarian agencies in Ethiopia, declaring the officials “persona non grata” for “meddling” in Ethiopia’s “internal affairs.”517

1. INTERNATIONAL HUMANITARIAN LAW: PROHIBITION ON STARVATION AS A METHOD OF COMBAT

International humanitarian law—the law of armed conflict—recognizes two types of armed conflict: international armed conflict (IAC) and non-international armed conflict (NIAC).518 An armed conflict is international when at least two opposing states are carrying out hostilities.519 Other forms of armed conflict that do not involve opposing states, including civil war, are considered non-international armed conflicts if they meet certain threshold criteria.520 The International Committee of the Red Cross, in discussing when violence within a state constitutes armed conflict, has explained, “In order to distinguish an armed conflict … from other serious forms of violence, such as internal disturbances … or acts of banditry, the situation must reach a certain threshold of confrontation.”521

Two criteria are commonly used to evaluate this threshold question. First, according to the ICRC, “the hostilities must reach a certain level of intensity. This may be the case, for example, when the hostilities are of a collective character or when the government is obliged to use military force against the insurgents,” instead of police forces.522 The fighting in Ethiopia, which has involved hundreds of thousands of combatants—including the military forces of several states523—conducting hostilities across three of the country’s regional states, has certainly satisfied this criterion.

Second, as explained by the ICRC, “non-governmental groups involved in the conflict must be considered ‘parties to the conflict,’ meaning that they possess organized armed forces. This means for example that these forces have to be under a certain command structure and have the capacity to sustain military operations.”524 The principal non-state armed group in the present conflict, the TDF, operates under a clear command structure and possesses weaponry sufficient to mount effective military operations and control territory.525

521 International Committee of the Red Cross, The Term “Armed Conflict,” see above note 519, p. 3.
522 Id.
524 International Committee of the Red Cross, The Term “Armed Conflict,” see above note 519, p. 3.
525 See, e.g., Chothia, “Ethiopia’s Tigray conflict,” see above note 46.
The war in Tigray is, therefore, most likely a non-international armed conflict, even though it has involved another state, Eritrea, from the start.\footnote{526} Publicly available information indicates that Eritrea intervened in the conflict on the side of the Ethiopian government and, reportedly, at its invitation.\footnote{527} The presence of Eritrean troops in Tigray does not, in itself, change the classification of the conflict under international humanitarian law;\footnote{528} if, however, further investigations conclude that Eritrean forces were not always acting in support of the Ethiopian government, the conflict could be deemed international.

It is well established that IHL governs warring-party conduct during non-international armed conflicts.\footnote{529} Common Article 3 (CA3) of the Geneva Conventions of 1949 (the Geneva Conventions) applies to all “armed conflicts not of an international character occurring on the territory of one of the High Contracting Parties.”\footnote{530} The armed conflict in Ethiopia also meets the slightly narrower definition of a NIAC found in Additional Protocol II (APII) to the Geneva Conventions. Under APII, where a government is fighting armed groups that have a responsible command structure and “exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol,”\footnote{531} the conflict is a NIAC. Ethiopia is fighting an armed

Both treaty law and customary international humanitarian law prohibit starvation of civilians as a method of warfare during international and non-international armed conflicts.

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\footnote{526}{See, e.g., Ayenat Mersie, Giulia Paravicini & Katharine Houreld, “Dual Agenda: In Ethiopia’s civil war, Eritrea’s army exacted deadly vengeance on old foes,” Reuters (Nov. 1, 2021), https://www.reuters.com/investigates/special-report/ethiopia-conflict-eritrea/. The reported presence of Somali troops, as well as Turkish drone operators, similarly reflect a degree of international involvement that does not change the legal classification of the conflict.}


\footnote{528}{Dapo Akande, “Classification of Armed Conflicts,” in The Oxford Guide to International Humanitarian Law p. 48 (2021) (“Where there is intervention by a foreign state in a NIAC on the side of the government (or at its invitation) against a non-state group, such intervention will not transform the NIAC into an IAC. As noted above … , the ICRC’s proposal in the 1970s, that all conflicts involving foreign intervention are to be regarded as international, was rejected by states.”). See also Prosecutor v. Bemba, ICC-01/05-01/08-3343, Judgment, paras. 649-66 (Mar. 21, 2016); Prosecutor v. Bemba, ICC-01/05-01/08, Confirmation of Charges Decision, para. 246 (Jun. 15, 2009).}

\footnote{529}{Both treaty law and customary international humanitarian law prohibit starvation of civilians as a method of warfare during international and non-international armed conflicts.}

\footnote{530}{High Contracting Parties are the states that have signed – and have therefore given their explicit consent to be bound by – the Geneva Conventions. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention), 12 August 1949, 75 U.N.T.S. 31 (1950), art. 3 [GC Common Article 3]. For an explanation of why this term is used instead of “governments” or “states,” see Médecins Sans Frontières, The Practical Guide to Humanitarian Law: High Contracting Parties, https://guide-humanitarian-law.org/content/article/3/high-contracting-parties/ (last visited Sept. 27, 2022).}

\footnote{531}{Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), adopted June 8, 1977, at art. 1(1).}

Both treaty law and customary international humanitarian law prohibit starvation of civilians as a method of warfare during international and non-international armed conflicts.\footnote{Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), adopted 8 June 1977, at art. 54 [Additional Protocol I]; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), adopted June 8, 1977, at art. 14 [Additional Protocol II]; International Committee of the Red Cross Rules of Customary International Humanitarian Law, Rule 53 [ICRC Customary IHL Rule 53].} Article 14 of Additional Protocol II to the Geneva Conventions, which is applicable to the non-international armed conflict in Ethiopia, specifically prohibits using starvation as a method of combat. It states:

Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.\footnote{Additional Protocol II, see above note 535, at art. 14.}


The commentary explains that Article 14 is a “specific application” of Common Article 3 of the 1949 Geneva Conventions, imposing on warring parties the obligation to guarantee humane treatment for all persons not participating in hostilities and, in particular, prohibiting violence to life and person.\footnote{Id., at para. 4794.} Article 14 also codifies customary IHL prohibitions against starvation as a method of warfare\footnote{ICRC Customary IHL Rule 53, see above note 535.} and against attacks on objects indispensable to the survival of civilians.\footnote{International Committee of the Red Cross Rules of Customary International Humanitarian Law, Rule 54 [ICRC Customary IHL Rule 54].}
To find that conduct leading to starvation constitutes a “method of combat” requires more than just determining that actions occurring during an armed conflict contribute to starvation. Rather, for a situation of starvation to constitute a violation of Article 14, starving civilians must have been a tactic that a party to the conflict used to achieve military ends. The commentaries to the Additional Protocol state that “starvation is prohibited as a method of combat, i.e., when it is used as a weapon to destroy the civilian population.”  Two humanitarian-law experts writing about the application of this principle in other contexts have concluded that using starvation to effect the ethnic cleansing of an area, to punish perceived supporters of opposition forces, “or simply to annihilate or weaken the population would fall within the [Article 14] prohibition.”

The second sentence of Article 14 prohibits warring parties from using specific actions to bring about starvation; in particular, Article 14 prohibits “attack[ing], destroy[ing], remov[ing], or render[ing] useless” objects indispensable to the survival of the civilian population. This prohibition also includes deliberate inaction. The commentary states, “Starvation can also result from an omission. To deliberately decide not to take measures to supply the population with objects indispensable for its survival … would become a method of combat by default, and would be prohibited under this article.”

The analysis finds, on the basis of available information, that Ethiopia and its allies, in systematically looting food, water, and health systems, using siege, and obstructing humanitarian relief, almost certainly violated the prohibition on starvation.

Article 14 prohibits warring parties from committing the acts described above for the purpose of starving civilians. Because neither Article 14 nor the commentary to APII provide guidance on how

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542 Sandoz et al., Commentary, see above note 538, at para. 4799.
543 Akande & Gillard, “Conflict-Induced Food Insecurity,” see above note 146, p. 765; see also Commission on Human Rights in South Sudan, “There is nothing left for us”: starvation as a method of warfare in South Sudan, para. 7 (Oct. 5, 2020), https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_45_CRP_0.pdf.
544 Sandoz et al., Commentary, see above note 538, at para. 4800.
545 Id.
546 Id., at para. 4805.
548 Id.
to make determinations of “purpose,” legal scholars have, in other contexts, looked to international criminal law, which includes standards of intent for crimes that are serious violations of IHL.549 Conduct satisfying ICL standards on criminal intent would also meet the purpose requirement of Article 14. As set out in the Rome Statute of the International Criminal Court, the intent requirement for finding the war crime of starvation as a method of warfare can be met by finding that the perpetrator either directly intended the outcome or knew that the outcome was likely, *e.g.*, where a “person means to cause that consequence or is aware that it will occur in the ordinary course of events.”550

The following analysis applies IHL’s prohibition on starvation of civilians as a method of combat and the closely related IHL rules on humanitarian relief to the conduct of the Ethiopian government and its allied forces. The analysis finds, on the basis of available information, that Ethiopia and its allies, in systematically looting food, water, and health systems, using siege, and obstructing humanitarian relief, almost certainly violated the prohibition on starvation.

As discussed above, although Eritrea has not ratified APII, the Eritrean government and its military forces have binding obligations under the Geneva Conventions551 and customary IHL.552 Since Article 14 is, according to the ICRC, a specific application of Common Article 3 and a codification of customary IHL,553 much of the above analysis also applies to Eritrea. Eritrean forces’ extensive looting of food, water, and health-care systems,554 obstruction of humanitarian relief operations,555 and attacks on humanitarian relief workers,556 particularly when considered jointly, likely violate the customary law prohibition on the starvation of civilians as a method of warfare. Further investigations are needed into the role of Eritrean government or military officials in conceptualizing, planning, and implementing the siege of Tigray.

550 *Id.*, at art. 30(2)(b).
551 Common Article 3 applies to all parties to a non-international armed conflict, not only the state in which the conflict is occurring. GC Common Article 3, *see above* note 530, at art. 3(2). Eritrea must also, under Article 1, “respect and ensure respect for” IHL “in all circumstances.” *Id.*, at art 1.
552 ICRC Customary IHL Rules 53 and 54, *see above* notes 535 and 541.
553 Sandoz et al., *Commentary*, *see above* note 538, at para. 4794.
554 *See above* Warring-Party Conduct, section 1(a-c).
555 *See above* Warring-Party Conduct, section 3(a). Although Article 18(2) of AP II refers to “the High Contracting Party concerned” in the singular, and thus only applies to Ethiopia, customary IHL rules require all parties to the conflict to allow and facilitate rapid and unimpeded passage of humanitarian relief and to respect and protect humanitarian relief workers. International Committee of the Red Cross Rules of Customary International Humanitarian Law, Rule 55 [ICRC Customary IHL Rule 55].
556 *See above* Warring-Party Conduct, section 3(b).
(a) Prohibition on the use of siege tactics for the purpose of starving civilians

The term “siege” is not explicitly defined in international law.557 The essential elements of siege, as explained in various national military manuals, are the control of movement into and out of a particular area and the isolation of enemy forces from reinforcements and logistical supplies.558

International humanitarian law does not prohibit siege warfare in and of itself, but warring parties must conduct sieges according to the relevant rules of treaty law and customary international law.559 According to the commentary to APII, sieges must be “directed exclusively against combatants,”560 and IHL does “not allow the argument of military necessity to be used to justify starving the civilian population.”561 Since the isolation of a besieged area will inevitably harm civilians—often more immediately and to a greater extent than it harms the armed forces against whom the siege is directed—legal experts have expressed concern over whether siege warfare is compatible with the modern laws of war.562

Under IHL, to be lawful, a siege may be directed only against combatants. A siege targeted at combatants may, as a permissible consequence, deny essential goods to the civilian population in the area. However, as discussed below, Article 18(2) of APII requires a state—including a state conducting a siege of an area within its territory, as Ethiopia is doing in Tigray—to give consent to the provision of humanitarian relief to civilians when the conduct of armed conflict threatens civilian starvation.563 Thus, according to the commentary, “[a]s soon as there is a lack of indispensable objects, the international relief actions provided for in Article 18 should be authorized to enable the obligation following from Article 14 to be respected.”564

The Ethiopian government used siege tactics to encircle Tigray, a region home to more than six million people.565 When the conflict started on November 4, 2020, the government shut down access to cash, electricity, and telecommunications throughout Tigray.566 Between November 2020 and June 2021, the Ethiopian government only partially restored some services to areas where the Ethiopi-

558  Id.
560  Sandoz et al., Commentary, see above note 53, at para. 4796.
561  Id., at para. 4798.
563  Additional Protocol II, see above note 535, art. 18(2) (“If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.”).
564  Sandoz et al., Commentary, see above note 53, at para. 4798.
566  See above Warring-Party Conduct, section 2(a-c).
an-government-appointed interim administration exercised authority.\textsuperscript{567} When Tigrayan forces took control of parts of Tigray in June 2021, the Ethiopian government blocked the region’s access to cash, electricity, fuel, and telecommunications.\textsuperscript{568} In the 21\textsuperscript{st} century, these goods and services are essential to life, and their intentional deprivation can be central to a modern siege.

The Ethiopian government’s siege tactics contributed to mass hunger in Tigray. When the Ethiopian government tightened its siege in late June 2021, the Tigrayan population was already facing extreme hardship. The United Nations estimated that 400,000 people were experiencing famine conditions in Tigray.\textsuperscript{569} The Ethiopian government nevertheless chose to cut off basic services in areas controlled by Tigray forces.\textsuperscript{570} Even if the Ethiopian government’s use of siege tactics alone did not violate Article 14 of APII, the government, to comply with Article 14, would have had to authorize humanitarian relief to prevent civilians from starving. Instead, as discussed below, the Ethiopian government blocked nearly all humanitarian aid from entering Tigray for the next nine months.\textsuperscript{571}

Available information indicates that the siege tactics of Ethiopia and its allies, especially combined with its deprivation of humanitarian relief, almost certainly meet the criteria for finding that the Ethiopian federal government, with its allies, violated the prohibition against starvation of civilians as a method of combat.

The Ethiopian government’s actions satisfy the requirement that, to be found unlawful, a state must be shown to have deliberately caused civilian starvation to achieve a military end. Throughout the conflict, the Ethiopian government has consistently used siege tactics and denials of humanitarian relief against areas controlled by Tigray forces. The Ethiopian government first blocked cash, fuel, and electricity from entering Tigray at the start of the conflict, then slightly loosened restrictions in areas governed by the interim administration, and then re-instituted blanket restrictions once Tigrayan forces took control of Tigray in June 2021.\textsuperscript{572} These shutdowns coincided with Ethiopian government decisions to block the delivery of humanitarian aid.\textsuperscript{573}

The Ethiopian government’s use of siege tactics also meets the criteria for finding that a party to a conflict attacked, destroyed, removed, or rendered useless objects indispensable to the survival of the civilian population. Fuel, cash, and electricity are so necessary to civilians’ ability to obtain food, water, and life-saving health care that by denying civilians access to these items, the Ethiopian government’s siege has removed or rendered essential objects useless.

\textsuperscript{567} Id.
\textsuperscript{568} Id.
\textsuperscript{569} United Nations, “400,000 in Tigray cross ‘threshold into famine’”, see above note 421. See also Integrated Food Security Phase Classification, Risk of Famine in Tigray, see above note 125.
\textsuperscript{570} See above Warring-Party Conduct, section 2(a-c).
\textsuperscript{571} See above Warring-Party Conduct, section 3(a).
\textsuperscript{572} See above Warring-Party Conduct, section 2(a-c).
\textsuperscript{573} See above Warring-Party Conduct, section 3(a).
For example, electricity is an important part of civilian life in Tigray, particularly because many Tigrayans depend on mechanized grain mills and motorized water infrastructure. By blocking electricity to much of Tigray for extended periods of time, the Ethiopian government rendered mechanized grain mills and many water sources in Tigray useless. The lack of electricity has also reduced the capacity for Tigray’s health-care facilities to manage severe acute malnutrition in infants and children.

The Ethiopian government’s near-total ban on the transport of commercial or humanitarian fuel supplies into Tigray further limited access to food, water, and health care during the war. Fuel-powered generators are an important complement to the electrical grid in Tigray; without fuel, civilians in Tigray have been unable to use mills or water sources that run on generators. Fuel shortages have also prevented hospitals in Tigray from operating ambulances or generators. In addition, the lack of fuel has severely restricted vehicular travel in Tigray, preventing even the limited food and medicine present in certain parts of the region from being transported by commercial entities and humanitarian organizations to other areas where civilians are in need. Even when humanitarian food aid reached Mekelle, for example, a lack of fuel or cash frequently prevented it from being delivered to civilians living in rural areas.

The Ethiopian government’s restrictions on cash and banking have also served to deprive civilians of objects indispensable to their survival. Without cash, market systems in Tigray have partially or completely broken down. As a result, many civilians have been unable to obtain food even when it has been available for purchase. Although cash is not itself an object indispensable to the survival of civilians, the Ethiopian government’s restrictions on cash and banking are, in this context, a means of undermining or eliminating civilians’ ability to purchase food or water, pay for medical care, or buy

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574 See above Warring-Party Conduct, section 2(a-b).
575 See above Warring-Party Conduct, section 2(b).
576 Id.
577 Id.
578 See above Warring-Party Conduct, section 2(c).
580 Id. See also Warring-Party Conduct, section 3(a). See also Harter, “Tigray’s health system,” see above note 403.
581 See above Warring-Party Conduct, section 3(a).
582 See above Warring-Party Conduct, section 2(a).
583 Id. See also World Food Programme, Tigray Emergency Food Security Assessment, August 2022, see above note 16, p. 5 (“Over 75 percent of the households reported that they do not have access to markets and 85 percent reported that they do not use markets due to lack of cash to purchase food.”).
medicine. Throughout the war, banking restrictions significantly contributed to rendering food, water, and health-care systems useless.

The Ethiopian government’s conduct has also satisfied the purpose requirement of Article 14, as its conduct was certain to lead to starvation of civilians in the ordinary course of events. The Ethiopian government was aware, soon after the conflict began, of severe and widespread hunger in Tigray. Throughout the conflict, the Ethiopian government and its allies deprived civilians of objects essential to their survival and subjected enormous areas, in which millions of civilians lived, to siege tactics. When, as a result, supplies of food and water in Tigray became inadequate to meet civilian needs, the Ethiopian government and its allies blocked and withheld consent for the passage of humanitarian aid. In June 2021, when at least 400,000 people were estimated to be experiencing famine conditions, the Ethiopian government chose to tighten its siege. The unlawful denial of humanitarian aid by the Ethiopian government and its allies, discussed below, cemented the near certainty of the civilian population’s starvation, especially after June 2021. The commentary to Protocol II and the customary law prohibition on starvation as a method of warfare both suggest that the unlawful denial of humanitarian aid is a key indicator of deliberate starvation of civilians.

(b) Prohibition on destroying or removing essential objects for the purpose of starving civilians

The systematic looting of food, water, and health systems by Ethiopian government and allied forces, especially between November 2020 and June 2021, almost certainly violated the IHL prohibition on starvation of civilians as a method of combat.

In Tigray, Ethiopian and allied forces routinely, in the language of APII, “attack[ed], destroy[ed], remove[d] or render[ed] useless” the food, water, and health systems that civilians relied on to survive. According to the ICRC’s study on customary IHL: “Attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population is prohibited.” This rule is a corollary to the Article 14 prohibition on such conduct when done for the purpose of starving

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584 See above Warring-Party Conduct, sections 1(a-c), 2(a-c).
585 See above Warring-Party Conduct, section 2(a-c).
586 See above Warring-Party Conduct, section 3(a).
587 The commentary states: “Protocol II is conceived in such a way that this humanitarian rule [against purposive starvation of civilians] can be respected whatever the circumstances. Article 18 (Relief societies and relief actions), paragraph 2, actually provides for the organization of international relief actions in favour of the civilian population when the latter is suffering undue hardship owing to a lack of supplies essential for its survival. Between them [Article 14 and Article 18] these two provisions, which are closely linked, do not allow the argument of military necessity to be used to justify starving the civilian population.” Sandoz et al., Commentary, see above note 528, at para. 4798. Similarly, customary law requires that “the besieging party must allow the free passage of foodstuffs and other essential supplies, in accordance with [ICRC] Rule 55.” ICRC Customary IHL Rule 53, see above note 535.
588 ICRC Customary IHL Rule 54, see above note 541. The ICRC does not comment directly on whether customary IHL prohibits such attacks categorically or only when done for the purpose of starving civilians as a method of combat. The study says that, in non-international armed conflicts, “objects indispensable to the survival of the civilian population are civilian objects and may not be attacked as such.” Id. In international armed conflicts, the study notes that such attacks are permissible when the objects in question “are used as sustenance solely for combatants or otherwise in direct support of military action.” Id. The study finds it “doubtful” that “this exception also applies to non-international armed conflicts, because Article 14 of Additional Protocol II does not provide for it and there is no practice supporting it.” Id.
civilians. Article 14’s prohibition extends to destroying or attacking objects indispensable for survival even if opposing armed forces might have been able to benefit from those objects. The commentary to Protocol II explains:

The text [of Article 14] does not distinguish between objects intended for the armed forces and those intended for civilians. Except for the case where supplies are specifically intended as provisions for combatants, it is prohibited to destroy or attack objects indispensable for survival, even if the adversary may benefit from them. The prohibition would be meaningless if one could invoke the argument that members of the . . . armed opposition might make use of the objects in question. Of course, the possibility cannot be excluded that, for example, a source of drinking water might at some point be used by soldiers.590

Many reports have confirmed that looting by Ethiopian federal and allied forces in Tigray between November 2020 and June 2021 extended far beyond items intended exclusively as provisions for combatants.591 Ethiopian federal government and allied forces killed and appropriated livestock, burned crops, appropriated foodstuffs and key household items, and looted and destroyed medical facilities and water supplies throughout Tigray on an enormous scale.592 Ethiopian federal government and allied forces also looted humanitarian food aid that was expressly intended for civilians.593

By engaging in this looting, Ethiopian federal government and allied forces extensively attacked, destroyed, removed, and rendered useless objects that sustain civilian life and that were not specifically intended as provisions for combatants. Such actions by Ethiopian and allied forces, including Eritrean forces, almost certainly constitute attacks against objects indispensable to the survival of the civilian population.

The enormous scale of Ethiopian and allied forces’ looting of food, water, and health systems supports the conclusion that, in doing so, the Ethiopian government and allied forces employed starvation as a method of combat. Witnesses, human rights investigations, humanitarian aid workers, and former government officials have consistently reported that looting and destruction by Ethiopian federal government and allied forces was extensive, systematic, and coordinated.594 The Eritrean military’s systematic looting and destruction of food, water, crops, livestock, and household items has been a consistent component of its military advances.595

By attacking, destroying, removing, and rendering useless objects essential to the survival of civilians, the conduct of the Ethiopian government and allied forces likely satisfies the purpose requirement of Article 14, although further investigation is required to reach an authoritative conclusion. Even if

590 Sandoz et al., Commentary, see above note 538, at para. 4806.
591 See above Warring-Party Conduct, section 1(a-c).
592 See above Warring-Party Conduct, section 1(a-b).
593 See above Warring-Party Conduct, section 3(a).
594 See above Warring-Party Conduct, section 1(a-c).
595 Id.
some acts of looting and destruction of essential food, water, and health systems by Ethiopian and allied forces might not have been done with the intention of starving civilians, these acts of looting and destruction, in their totality, almost certainly made the starvation of civilians inevitable in certain areas. Acts of deliberate destruction, like burning crops or filling water pumps with sand, also present strong evidence of the intent to starve.

Ethiopian federal government and allied forces have made statements that suggest that the systematic looting, destruction, and deprivation of basic necessities was intended to weaken Tigrayan civilians’ support for the Tigray regional government. For example, available information indicates that, in at least some instances, these forces sought to starve Tigrayans to punish them for their perceived support for the TPLF. Statements by soldiers to civilians in Western Tigray and elsewhere suggested that they were aware of the likelihood that their conduct would deprive civilians of food but that they believed the civilians deserved this outcome because of their perceived support for, or participation in, the “junta.”

Amnesty International and Human Rights Watch also documented how, in Western Tigray, Amhara forces and officials, with support from Ethiopian federal forces and Eritrean troops, used starvation as part of a deliberate campaign of ethnic cleansing against Tigrayan civilians. In Western Tigray, Amhara and allied forces and militias forcibly displaced hundreds of thousands of civilians, some of whom expressly cited hunger as a cause of their displacement.

(c) Prohibition on obstructing or denying humanitarian aid to civilians suffering undue hardship

IHL requires the provision of impartial humanitarian aid to civilians who, due to conflict, are unable to meet their needs, including civilians encircled in an area under siege. The second paragraph of Article 18 of Additional Protocol II provides:

596 As discussed above, if further investigations establish that some objects indispensable to the survival of civilians were used exclusively to supply Tigray forces, then attacks on those objects by Ethiopia and its allies would be lawful. Similarly, some individual soldiers might simply have wanted to obtain the food, water, or health supplies in question for personal use, with the ensuing harms to civilians as a secondary, or even unintended, consequence. However, evidence suggests that these exceptions, although not impossible, are implausible in most areas of Tigray, where Ethiopian and allied forces attacked protected items systematically and on a massive scale. See above Warring-Party Conduct, section 1(a-c).

597 Muhumuza, “Our season,” see above note 168.

598 See above Warring-Party Conduct, sections 2(a), 3(a).

599 See above Warring-Party Conduct, section 3(a).


601 Id., pp. 150-51.
If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.602

By imposing prolonged bureaucratic delays, obstructing and denying impartial relief operations at military checkpoints, severely restricting supplies of fuel and cash, and attacking and harassing humanitarian aid workers, Ethiopia has violated the prohibition on obstructing or denying humanitarian relief to civilians suffering undue hardship.

As described in detail above, the civilian population in Tigray suffered undue hardship due to a lack of essential supplies, satisfying the condition, set out in Article 18, for requiring relief actions. The principles of impartiality and non-discrimination referred to in Article 18 require humanitarian organizations to provide aid solely on the basis of need, without making any distinctions based on a person’s nationality, race, gender, religious beliefs, or political opinions.603 The “exclusively humanitarian” nature of aid activities, as explained by the Red Cross, requires humanitarian action to aim “to prevent and alleviate human suffering, and to protect life and health and to ensure respect for the human being.”604

As outlined above in the Warring-Party Conduct section, the Ethiopian government has repeatedly alleged, without evidence, that aid organizations, including MSF and several UN agencies, violated their humanitarian mandate.605 Ethiopian federal government officials have not publicly shared credible evidence to substantiate its allegations that humanitarian organizations have been delivering weapons to rebel groups or spreading misinformation online. The United Nations has indicated that no such evidence has been shared privately, either. The head of UN OCHA characterized the Ethiopian government’s statements as “blanket accusations” that “need to be backed up by evidence, if there is any.”606

Despite Article 18’s inclusion of the phrase “subject to the consent of the High Contracting Party concerned,” the Ethiopian government may not reject relief operations at will.607 The ICRC has stated, in its study of customary international humanitarian law, “Consent must not be refused on

602 Additional Protocol II, see above note 535, at art. 18(2).
605 See above Warring-Party Conduct, section 3(a).
606 Sally Hayden, “‘Our people are starving’: Tigray is quickly becoming Africa’s latest forgotten war,” Irish Times (Sept. 25, 2021), https://www.irishtimes.com/opinion/our-people-are-starving-tigray-is-quickly-becoming-africa-s-latest-forgotten-war-1.4682721 (quoting Martin Griffiths, UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator).
607 Sandoz et al., Commentary, see above note 538, at para. 4885.
arbitrary grounds.” As the commentary to APII explains, Article 18 must be read in conjunction with Article 14. Where “the survival of the population is threatened and a humanitarian organization fulfilling the required conditions of impartiality and non-discrimination is able to remedy this situation, relief actions must take place. In fact, they are the only way of combating starvation when local resources have been exhausted.” A state’s withholding of consent to impartial humanitarian relief that is necessary to prevent civilian starvation is inherently arbitrary.

In June 2021, when the Ethiopian government began preventing nearly all humanitarian aid from entering Tigray, the survival of the Tigrayan population was already threatened. Impartial humanitarian organizations were prepared to deliver humanitarian aid to Tigrayan civilians, but the Ethiopian government prevented nearly all humanitarian aid from reaching them. The commentary to APII states, “If a state refuses such relief operations for the purpose of starving civilians, such a refusal would be equivalent to a violation of the rule prohibiting the use of starvation as a method of combat as the population would be left deliberately to die of hunger.”

As parties to the conflict, Ethiopia and Eritrea also had the obligation, under customary IHL, to “allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need.” As with Article 18, customary law requires aid efforts to be “impartial in character and conducted without any adverse distinction,” and distributions are “subject to [warring parties’] right of control.” The right of control does not, however, permit arbitrary denial of humanitarian access.

As described above, the delivery of humanitarian relief to civilians in Tigray was not rapid at any point in the conflict. Between November 2020 and February 2021, the Ethiopian federal government used bureaucratic processes to withhold clearances for humanitarian relief personnel for weeks at a time, in violation of its contractual agreement with the United Nations. Armed forces under or allied with

By imposing prolonged bureaucratic delays, obstructing and denying impartial relief operations at military checkpoints, severely restricting supplies of fuel and cash, and attacking and harassing humanitarian aid workers, Ethiopia has violated the prohibition on obstructing or denying humanitarian relief to civilians suffering undue hardship.

608 ICRC Customary IHL Rule 55, see above note 555.
609 Akande & Gillard, “Conflict-Induced Food Insecurity,” see above note 146, p. 771.
610 Id., p. 770.
611 See above Warring-Party Conduct, section 3(a).
612 Sandoz et al., Commentary, see above note 538, at para. 4885.
613 ICRC Customary IHL Rule 55, see above note 555.
614 Id.
the Ethiopian government, including Eritrean forces, routinely delayed or denied the passage of humanitarian aid at military checkpoints.616 Five months into the conflict, nearly half of Tigray’s population had received no assistance.617 From late June to late September 2021, Ethiopian officials allowed only 606 truckloads of humanitarian aid supplies to reach Tigray,618 an amount insufficient for even a single week.619 Throughout the conflict, Ethiopian officials and allied armed forces, including Eritrean troops, heavily restricted the movement of aid outside of areas controlled by the federal government and its allies.620

Journalists, humanitarian aid workers, and former government officials have said that the principal barrier to the rapid distribution of food supplies in Tigray has not been the unavailability of aid or the actual fighting between armed forces, but, rather, the bureaucratic hurdles, military checkpoints, and siege tactics used by Ethiopia and its allies.621 Despite the Ethiopian government’s repeated allegations of humanitarian agencies’ miscon-
duct, all available evidence indicates that relief efforts in Tigray were impartial, humanitarian, and conducted without any adverse distinction.\footnote{Id.} The conduct of Ethiopian and Eritrean forces appears to have violated the obligation, under customary IHL, to allow and facilitate rapid and unimpeded passage of humanitarian relief to civilians in need in Tigray.

Customary IHL also requires that parties to a conflict “ensure the freedom of movement of authorized humanitarian relief personnel” who are “essential” to the exercise of the functions of humanitarian relief organizations.”\footnote{International Committee of the Red Cross, \textit{Rules of Customary International Humanitarian Law}, Rule 56.} Although the movement of humanitarian personnel may be limited for military necessity, such limitations must “only be limited and temporary.”\footnote{Id.} In Tigray, as discussed above, Ethiopia and its allies often imposed categorical restrictions on the movement of humanitarian personnel into or out of particular areas and withheld necessary clearances for unduly long periods of time.\footnote{See above Warring-Party Conduct, section 3(a).} Ethiopian federal and allied forces have also attacked, detained, and killed humanitarian aid workers in Tigray.\footnote{Paravicini & Houreld, “UN official accuses Eritrean forces of deliberately starving Tigray,” see above note 188.} Through their categorical restrictions of and unlawful attacks on humanitarian aid workers, Ethiopia and Eritrea have violated the customary IHL obligation to ensure the freedom of movement humanitarian relief personnel.

\begin{center}
\textbf{Through their categorical restrictions of and unlawful attacks on humanitarian aid workers, Ethiopia and Eritrea have violated the customary IHL obligation to ensure the freedom of movement humanitarian relief personnel.}
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\section*{2. \textit{INTERNATIONAL HUMAN RIGHTS LAW}}

Under international human rights law (IHRL), states have an obligation to respect, protect, and fulfill a number of basic human rights that relate to food security, including the right to adequate food, the right to water, the right to the highest attainable standard of health, the right to life, and, within the African regional human rights system, the right to sustainable development. Ethiopia and Eritrea have ratified many international treaties that protect these and other essential human rights, including the International Covenant on Civil and Political Rights (ICCPR),\footnote{UN General Assembly, \textit{International Covenant on Civil and Political Rights}, 19 December 1966, 999 UNTS 171, Can TS 1976 No 47 (entered into force 23 March 1976) [ICCPR]. Ethiopia ratified the ICCPR in 1993. See United Nations, \textit{UN Treaty Collection: Chapter IV, Human Rights}, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=_en#EndDec; Eritrea ratified the ICCPR in 2002. See United Nations, \textit{UN Treaty Collection: Chapter IV, Human Rights}, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=_en#EndDec.} the International Covenant
on Economic, Social and Cultural Rights (ICESCR), and the African Charter on Human and Peoples’ Rights (the African Charter). Both states are also parties to various international human rights treaties that set out specific protections for the economic, social, and cultural rights of women, children, persons with disabilities, and others.

IHRL continues to apply during periods of emergency and armed conflict, albeit with some important differences from its application during peacetime. Some human rights treaties permit governments to limit or suspend certain human right obligations during periods of public emergency that threaten the life of the nation. However, any such exceptions—called “derogations” in international law—must conform to certain requirements, including being proportionate to the crisis at hand and non-discriminatory. Other rights are non-derogable, regardless of the circumstances. States are also obligated to ensure that, at the very least, the minimum essential components of economic, social, and cultural rights are protected in any circumstance, including in the context of natural disaster or armed conflict. These obligations, termed “minimum core obligations” by the Committee on Economic, Social and Cultural Rights (CESCR), the body established by the ICESCR to monitor

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635 UN Human Rights Committee, General Comment No. 29: Article 4 (States of Emergency), para. 1 (Oct. 24, 2001) [General Comment No. 29]. See also ICESCR, see above note 628, at arts. 2(1), 4.


637 Article 4(2) of the ICCPR, for example, specifies: “No derogation from articles 6 [right to life], 7 [prohibition on torture and cruel, inhuman or degrading treatment], 8 (paragraphs 1 and 2) [freedom from slavery and servitude], 11 [freedom from imprisonment for inability to fulfill a contractual obligation], 15 [prohibition against the retrospective operation of criminal laws], 16 [right to recognition before the law] and 18 [freedom of thought, conscience and religion] may be made,” even during a public emergency. ICCPR, see above note 627, at art. 4(2).

compliance with its provisions, are meant to establish a minimum level of protection for basic human needs from which states can never derogate, even in times of crisis.\textsuperscript{639}

The African Commission on Human and Peoples’ Rights (the African Commission) has also recognized the doctrine of minimum core obligations.\textsuperscript{640} According to the Commission, for economic, social, and cultural rights, states have a minimum core obligation “to ensure that no significant number of individuals is deprived of the essential elements of a particular right. This obligation exists regardless of the availability of resources and is non-derogable.”\textsuperscript{641} For example, under the African Commission’s guidelines on the implementation of economic, social and cultural rights, states, in order to satisfy the minimum core obligations for the right to food, must, under all circumstances and at all times:

\begin{itemize}
  \item take the necessary action to guarantee the right of everyone to be free from hunger and to mitigate and alleviate hunger even in times of natural or other disasters;
  \item refrain from and protect against destruction or contamination of food sources; [and]
  \item refrain from using access to food as a political tool to reward supporters, punish opponents, or recruit militias.\textsuperscript{642}
\end{itemize}

When states are unable to meet their minimum core obligations on their own, they are required to seek assistance and, in some cases, to permit humanitarian relief operations.\textsuperscript{643} Human rights treaties recognize that states face budget constraints and need to work progressively to fully realize the content of economic and social rights over time, rather than all at once.\textsuperscript{644} The CESCR has established, though, under the doctrine of minimum core obligations, that in times of crisis, if “any significant number of individuals is deprived of essential foodstuffs, of essential primary health care,” or of other basic rights,\textsuperscript{645} the burden is on the state to demonstrate that it has used every available resource, including international aid, to attempt to satisfy its minimum core obligations.\textsuperscript{646} Accordingly, the

\begin{itemize}
  \item \textsuperscript{639} Id.
  \item \textsuperscript{641} Id.
  \item \textsuperscript{642} Id., para. 86.
  \item \textsuperscript{644} African Commission on Human and Peoples’ Rights, Implementation of Economic, Social and Cultural Rights, see above note 640, paras. 13-15.
  \item \textsuperscript{645} Committee on Economic, Social and Cultural Rights, General Comment No. 3, see above note 638, para. 10.
  \item \textsuperscript{646} Id. See also Committee on Economic, Social and Cultural Rights, General Comment No. 8: The relationship between economic sanctions and respect for economic, social and cultural rights, UN Doc. E/C.12/1997/8, para. 7 (Dec. 12, 1997). As discussed below, in addition to the territorial state, other states and non-state armed groups likely also have human rights obligations to meet minimum core aspects of the right to food during conflict. See Hutter, “Starvation in Armed Conflicts,” see above note 643, p. 723; Annyssa Bellal, “Human Rights Obligations of Armed Non-State Actors: An Exploration of the Practice of the UN Human Rights Council,” Geneva Academy of International Humanitarian Law and Human Rights, p. 3 (2016).
CESCR has instructed conflict-affected states to do “everything possible” to satisfy at least the core aspects of the Covenant’s provisions during armed conflict, including by accepting foreign aid.\footnote{647}{UN General Assembly, Report of the United Nations High Commissioner for Human Rights, UN Doc. E/2015/49, para. 14.}

The human rights obligations in the context of the conflict in Ethiopia vary significantly among the various actors engaged in the fighting. Ethiopia’s obligations are, broadly speaking, the most straightforward: The Ethiopian state has engaged in the armed conflict, the armed conflict has taken place on Ethiopian territory, and Ethiopia has ratified several human rights treaties that apply to food insecurity.\footnote{648}{See above notes 627-629.} Ethiopia continues to have binding human rights obligations during armed conflict to respect, protect, and fulfill the human rights of all people within its territory.\footnote{649}{See generally International Law Commission, Memorandum by the Secretariat, The Effect of Armed Conflict on Treaties: An Examination of Practice and Doctrine, A/CN.4/550, para. 34 (Feb. 1, 2005).} Ethiopia has a duty to make every appropriate effort to realize, to the extent possible, the rights of those living in areas of its territory that are under the control of opposing armed groups.\footnote{650}{See generally Committee on Economic, Social and Cultural Rights, “Concluding Observations: on the fourth periodic report of Iraq,” UN Doc. E/C.12/IRQ/CO/4 (Oct. 27, 2015), para. 5. The ICESCR requires a state that has armed groups active in or controlling parts of its territory to “strive to the extent possible to meet its obligations under the Covenant by resorting to all measures compatible with international law.” Id. See also UN Human Rights Committee, “Concluding Observations: Republic of Moldova,” UN Doc. CCPR/C/MDA/CO/2 (Nov. 4, 2009), para. 5; Committee on Economic, Social and Cultural Rights, “Concluding Observations on Moldova,” UN Doc E/C.12/1/Add.91 (Dec. 12, 2003), para. 10; Committee on Economic, Social and Cultural Rights, “Concluding Observations on Cyprus,” UN Doc E/C.12/CYP/CO/5 (Jun. 12, 2009), para. 8. See generally Global Rights Compliance, International Law and Defining Russia’s Involvement in Crimea and Donbas, p. 83 (Feb. 13, 2022), https://globalrightscollaboration.com/wp-content/uploads/2022/05/International-Law-and-Russia-Involvement-in-Crimea-and-Donbas.pdf.}

This analysis treats conduct by sub-national armed actors like Amhara and Afar Special Forces as attributable, in most cases, to the Ethiopian state, since the Ethiopian federal government exercises formal control over these regional actors within the Ethiopian federal system.\footnote{651}{See generally European Institute of Peace, Special Police in Ethiopia, see above note 43; Adugna, “Regional Special Forces,” see above note 43.} Conduct by Amhara and Afar militias, which are fighting alongside Ethiopian state forces, is also likely attributable to the Ethiopian government. In determining whether acts of armed groups can be attributed to a state, international criminal tribunals have considered it sufficient to determine whether the group was “under the overall control of the State.”\footnote{652}{See International Committee of the Red Cross, How Does Law Protect in War? ICTY, The Prosecutor v. Tadić, available at: https://casebook.icrc.org/case-study/icty-prosecutor-v-tadic (last visited Sept. 27, 2022); The Prosecutor v. Thomas Lubanga Dyilo, Case No. ICC-01/04-01/06, Decision on the confirmation of charges, Pre-Trial Chamber I, para. 211 (Jan. 29, 2007). For a more general discussion, see Antonio Cassese, “The Nicaragua and Tadić Tests Revisited in Light of the ICJ Judgment on Genocide in Bosnia,” European Journal of International Law v. 18(4) (Sept. 2007).}

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**Ethiopia continues to have binding human rights obligations during armed conflict to respect, protect, and fulfill the human rights of all people within its territory.**
The application of IHRL to Eritrea is more complicated. UN treaty bodies have emphasized that a state operating outside of its national territories has obligations to respect, protect, and fulfill human rights— including economic, social and cultural rights—in situations over which that state exercises authority or effective control over territory or persons. Major human rights institutions, including the European Court of Human Rights, the UN Human Rights Committee, and the Inter-American Commission on Human Rights, agree that human rights obligations extend extraterritorially in situations in which a state exercises effective control over foreign territory or persons and that those obligations continue to apply during armed conflict. In its case law and its general comments interpreting the African Charter, the African Commission has recognized the extraterritorial human rights obligations of states that exercise effective control over territory or persons, as well as in certain circumstances, over conduct that could reasonably be foreseen to jeopardize the enjoyment of basic human rights in a foreign jurisdiction.

Precise determinations of where and when Eritrea has exercised effective control over territory or persons are beyond the scope of this analysis. However, given the significant extent of Eritrea's reported


[657] African Commission on Human and Peoples’ Rights, General Comment No. 3, see above note 656, para. 14 (“A State shall respect the right to life of individuals outside its territory. A State also has certain obligations to protect the right to life of such individuals. The nature of these obligations depends for instance on … whether the State engages in conduct which could reasonably be foreseen to result in any unlawful deprivation of life.”); see also Lilian Chenwi & T akele Soboka Bulto, Extraterritorial Human Rights Obligations from an African Perspective, p. 38 (Sept. 2018).
military involvement in Tigray after November 2020, this analysis seeks to assess the likelihood, as a general matter, that Eritrean forces have engaged in conduct that violated its extraterritorial obligations to respect basic human rights in Tigray. The goal of this assessment is to identify areas that need further, fact-specific investigation of Eritrea’s involvement. Particularly in parts of Eastern, Central, and North Western Tigray, Eritrean troops have reportedly controlled territory for extended periods of time since November 2020 and may have exercised government-like authority over civilians. Journalists have described Irob woreda of Eastern Tigray, for example, as “under total control of Eritrean forces who crossed into Ethiopia” and as “effectively … annexed by Eritrea, which is treating it [Irob] as part of its territory.”

Given disagreement about the extent to which states have positive obligations to individuals under their effective control when acting extraterritorially, the analysis in this study focuses on Eritrea’s obligations to refrain from arbitrarily depriving people of life and to refrain from interfering with the enjoyment of economic rights, especially the minimum core elements of those rights, while its forces are in Ethiopia. As the CESCR set out in its General Comment No. 24, the extraterritorial


659 See above notes 653-657.


661 The criteria used to evaluate whether armed forces exercise government-like authority over an area typically include control over movement, the use of force, and the provision of public services. See Antal Berkes, “The Human Rights Obligations of Non-state Actors,” in Berkes, International Human Rights Law Beyond State Territorial Control (2021).


665 See above notes 656-657.

666 African Commission on Human and Peoples’ Rights, Implementation of Economic, Social and Cultural Rights, see above note 640, para. 86. See also Sigrun I. Skogly & Mark Gibney, “Economic Rights and Extraterritorial Obligations,” in Economic Rights: Conceptual, Measurement, and Policy Issues, p. 278 (2009) (discussing the CESCR’s recognition of extraterritorial obligations to respect the minimum core contents of economic rights in its General Comments Nos. 12, 14, and 8, as well as states’ implied duty, as part of the obligation to promote universal respect for human rights under Articles 55 and 56 of the UN Charter, to refrain from adversely affecting the enjoyment of economic rights in other states).
obligation to respect economic rights requires, at a minimum, that parties to the ICESCR “refrain from interfering directly or indirectly with the enjoyment of the Covenant rights by persons outside their territories.”

As part of its international legal obligation to ensure that human rights are continuously respected and to protect the rights of everyone within its territory, Ethiopia must investigate, punish, and ensure redress for human rights violations committed on its territory. These obligations extend to conduct by its own forces, allied forces, and private individuals or non-state actors within Ethiopia’s jurisdiction.

(a) Right to life

The ICCPR and the African Charter guarantee the right to life. The right to life is non-derogable and applies to states acting extraterritorially when they have effective control over territory or persons.

People cannot survive without food, and the right to life entails an obligation to protect and respect the right to food. In its General Comment No. 36 on the right to life, the UN Human Rights Committee, the body established by the International Covenant on Civil and Political Rights to monitor compliance with and interpret the treaty, said that, as part of the duty to protect life, “States parties should take appropriate measures to address the general conditions in society that may give rise to

667 Committee on Economic, Social and Cultural Rights, General comment No. 24, see above note 653.
668 See generally Geneva Academy, State Responsibility for Human Rights Violations Committed in the State’s Territory by Non-State Actors, p. 10 (Dec. 2018) (“As subjects of international law, states are under an obligation to ensure that the treaties to which they are a party, and customary international law, are respected. Failure to do so will engage that state’s responsibility.”).
671 UN Office of the High Commissioner for Human Rights, Human Rights in Armed Conflict, see above note 634, p. 17.
673 ICCPR, see above note 627, at art. 4(2).
674 See generally Goldman, “Extraterritorial Application,” see above note 655.
direct threats to life … [including] hunger and malnutrition.” In at least some circumstances, then, the right to life can give rise to a binding obligation to respect and protect the right to food.

The African Commission has specifically said that security forces’ destruction of the “land and farms” that sustain individuals and communities, especially with “the direct involvement of the government,” constitutes a violation of the right to life under the African Charter. Various international human rights mechanisms have found that intentionally inflicting starvation upon a person or group violates the right to life—in particular, but not only, if a person dies as a result—as well as the right to freedom from cruel or inhuman treatment.

The UN Human Rights Committee has explained, in its General Comment No. 36, that the human right to life, while non-derogable, is not absolute. International law requires that no one be arbitrarily deprived of the right to life. In general, the use of lethal force consistent with IHL is not arbitrary. According to the Human Rights Committee, “a deprivation of life that lacks a legal basis or is otherwise inconsistent with life-protecting laws and procedures is, as a rule, arbitrary in nature” and, therefore, a violation of the right to life.

Ethiopia and its allies have violated the right to life in Tigray, an agrarian society in which millions of people depend on agriculture to survive. After the war began on November 4, 2020, members of the ENDF, EDF, and other allied forces extensively attacked crops, food stores, and other important food sources throughout Tigray. Deaths resulting from Ethiopian and allied forces’ violations of IHL prohibitions—which, as discussed above, included looting and destroying objects indispensable

As part of its international legal obligation to ensure that human rights are continuously respected and to protect the rights of everyone within its territory, Ethiopia must investigate, punish, and ensure redress for human rights violations committed on its territory.

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676  UN Human Rights Committee, General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, UN Doc. CCPR/C/GC/36, para. 10 (2018) [General comment No. 36].
678  155/96 : Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) / Nigeria, ACHPR Decision, para. 67 [SERAC v. Nigeria]. The SERAC communication did not require the Commission to analyze attacks on food sources in the context of armed conflict.
681  UN Human Rights Committee, General Comment No. 36, see above note 676.
682  Id. at para. 11.
683  As noted earlier in this report, this analysis discusses warring-party conduct only as it relates to food security and starvation. The report does not comment on other potential violations of the right to life in Tigray.
684  See above Warring-Party Conduct, section 1(a-c).
to the survival of civilians, using unlawful siege tactics, and obstructing humanitarian aid— are arbitrary, and, thus, constitute violations of the right to life under the African Charter and the ICCPR. In cases where Eritrean troops effectively controlled the territory or persons in question, such deaths would constitute violations of Eritrea’s obligation to respect the right to life in Tigray. Where the conduct of Eritrean troops outside its own territory could have been reasonably expected to cause the arbitrary deprivation of life, Eritrea likely violated its obligation to respect the right to life under the African Charter.

(b) Right to food

Several international human rights instruments protect the right to food, a term that encompasses both the right to adequate food and the fundamental right to be free from hunger. The 1948 Universal Declaration of Human Rights recognizes the right to food as part of the right to an adequate standard of living. Article 11 of the International Covenant on Economic, Social and Cultural Rights enshrines “the right of everyone to an adequate standard of living for himself and his family, including adequate food” (Article 11.1) and “the fundamental right of everyone to be free from hunger” (Article 11.2).

In the African regional system, although the African Charter does not explicitly protect the right to food, the African Commission on Human and Peoples’ Rights explained in SERAC & CESR v. Nigeria that the right to food is inherent in the Charter’s protection of the rights to life (Article 4), health (Article 16), and economic, social and cultural development (Article 22). The African Commission has also said that, under Article 4 of the African Charter, articulating the right to life, states must take “preventive steps” and provide “humanitarian responses” to avert famine.

Deaths resulting from Ethiopian and allied forces’ violations of international humanitarian law prohibitions are arbitrary, and, thus, constitute violations of the right to life under the African Charter and the ICCPR.

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685 See above Legal Analysis, section 1(a-c).
687 African Commission on Human and Peoples’ Rights, see above note 657 (explaining that the nature of a state’s obligations to respect the right to life of individuals outside its territory depends on the state’s effective control of territory or persons, “or whether the State engages in conduct which could reasonably be foreseen to result in an unlawful deprivation of life” (emphasis added)).
688 Committee on Economic, Social, and Cultural Rights, General Comment No. 12, see above note 675, para. 1.
689 ICESCR, see above note 628, at art. 11.1.
691 ICESCR, see above note 628, at art. 11.2.
692 SERAC v. Nigeria, see above note 678, at paras. 64-66.
693 African Commission on Human and Peoples’ Rights, General Comment No. 3, see above note 656, para 3.
Like any other human right, the right to food imposes three obligations on states: the obligations to respect, to protect, and to fulfill the right to food.694 The obligation to respect the right to food prohibits states from taking any measures that disrupt existing access to adequate food.695 The obligation to protect obliges states to ensure that private actors, including corporations, individuals, and non-state armed groups, do not deprive individuals of their access to adequate food.696 The obligation to fulfill requires that states take positive measures to ensure that food is available and accessible.697 During armed conflicts and other emergencies, governments have a duty to use all available resources, including humanitarian assistance, to feed people who are unable to feed themselves.698 States might, therefore, violate the right to food under the ICESCR through direct action, including any actions that “unduly hinder” the exercise of economic activities,699 or through omissions, such as failing to make adequate efforts to fulfill the right to food or insufficiently regulating non-state entities.700

Attacks by the ENDF and its allies on crops, agricultural areas, household food stores, and other important food sources represent likely violations by Ethiopia of its legal obligation to respect the right to food.

Even in times of crisis, states must provide access to minimum levels of nutritionally adequate food and must ensure freedom from hunger. As explained above, both the African Commission and the Committee on Economic, Social and Cultural Rights have set out minimum core obligations that every state must satisfy, in all circumstances, for everyone in its territory or under its effective control. By ratifying the ICESCR and the African Charter, Ethiopia has formally recognized its legal duty to respect, protect, and fulfill the human rights of every person within its jurisdiction during times of armed conflict or emergency.

The relationship between humanitarian law and human rights law in a non-international armed conflict is complex. They apply concurrently, but legal scholars and practitioners debate how and to what extent IHL, which provides the specialized rules applicable to situations of armed conflict, and IHRL, which is not displaced by IHL, operate together during armed conflict.701 The analysis in this section principally concerns abuses of the minimum core contents of the right to food that states are obli-

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694 See, e.g., Hutter, “Starvation in Armed Conflicts,” see above note 643.
696 Id.
698 Id.
699 UN Office of the High Commissioner for Human Rights, Right to Adequate Food, see above note 675, p. 17.
700 Id.
gated to satisfy at all times, including during emergencies and armed conflict. In addition, attacks on foodstuffs and other essential items that would jeopardize civilians’ freedom from hunger are justified by IHL only in exceptional circumstances, if at all.702

Publicly available information clearly suggests that, in Tigray, the Ethiopian government has violated its obligations to respect, protect, and fulfill the minimum core contents of the right to food. First, the African Commission has clarified that states must, under the minimum core obligations doctrine, “refrain from and protect against destruction and/or contamination of food sources.”703 Similarly, the ICESCR prohibits any action by a state party to directly interfere with people’s enjoyment of the right to food.704 Attacks by the ENDF and its allies on crops, agricultural areas, household food stores, and other important food sources thus represent likely violations by Ethiopia of its legal obligation to respect the right to food.705

Under IHRL, Ethiopia is obligated to respect and protect the rights of all people within its jurisdiction. This obligation compels Ethiopia to prevent other actors within its territory, including Eritrean troops, Fano militias, and private individuals, from violating the right to food.706

By failing to make every effort to use existing resources, including international assistance, to ensure that civilians in Tigray remain free from hunger, the Ethiopian government has also likely violated its obligation to fulfill the right to food.707

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702 See the discussion of Article 14’s “for that purpose” requirement in Legal Analysis 2(a). Federica D’Alessandra & Matthew Gillett, The war crime of starvation in non-international armed conflict, p. 11 (2019); Sandoz et al., Commentary, see above note 538, at para. 4806.

703 African Commission on Human and Peoples’ Rights, Implementation of Economic, Social and Cultural Rights, see above note 640, at para. 86.

704 Hutter, “Starvation in Armed Conflicts,” see above note 643, p. 737. See also Committee on Economic, Social, and Cultural Rights, General Comment No. 12, see above note 675, at para. 15.

705 In the African regional system, warring parties’ alleged use of indiscriminate shelling, air strikes, or land mines—which can cause environmental degradation and health problems—could also represent violations of the obligation not to contaminate food, although any such technical determinations are beyond the scope of this analysis. SERAC v. Nigeria, see above note 678, at para. 65.

706 Maastricht University & the International Commission of Jurists, Maastricht Principles, see above note 663, at paras. 9, 23, 25. In cases where Eritrean troops “act[ed] on the instructions or under the direction or control of” the Ethiopian state, the ensuing violations could be attributable to Ethiopia as a failure to respect, rather than protect, the right to food. Id., para. 12. States may be held responsible for the “result[s] of conduct attributable to a State, acting separately or jointly with other States or entities, that constitutes a breach of its international human rights obligations” (emphasis added). Id., at para. 11.

707 See above Warring-Party Conduct, section 3(a).
access to adequate food. As the Committee on Economic, Social and Cultural Rights has explained, wherever people lack access to the minimum essential elements of a particular right, a state “must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.” The African Commission has said that, as a minimum core obligation of the right to food, states must “take the necessary action to guarantee the right of everyone to be free from hunger and to mitigate and alleviate hunger even in times of natural or other disasters.”

In Tigray, armed conflict and forced displacement have left more than 90% of the civilian population in need of emergency food assistance. Determining whether the Ethiopian government has met its obligation to fulfill the right to food requires evaluating whether it has taken the necessary action to try to provide access to food to all people in Tigray who are unable to feed themselves. There is overwhelming evidence that Ethiopia has violated its obligation to fulfill the right to food.

First, although the Ethiopian government made use of some of its available domestic resources to attempt to meet its minimum core obligations to people in Tigray, federal emergency aid was never sufficient to meet humanitarian need in Tigray. Between December 2020 and June 2021, the Ethiopian government provided food aid to Tigray via the National Disaster Risk Management Commission (NDRMC). In December 2020, the NDRMC worked jointly with the United Nations to assess humanitarian need in Southern Tigray. The federal government appointed an interim administration in Tigray that took limited actions to meet peoples’ basic needs. But, as of mid-March 2021, people in rural areas of Tigray had not received any food aid, whether federal or international, in five months, and some 75% of internally displaced people in Mekelle had not received any food assistance. From June 2021 until the end of 2022, the Ethiopian government stopped providing food aid directly to civilians in Tigray.

Rather than attempting to justify its actions or omissions on the basis of resource constraints, the Ethiopian government has chosen to deny the existence and severity of the crisis in Tigray and to offer inflated claims about the federal government’s response. On March 17, 2021, for example, a

709 Committee on Economic, Social and Cultural Rights, General Comment No. 3, see above note 638, para. 10.
710 African Commission on Human and Peoples’ Rights, Implementation of Economic, Social and Cultural Rights, see above note 640, para. 86(a).
711 See above Overview, section 2.
712 Lowenstein Clinic interview with a former interim administration official, April 2022.
715 See above Warring-Party Conduct, section 3(a). See also above A Note on the Cessation-of-Hostilities Agreement.
Ministry of Foreign Affairs spokesperson announced that “about 4.2 million citizens [in Tigray] have been reached through the relief and the rehabilitation process” and that the government was covering 70% of food assistance from its own resources.\footnote{Government of Ethiopia, Gov’t reaches 4.2 million relief beneficiaries in Tigray (Mar. 16, 2021), https://reliefweb.int/report/ethiopia/gov-t-reaches-42-million-relief-beneficiaries-tigray; see also “Amhara Region Places Two Billion Br in War Recompense,” Addis Fortune (May 30, 2021), https://addisfortune.news/amhara-region_places-two-billion-br-in-war-recompense/.


Second, even if the Ethiopian government could demonstrate that its own resources were insufficient to prevent hunger in Tigray, Ethiopia still almost certainly violated the right to food in Tigray, since the federal government has failed to make use of international assistance. As the CESCR outlined in its General Comment No. 12, the burden is on the Ethiopian government to prove it had “unsuccessfully sought to obtain international support to ensure the availability and accessibility of the necessary food.”\footnote{Committee on Economic, Social, and Cultural Rights, General Comment No. 12, see above note 675, para. 17.

It would be difficult for the Ethiopian government to demonstrate that it was unable, rather than unwilling, to obtain international support for its citizens in Tigray. Throughout the armed conflict, humanitarian organizations have made many requests, repeatedly denied, both by federal and regional government officials, to deliver aid.\footnote{See above Warring-Party Conduct, section 3(a). See also Human Rights Watch, “I Always Remember That Day,” see above note 97.} The federal government has suspended several widely respected international humanitarian organizations, expelled high-ranking UN officials, and publicly accused humanitarian relief workers of supplying Tigrayan armed forces.\footnote{See above Warring-Party Conduct, section 3(a).} In Afar region and throughout Tigray, Ethiopian and allied forces have actively obstructed the delivery of aid, including

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at checkpoints or via airstrikes.\textsuperscript{722} Ethiopian and allied forces have consistently harassed, attacked, or expelled humanitarian relief workers.\textsuperscript{723}

Throughout its siege of Tigray, and especially after July 2021, the federal government has limited the provision of humanitarian assistance by international organizations to such a severe extent that, at various times—including in early October 2021 and early January 2022—humanitarian organizations in Tigray were distributing food to just 1% of the estimated 5.2 million people in need.\textsuperscript{724} Human Rights Watch concluded in November 2021: “The [Ethiopian] government is unlawfully restricting and denying desperately needed food, medical supplies, and fuel to the population of Tigray.”\textsuperscript{725}

The Ethiopian federal government’s denial of international humanitarian assistance has also likely violated the African Commission’s minimum core obligation to “refrain from using access to food as a political tool to reward supporters, punish opponents or recruit militias.”\textsuperscript{726} In January 2022, Prime Minister Abiy reportedly told members of an Ethiopian-American organization that the government needed time to “force” the people of Tigray to reconsider their alleged support for the TPLF: “They want the population to push the TPLF to negotiate,” the diaspora group’s chairperson reported.\textsuperscript{727} If further investigations substantiate the allegation that the Abiy government restricted humanitarian food aid as part of a calculated decision to punish supporters of its political opponents in Tigray, it would show that Ethiopia violated the African Charter’s prohibition on using food as a political tool.

Where Eritrea had obligations to respect the right to food in Tigray, there is substantial evidence indicating that Eritrea violated those obligations. Publicly available information demonstrates that Eritrea has repeatedly failed, in the words of the African Commission, to “refrain from and protect against [the] destruction and/or contamination of food sources” while its forces have been present in Ethiopia.\textsuperscript{728} As outlined above in the Warring-Party Conduct section, many of the aforementioned attacks on food sources in Tigray were committed by Eritrean forces, who reportedly acted in concert with the ENDF and other allied forces, including Fano militias, in some circumstances and independently in others.\textsuperscript{729} Although states’ extraterritorial obligations to respect the right to food in territory in


\textsuperscript{723} See above Warring-Party Conduct, section 3(a-b).


\textsuperscript{726} African Commission on Human and Peoples’ Rights, Implementation of Economic, Social and Cultural Rights, see above note 640, para. 86 (2011).


\textsuperscript{728} African Commission on Human and Peoples’ Rights, Implementation of Economic, Social and Cultural Rights, see above note 640, para. 86. See also Warring-Party Conduct, section 1(a).

\textsuperscript{729} See above Warring-Party Conduct, section 1(a).
which its forces operate are less firmly established than their duty to respect the right to life.\textsuperscript{730} Eritrea has likely violated the right to food of people in Tigray. The African Commission has yet to explain precisely when and to what extent states may be held responsible for extraterritorial violations of economic rights, like the right to food.\textsuperscript{731} The Committee on Economic, Social and Cultural Rights has discussed states’ extraterritorial obligations regarding the right to food under the ICESCR using only recommendatory, rather than binding, language.\textsuperscript{732}

\textit{(c) Right to water}

The right to water is both a right in and of itself\textsuperscript{733} and an essential requirement for the enjoyment of other rights, including the right to food, the right to the highest attainable standard of health, and the right to life.\textsuperscript{734} The Committee on Economic, Social and Cultural Rights has said that the right to water should be understood as inseparable from other fundamental human rights, including “the right to life and human dignity.”\textsuperscript{735} In the same way that governments must make every effort to ensure that, as a matter of priority, minimum essential levels of adequate food are accessible to everyone,\textsuperscript{736} governments have a core obligation to ensure access to minimum essential amounts of safe drinking water.

First, under the African Charter, states have a duty to refrain from any actions that deprive people of minimum essential amounts of safe water needed for survival. This duty is non-derogable: No circumstances, including armed conflict, can justify a state’s non-compliance with its minimum core obligations.\textsuperscript{737} The African Commission stated categorically in its 2020 Guidelines on the Right to Water in Africa, “Under no circumstances may an individual be deprived of the minimum essential

\textsuperscript{730} See generally Ralph Wilde, “Socioeconomic Rights, Extraterritorially,” in Community Interests Across International Law p. 382 (2018) (“The push toward the affirmation and delineation of extraterritorial human rights treaty obligations can be seen perhaps to have been most prominent and developed in the field of civil and political rights, when this set of rights is compared with economic, social, and cultural rights.”).

\textsuperscript{731} In the DRC v. Burundi, Rwanda and Uganda case, the Commission’s legal analysis of the “looting of the [Congolese] peoples’ possessions” by members of the armed forces of Uganda, Rwanda, and Burundi was predicated on those states’ “[territorial] occupation of the eastern provinces” of the DRC. \textit{ACHPR Communication 227/99, see above note 656}, paras. 69, 72. In a case concerning Kenya, Uganda, Rwanda, Tanzania, and Zaire’s economic sanctions on Burundi, the Commission implied that the imposition of an economic embargo could, in some circumstances, constitute a violation of a state’s extraterritorial obligation to respect economic rights, but the Commission did not find such a violation in the Burundi case. \textit{ACHPR Communication 157/96, see above note 656}, para. 75.

\textsuperscript{732} Committee on Economic, Social and Cultural Rights, \textit{General Comment No. 12, see above note 675}, para. 32 (“States parties should take steps to respect the enjoyment of the right to food in other countries, to protect that right, to facilitate access to food and to provide the necessary aid when required.”) (emphasis added).

\textsuperscript{733} Resolution adopted by the General Assembly on 28 July 2010 [without reference to a Main Committee (A/64/L.63/Rev.1 and Add.1)] 64/292. The human right to water and sanitation.


\textsuperscript{735} Committee on Economic, Social and Cultural Rights, \textit{General Comment No. 15: The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights)}, UN doc. E/C.12/2002/11, para. 3 (2003) [\textit{General Comment No. 15}].

\textsuperscript{736} Committee on Economic, Social and Cultural Rights, \textit{General Comment No. 3, see above note 638}, para. 10.

\textsuperscript{737} African Commission on Human and Peoples’ Rights, \textit{Implementation of Economic, Social and Cultural Rights, see above note 640}, para. 17.
amount of water for basic human needs and survival." Moreover, under the African Commission’s jurisprudence, including in SERAC v. Nigeria, states also have a duty to protect people within their jurisdiction from any such acts of deprivation by others.

Ethiopia has violated its minimum core obligation not to interfere with the enjoyment of the right to water in Tigray. Many of the acts of looting and destruction of hand pumps, mechanized pumps, and other water sources that were essential to meeting the needs of civilians, described above in the Warring-Party Conduct section, are attributable to Ethiopian and allied forces and likely constitute violations of the right to water.

Second, as the CESCR set out in its General Comment No. 15, governments have an obligation, even in times of crisis, “[t]o ensure access to the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease.” The Committee has been quite clear: Whenever Covenant obligations are not met, the burden is on the state to prove “that every effort has nevertheless been made to use all available resources at its disposal in order to satisfy, as a matter of priority, the obligations outlined above” (emphasis added). As with the right to food, this duty includes an obligation to make use of international assistance. The Committee has stressed that, unless it can satisfy this very rigorous burden of persuasion, “a State party cannot justify its non-compliance” with its core obligations regarding the right to water, “which are non-derogable.”

In its 2020 Guidelines on the Right to Water in Africa, the African Commission defined even more explicitly the obligations of states to provide, or facilitate the provision of, water in areas affected by armed conflict. The Commission stated:

Following an emergency situation such as a natural disaster or armed conflict, States shall adopt an effective response plan to ensure that people have access to minimum

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738 To define “minimum,” the ACHPR Guidelines adopt the absolute minimum threshold, as determined by the WHO, of 20 liters per person per day. See ACHPR Guidelines on the Right to Water in Africa, see above note 636, p. 10.
739 SERAC v. Nigeria, see above note 678, para. 50.
740 Committee on Economic, Social and Cultural Rights, General Comment No. 15, see above note 735, para. 37(a).
741 Id., para. 41.
742 Id., para. 44(c) (“Violations of the obligation to fulfil occur through the failure of States parties to take all necessary steps to ensure the realization of the right to water. Examples include, inter alia: … (v) failure to adopt mechanisms for emergency relief; (vi) failure to ensure that the minimum essential level of the right is enjoyed by everyone; (vii) failure of a State to take into account its international legal obligations regarding the right to water when entering into agreements with other States or with international organizations.”); see also Committee on Economic, Social and Cultural Rights, General Comment No. 3, see above note 638, para. 10; Committee on Economic, Social and Cultural Rights, General Comment No. 8: The relationship between economic sanctions and respect for economic, social and cultural rights, UN Doc E/C.12/1997/8 (Dec. 12, 1997), para. 14.
743 Committee on Economic, Social and Cultural Rights, General Comment No. 15, see above note 735, para. 40.
quantities of safe water and basic sanitation without discrimination and to facilitate the provision of aid to vulnerable and affected persons where necessary.\footnote{ACHPR Guidelines on the Right to Water in Africa, see above note 626, para. 30.1.}{744}

Both by depriving people of access to water and by failing to facilitate the provision of water, Ethiopia has failed to meet its minimum core obligations regarding the right to water. In Tigray, the joint humanitarian needs assessments by the United Nations and the NDRMC make clear that the Ethiopian government was aware, as of December 2020, that significant numbers of civilians in Tigray had insufficient or no access to safe water and that many were forced to fetch water from unprotected sources.\footnote{Government of Ethiopia – National Disaster Risk Management Commission, Joint Rapid Needs Assessment Mission, see above note 28, pp. 4-5.}{745} Yet the government continued to restrict access to water in Tigray by curtailling the delivery of humanitarian fuel supplies needed to operate mechanized pumps, deliver tanks of safe drinking water, and distribute water treatment systems.\footnote{See above Warring-Party Conduct, sections 2(c), 3(a).}{746} Fuel shortages have been so severe that at various points in the conflict, humanitarian organizations in Tigray had to halt operations entirely.\footnote{See, e.g., UN Office for the Coordination of Humanitarian Affairs, Ethiopia—Northern Ethiopia Humanitarian Update Situation Report (Jan. 20, 2022), https://reliefweb.int/report/ethiopia/ethiopia-northern-ethiopia-humanitarian-update-situation-report-20-january-2022.}{747}

Ethiopia also has a core obligation to ensure access to water facilities or services, including a sufficient number of water outlets that are at reasonable distances from people’s households and that do not require prohibitive waiting times—as MSF teams reported witnessing, for example, in excessive queues at water sources in Adigrat.\footnote{Committee on Economic, Social and Cultural Rights, General Comment No. 15, see above note 735, para. 37(c).}{748} The reported attacks by Ethiopian and allied armed forces on water facilities and services in Tigray, including the looting and destruction of water facilities,\footnote{See above Warring-Party Conduct, section 1(b).}{749} almost certainly constitute violations of the core obligation to ensure access to water.

Where Eritrea had effective control over territory or persons in Tigray,\footnote{For a discussion of available information concerning the reported extent of Eritrea’s effective control of territory or persons in Tigray, see above notes 658-663.}{750} Eritrea likely violated its obligation to respect the minimum core elements of the right to water by directly interfering, through the looting and destruction of household items and water points, with the enjoyment of the right to water in Tigray.\footnote{Acts of looting or destruction of water-supply systems and equipment by Eritrean forces could, depending on the circumstances in question, constitute violations of the right to water by Eritrea, by Ethiopia, or both. As explained in the}{752}
Economic, Social and Cultural Rights has indicated that states should interpret their obligations to respect, protect, and fulfill the right to water as applicable to “all persons residing in the State party’s territorial jurisdiction or under their control.”\(^\text{753}\) Similarly, the African Commission has clarified that a state party to the African Charter must ensure that the right to water is realized for all persons “within its jurisdiction,” rather than limiting the scope of a state’s obligations to its national territory.\(^\text{754}\)

(d) Right to the highest attainable standard of health

As with other economic and social rights, Ethiopia has a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of the right to health, as enshrined in Article 12 the ICESCR\(^\text{755}\) and Article 16 of the African Charter.\(^\text{756}\) The minimum core obligations of the right to health are non-derogable and continue to apply during armed conflict.\(^\text{757}\) Moreover, the Committee on Economic, Social and Cultural Rights has specified that, in the event that a state is not able to realize the minimum core contents of the right to health, whether due to armed conflict or other constraints, “it is particularly incumbent on States parties and other actors in a position to assist, to provide international assistance.”\(^\text{758}\) The Committee has also clarified that “[t]o comply with their international obligations in relation to article 12, States parties have to respect the enjoyment of the right to health in other countries,”\(^\text{759}\) especially when the minimum essential elements of the right to health are at stake.\(^\text{760}\) In Tigray, the near-total collapse of the regional health system has plainly jeopardized civilians’ access to many core elements of the right to health.\(^\text{761}\)

The minimum core contents of the right to health are well defined.\(^\text{762}\) Since many violations of the right to health in Tigray are beyond the scope of this analysis, this section discusses specific elements of the minimum core contents of the right to health that directly relate to starvation.

\(^{753}\) Committee on Economic, Social and Cultural Rights, *General Comment No. 15*, see above note 735, para. 53.

\(^{754}\) ACHPR Guidelines on the Right to Water in Africa, see above note 636, para. 11.1.

\(^{755}\) ICESCR, see above note 628, at art. 12; see also Committee on Economic, Social, and Cultural Rights, *General Comment No. 12*, see above note 675.


\(^{759}\) Id., at para. 39.

\(^{760}\) Id.

\(^{761}\) See above Warring-Party Conduct, section 1(c).

\(^{762}\) Committee on Economic, Social, and Cultural Rights, *General Comment No. 14*, see above note 758, para. 43 (”[I]n the Committee’s view, these core obligations include at least the following obligations: (a) To ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups; (b) To ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone; (c) To ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable..."
As discussed in the Warring-Party Conduct section above, malnutrition and poor sanitation substantially increase a person’s risk of illness and death from hunger or disease. Accordingly, the Committee on Economic, Social and Cultural Rights has said that to meet their minimum obligations regarding the right to health, states must, at the very least, “ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone.” States must also “ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water.” The African Commission has also confirmed that, under Article 16 of the African Charter, states have a minimum duty “to desist from directly threatening the health and environment of their citizens.”

Ethiopia has violated its minimum core obligations regarding the right to health. Ethiopia’s abuses of the rights to food and water, described above, also constitute violations of its obligations to refrain from threatening the health of its citizens and to ensure the realization of the minimum essential elements of the right to health. By obstructing humanitarian relief, attacking and harassing humanitarian relief workers, and creating shortages of cash, fuel, and electricity, Ethiopia has denied civilians adequate nutrition and freedom from hunger.

Where Eritrea had effective control over territory or persons in Tigray, Eritrea’s likely violations of the rights to food and water in Tigray, discussed above, would also constitute violations of its duty to respect the minimum essential elements of the right to health.

(e) Human rights of particular groups

International human rights law creates specific protections for particular groups, including women, children, and persons with disabilities. The doctrine of minimum core obligations requires states to prioritize the needs of vulnerable groups, including children and pregnant or lactating women, in

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763 See above Warring-Party Conduct, section 1(c).
764 Id., at para. 43(b).
765 Id., at para 43(c).
766 SERAC v. Nigeria, see above note 676, para. 52.
767 See above Warring-Party Conduct, section 3(a).
768 See above Warring-Party Conduct, section 3(b).
769 See above Warring-Party Conduct, section 2(a-c).
770 For a discussion of available information concerning the reported extent of Eritrea’s effective control of territory or persons in Tigray, see above notes 658–663.
times of crisis.771 Also, Ethiopia and Eritrea are parties to a number of international human rights treaties— including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD)— that articulate protections for particular groups. Ethiopia is also a party to the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).772 Eritrea has signed but not ratified the Maputo Protocol and the Kampala Convention.

It is not within the scope of this legal analysis to evaluate the myriad human rights claims that people in Tigray could make under these various instruments. Nevertheless, the availability of additional collective and group-specific legal protections suggests a range of possible violations that warrant further investigation.

3. INTERNATIONAL CRIMINAL LAW

International criminal law (ICL) is a body of international law that defines certain serious violations of international law as international crimes, including genocide, war crimes, and crimes against humanity.773

Certain serious violations of IHL in the context of an armed conflict constitute war crimes, provided the perpetrator was aware of the armed conflict and acted with the requisite intent.774 Where any of a specified set of serious abuses are carried out as part of a widespread or systematic attack on a civilian population, whether during armed conflict or not, those acts constitute crimes against humanity if the perpetrator acted with the requisite intent and awareness of the wider attack.775 The crime of genocide refers to the commission of any of a set of specified acts with intent to destroy, in whole or
in part, a national, ethnic, racial, or religious group.776 Under ICL, individuals may be held criminally responsible for planning, attempting, assisting in, facilitating, aiding or abetting, or failing to prevent the commission of these international crimes.777

The Rome Statute of the International Criminal Court (ICC), which established the Court and defined the crimes within its jurisdiction, is the most authoritative and up-to-date source of ICL. Ethiopia has neither signed nor ratified the Rome Statute; Eritrea has signed but not ratified it.778 Nevertheless, the Rome Statute is relevant to the conflict in Ethiopia. In assessing whether warring parties have committed international crimes, the definitions in the Rome Statute are authoritative and provide a basis for determining whether international crimes have been committed, regardless of whether individual perpetrators eventually face charges.

There are several ways in which the ICC could obtain jurisdiction over international crimes committed during the conflict in Tigray. The UN Security Council could refer the situation to the ICC.779 Alternatively, Ethiopia or Eritrea could accept the jurisdiction of the ICC on an ad hoc basis without becoming full state parties to the Rome Statute.780 A domestic court in a country other than Ethiopia or Eritrea could, based on universal jurisdiction or another form of extraterritorial jurisdiction, hear a case against individuals involved in the conflict.781

Although international criminal law applies to individuals, rather than states, the legal analysis in the present study does not seek to identify specific individuals who have or might have perpetrated international crimes over the course of the conflict in northern Ethiopia. Rather, through its preliminary assessment of various alleged violations that affect civilian food security, this analysis intends to assess whether international crimes were likely committed by Ethiopian and allied forces and to identify possible areas of focus for future investigations and accountability measures.

776 Id., at art. 6.
778 States that ratify a treaty agree to be legally bound by the obligations set out in that treaty. States that sign, but do not ratify, a treaty are not legally bound by its provisions but are prohibited from taking actions contrary to the object and purpose of the treaty. United Nations, Vienna Convention on the Law of Treaties, art. 18 (1969).
779 Rome Statute, see above note 549, at art. 13(b).
780 Id., art. 12(3).
781 Universal jurisdiction, as defined in the Princeton Principles on Universal Jurisdiction, “is “criminal jurisdiction based solely on the nature of the crime, without regard to where the crime was committed, the nationality of the alleged or convicted perpetrator, the nationality of the victim, or any other connection to the state exercising such jurisdiction.” Princeton University Program in Law and Public Affairs, The Princeton Principles on Universal Jurisdiction 28 (2001). Universal jurisdiction allows domestic judicial systems to investigate and prosecute certain grave international offenses, like war crimes, genocide, torture, and crimes against humanity, no matter where they occur. See Human Rights Watch, Basic Facts on Universal Jurisdiction (Oct. 19, 2009), https://www.hrw.org/news/2009/10/19/basic-facts-universal-jurisdiction. These cases would likely rely on international criminal law as codified in the Rome Statute; a number of countries have enacted statutes implementing the Rome Statute into domestic law. See, e.g., Mwatana for Human Rights & Global Rights Compliance, Starvation Makers: The use of starvation by warring parties in Yemen, p. 97 (Sept. 2021), https://mwatana.org/wp-content/uploads/2021/09/Starvation-Makers-2021-En.pdf.
(a) War crimes

Article 8(2)(e)(xix) of the Rome Statute defines the war crime of starvation in non-international armed conflicts as the act of “intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies.”

Based on publicly available information, because Ethiopian government and allied forces have almost certainly used starvation of civilians as a method of warfare and deprived civilians of objects indispensable to their survival, their actions likely constitute the war crime of starvation, although further investigation is necessary to establish the requisite intent and identify specific individual perpetrators.

Using starvation of civilians as a method of warfare

To constitute the war crime of starvation, the perpetrator must have used the starvation of civilians as a method of warfare. According to the commentary to APII, the phrases “method of combat” in Article 14 and “method of warfare” are synonymous. As outlined in the IHL analysis above, publicly available information suggests that Ethiopian and allied forces used starvation tactically to weaken or punish the civilian population and, in some cases, possibly to pursue the objective of ethnic cleansing.

Depriving civilians of objects indispensable to their survival

Actions by Ethiopian and allied forces almost certainly satisfy the act element of the war crime of starvation: depriving civilians of objects indispensable to their survival. Since the definition of the war crime of starvation was meant to make violating the relevant provision of IHL a crime, this category of indispensable objects should be understood as identical to the list provided in Article 14 of APII. The perpetrator must have deprived civilians of indispensable objects with knowledge that the objects were, in fact, essential to the survival of the civilian population. Based on publicly available information, the scale and systematic nature of the deprivation of essential food, water, and health supplies throughout Tigray suggests that, in many cases, at least, perpetrators acted with knowledge that the survival of civilians depended on the objects in question. Thus, Ethiopian and allied forces have satisfied the act element of the war crime of starvation by attacking, destroying, and removing essential food, water, and health supplies and rendering those supplies useless via unlawful siege.

782 Rome Statute, see above note 549, at art. 8(2)(e)(xix).
783 Sandoz et al., Commentary, see above note 538, at para. 4799.
784 See above Warring-Party Conduct, sections 1(a-c), 2(a-c), and 3(a).
785 See above Warring-Party Conduct, section 3(a). See also Amnesty International & Human Rights Watch, "We Will Erase You," see above note 26.
786 See above Legal Analysis, section 1(a-b).
787 Rome Statute, see above note 549, at art. 30.
788 See above Warring-Party Conduct, section 1(a-c).
789 Documented statements by some perpetrators in Western Tigray represent particularly strong indications of intent. See, e.g., Warring-Party Conduct, section 3(a).
790 See above Warring-Party Conduct, section 1(a-c).
tactics. Ethiopian and allied forces also willfully impeded the delivery of relief supplies, including food aid, to civilians whose survival was threatened.

**Intent**

To conclude that conduct constituted the war crime of starvation requires finding that the perpetrator satisfied the mental element of the crime. In the same way that Article 14 of APII requires the *purposeful* starvation of civilians, the war crime of starvation requires that the perpetrator intended to starve civilians. As discussed previously, this criminal intent element can be satisfied by either a direct intent standard, where the perpetrator meant to cause the civilian population to starve, or an indirect standard, which requires that the perpetrator had “an appreciation of a virtual certainty that starvation will result in the ordinary course of events.”

Such determinations for particular perpetrators depend on the specific facts of the situation and are beyond the limited scope of this analysis. However, as explained in the discussion of the IHL prohibition on starvation, the widespread looting of essential food, health, and water systems and the subsequent obstruction of relief supplies, especially taken together, support the conclusion that Ethiopian government officials and members of Ethiopian and allied forces knew their actions would almost certainly cause the starvation of civilians in Tigray.

The Ethiopian government’s near-complete shutdowns of banking, electricity, and fuel further deprived civilians of access to essential food, water, and health supplies needed to maintain their survival, further solidifying the virtual certainty that starvation would occur as a result. In the context of a siege, discerning the causal links between various acts of deprivation—the shutdown of electricity or banking, for example—and civilians’ ability to feed themselves is complex. However, considered in conjunction with Ethiopian and allied forces’ extensive acts of looting, attacks on food, water, and health-care systems, and obstruction of humanitarian relief, the continued use of siege tactics by Ethiopia and its allies was clearly going to lead to the starvation of civilians in Tigray.

**Contextual elements—war**

There is little doubt that the actions of Ethiopian and allied forces satisfy the contextual elements of the war crime of starvation in a non-international armed conflict. First, the conduct has taken place

791 See above Warring-Party Conduct, section 2(a-c).
792 See above Warring-Party Conduct, section 3(a-b).
793 This requirement does not necessitate a showing that the perpetrator acted with only one purpose. Global Rights Compliance & World Peace Foundation, *The Crime of Starvation and Methods of Prosecution and Accountability* para. 84, p. 15 (Jun. 2019), https://starvationaccountability.org/wp-content/uploads/2019/06/Legal-Paper-Starvation.pdf ("[T]here is no basis [in the jurisprudence of international criminal courts and tribunals] to conclude that the crime of starvation requires proof that the perpetrator pursued only that purpose.").
795 See above Legal Analysis, sections 1(a), 2(b).
796 See above Legal Analysis, section 1(a).
in the context of a non-international armed conflict. Second, Ethiopian and allied forces were undoubtedly “aware of factual circumstances that established the existence of an armed conflict.” The Ethiopian government has acknowledged that an armed conflict exists.

(b) Crimes against humanity

The Rome Statute defines a crime against humanity as “any of [a list of acts] when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.” As set out in the Rome Statute, the enumerated acts that may qualify as crimes against humanity include murder, extermination, enslavement, forcible transfer of population, torture, rape, persecution, enforced disappearances, apartheid, and “[o]ther inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.”

There is a growing consensus among legal scholars that the intentional starvation of civilians can, in certain circumstances, be not only a war crime, but also a crime against humanity, specifically the crime of extermination or the crime of “other inhumane acts.” Moreover, given Ethiopian and allied forces’ conduct involving discrimination against ethnic Tigrayans and the disproportionate levels of hunger among ethnic Tigrayans compared to other groups, the intentional starvation of civilians likely amounts, in this context, to the crime against humanity of persecution.
This section applies the law governing three possible crimes against humanity—extermination, persecution, and other inhumane acts— to conduct by the Ethiopian government and allied forces that has deprived civilians in Tigray of food and other objects indispensable to their survival.

Based on publicly available information, conduct by Ethiopian government officials and Ethiopian and allied forces, which deprived millions of civilians in Tigray of food and medicine, likely constitutes crimes against humanity, although further investigation is required to identify specific individual perpetrators and establish the requisite intent. Ethiopian government and allied forces inflicted conditions of life on Tigray that have brought about the destruction of part of the population and caused severe mental and physical harm to civilians, likely constituting the crimes of extermination and “other inhumane acts.” If further investigation confirms specific intent to discriminate, this conduct likely also amounts to the crime of persecution.

(i) Specific acts constituting crimes against humanity

Extermination

Under the Rome Statute, the act element of the crime of extermination consists of either the act of killing a large number of individuals or “the intentional infliction of conditions of life, inter alia, the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population.” Given the express mention of the deprivation of food and medicine as components of the act of the crime of extermination, legal scholars have suggested that the intentional starvation of civilians constitutes the crime against humanity of extermination.

In existing jurisprudence from international criminal tribunals, including the International Criminal Tribunal for the former Yugoslavia (ICTY), a finding of extermination generally requires a determination that “a particular population was targeted and that its members were killed or otherwise subjected to conditions of life calculated to bring about the destruction of a numerically significant part of the population.” Criminal responsibility for extermination attaches not only to individuals responsible for a “large number of deaths,” but also to those who were responsible for or planned a single death, if the perpetrator had knowledge of the death’s connection to a “mass killing event.”

In assessing the mass scale of the killing, relevant factors include, according to the ICTY, “the time and place of the killings, the selection of the victims and the manner in which they were

805 Rome Statute, see above note 549, at art. 7(2)(b).
806 See, e.g., Marcus, “Famine Crimes,” see above note 802, p. 273; World Peace Foundation, International criminal law and starvation, see above note 802; Ventura, “Prosecuting Starvation,” see above note 802.
targeted, and whether the killings were aimed at the collective group rather than victims in their individual capacity.  

The acts described above in the Warring-Party Conduct section indicate that “a particular population was targeted” by forces acting on behalf of Ethiopia in Tigray. The Ethiopian government deprived millions of civilians in the Tigray region of electricity, fuel, and cash throughout the conflict.  

Ethiopia and allied forces have repeatedly obstructed the passage of humanitarian aid and, between July 2021 and April 2022, blocked almost all humanitarian relief from entering Tigray.  

In addition, Ethiopian and allied armed actors committed widespread acts of looting of Tigrayan civilians’ food, water, and health supplies.  

Across the country, tens of thousands of Tigrayans have been arbitrarily and indefinitely detained by national police forces, security forces, and Fano militia, mostly on account of their ethnicity.  

Particularly when viewed alongside statements by high-level officials, including-Prime Minister Abiy, that fail to distinguish between opposing armed forces and Tigrayan civilians and, in some cases, indicate intent to punish the people of Tigray as a collective, these acts strongly suggest the targeting of a particular group.

Ethiopian and allied forces, particularly through their use of siege tactics, subjected people in Tigray to conditions of life that were virtually certain to bring about the destruction of a numerically significant part of the population. Health-care professionals, humanitarian organizations, journalists, and members of the Tigray regional health bureau have repeatedly indicated that the deprivation of access to food and medicine has created conditions that would inevitably lead to death for a large number of


811  See above Warring-Party Conduct, section 2(a-c).

812  See above Warring-Party Conduct, section 3(a).

813  See above Warring-Party Conduct, section 1(a-c).


people in Tigray. To find that acts of deprivation constituted the crime of extermination, the perpetrator must have intentionally inflicted conditions of life to bring about the destruction of part of a population. Conduct that would constitute such infliction of conditions includes the deprivation of access to food and medicine. In addition, the acts must have been “calculated to bring about the destruction of part of a population.” The perpetrator must have intentionally engaged in the conduct in question and must have either intended to cause the consequence or have been aware that the consequence would reasonably occur in the ordinary course of events. To assess whether the consequences were foreseeable, the ICC has adopted a virtual-certainty test: The consequence must be understood to follow normally in the circumstances in which the acts were committed.

Tigray is a predominantly agricultural and chronically food-insecure region, where, in the past, vast numbers of people have died in some of the world’s most infamous famines. As outlined above, the United Nations and the Ethiopian government jointly established, in December 2020, that entire households in Tigray had lost all of their assets and food stocks and thus depended heavily or entirely on humanitarian aid. Members of the Tigray regional health bureau also repeatedly alerted other actors, including in the Ethiopian federal government, to the intense human suffering in Tigray. Maintaining extreme restrictions on fuel, cash, and electricity and preventing the delivery of almost all humanitarian aid would certainly and clearly lead to a large number of deaths. That result, given the humanitarian and hunger crisis in Tigray, was foreseeable to those responsible for the conduct of the Ethiopian and allied forces engaging in these siege tactics. They acted with the objective knowledge that these acts

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817 See above Overview, section 2. See also Warring Party Conduct, section 3(a); William Worley, “Exclusive: Russia, China foiled UN meetings on Tigray famine, says Lowcock,” Devex (Jun. 21, 2022), https://www.devex.com/news/exclusive-russia-china-foiled-un-meetings-on-tigray-famine-says-lowcock-103473 (“The Ethiopians basically wanted to starve the Tigrayans into submission or out of existence,” he [former head of UN OCHA] said. “That was objective one, but objective two was to do that without attracting the global opprobrium that is associated with deliberately causing a famine taking hundreds of thousands or millions of lives,” [he] said.”).  
818 Anna, “Ethiopia’s Tigray blockade,” see above note 32.  
819 Rome Statute, see above note 549, at art. 7(2)(b).  
820 International Criminal Court, Elements of Crimes, see above note 798, at art. 7(1)(b), Element 4.  
821 Rome Statute, see above note 549, at art. 30.  
823 See generally Alexander de Waal, Evil Days, see above note 132.  
825 Anna, “Ethiopia’s Tigray blockade,” see above note 32.
would deprive civilians of access to food and water and that this deprivation would bring about the destruction of part of the population.

Unlike the mental elements of persecution or genocide, the mental element for the crime of extermination does not require proof of specific intent to discriminate against or destroy the group. Rather, the mental element for extermination is the intent to perpetrate or to participate in mass killing, independent of the perpetrator’s motives vis-à-vis the victims or the group as a whole. Finally, there is no requirement that the conduct in question, to be considered an act of extermination, had to have been pursuant to a pre-existing plan or policy.

Persecution

Persecution is defined in the Rome Statute as “the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity,” including on political, racial, national, ethnic, cultural, religious, gender, or other grounds “that are universally recognized as impermissible under international law.”

No single definition or list of acts that can constitute persecution exists in international law. Violations of economic rights, including the right to adequate food, almost certainly constitute acts of persecution under ICL when committed against a group because of its members’ ethnic identity. Ethiopian and allied forces have unlawfully deprived Tigrayan civilians of basic public goods and life-saving humanitarian assistance for more than a year and violated Tigrayans’ rights to food, water, health, and life.
Although the exact contours of the groups against which persecution is prohibited are not well defined in international law, there are clear grounds for concluding that Tigrayans constitute a legally protected ethnic group. Tigrayans share a common language and many unique cultural attributes and traditions. To find that an act constituted the crime of persecution, the perpetrator must have willingly committed the act or omission and must have carried it out with specific intent to discriminate based on one of the internationally recognized grounds listed above. In other words, the perpetrator must have intended to discriminate; simply being aware of acting in a way that is discriminatory is not sufficient. As explained by the ICTY, “While the intent to discriminate need not be the primary intent with respect to the act, it must be a significant one.”

This analysis, based on publicly available information alone, cannot determine whether particular actors in Tigray carried out acts that caused starvation with a specific intent to persecute Tigrayan civilians. Currently available information clearly indicates, though, that, while taking other actions, Ethiopian and allied forces acted with persecutory intent in depriving Tigrayans of their rights. For example, in its surveillance and policing operations, the Ethiopian government has conducted extensive profiling and targeting of ethnic Tigrayans. It has put Tigrayan staff on leave and prevented Tigrayans from leaving the country, asked employers and landlords to identify Tigrayan staff members and residents, and conducted mass arrests of Tigrayans in Addis Ababa, including on the basis of people’s names and use of language. Ethiopian government and allied forces have detained


837 Prosecutor v. Kupreškić et al., Case No. ICTY-IT-95-16-T, Judgment, para. 636 (Jan. 14, 2000). This intent standard is higher than for other crimes against humanity but lower than the standard for genocide.


839 Id.

840 See above Warring-Party Conduct, sections 1(a), 3(a) (citing reports that armed guards in Western Tigray deliberately withheld food from ethnic Tigrayans and denied humanitarian organizations access to Tigrayan civilians on the basis of the civilians’ perceived support for “the [TPLF] junta”). See also Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26.


tens of thousands of Tigrayans in overcrowded, informal detention camps in Western Tigray⁸⁴⁶ and elsewhere in Ethiopia.⁸⁴⁷

In Western Tigray, Ethiopian forces and allied militias have engaged in mass forced displacement of Tigrayans, pushing Tigrayan civilians out of Western Tigray and east of the Tekeze river, into areas of Tigray which were under siege.⁸⁴⁸ A resident of Western Tigray told the Associated Press that authorities said they would deport “pure” Tigrayans first before deporting “half” Tigrayans.⁸⁴⁹ Amhara authorities have also sought to remove Tigrayan identity from identity cards, discouraged the use of Tigrinya, and discriminated against ethnic Tigrayans in the provision of health care.⁸⁵⁰ In Dansha, Amhara forces reportedly killed an ethnic Oromo in a Tigrayan household and, upon realizing he was Oromo, buried him but left the Tigrayan victims unburied.⁸⁵¹ Eritrean forces have also singled out Tigrayans for attacks in ethnically diverse areas⁸⁵² and have committed widespread looting and attacks on Tigrayan civilians with no connection to the TDF or TPLF.⁸⁵³

Further investigation, including, for example, interviews with victims who could testify to the use of ethnic slurs or other statements indicative of intent⁸⁵⁴ by Ethiopian and allied forces who carried out actions that resulted in civilian starvation, is necessary to establish whether relevant actors satisfied the intent element of starvation as a crime of persecution.

Other inhumane acts

Ethiopian and allied forces who deprived Tigrayans of food, water, and medicine might be found to have committed the crime of inhumane acts if they met the other requisite elements of a crime against humanity and the acts in question inflicted great suffering or serious injury to the physical and mental health of civilians.⁸⁵⁵ The Rome Statute does not further define or provide examples of “inhumane acts of a similar character [to the enumerated acts] intentionally causing great suffering, or serious injury to body or to mental or physical health,” and there is no definitive list of acts that would fit this category of act. In one case that demonstrates the kind of analysis that could, however, lead to a finding of “inhumane acts,” the ICTY found that conditions of detention or forced labor were inhumane when they threatened the life or health of the victims.⁸⁵⁶

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⁸⁴⁶ Id.
⁸⁵⁰ Anna, “‘Leave no Tigrayan,’” see above note 841.
⁸⁵¹ Id.
⁸⁵² Id.
⁸⁵³ See above Warring-Party Conduct, section 1(a-c).
⁸⁵⁴ See, e.g., Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 26. See also Muhumuza, “‘Our season,’” see above note 168 (reporting that a Tigrayan shopkeeper said that “Eritrean soldiers told Tigrayan elders that this [war] was revenge for the [1998-2000] border war.”).
⁸⁵⁵ Rome Statute, see above note 549, art. 7(1)(k).
The Ethiopian government’s conduct, particularly cutting off essential services while continuing to obstruct humanitarian relief, was inhumane.

The deprivation of essential relief supplies and basic goods likely met the requirements for a finding of “other inhumane acts,” in particular that the victim suffered serious bodily or mental harm, that the suffering was the result of an act of the perpetrator or a subordinate, and that the offense was committed with intent to inflict serious bodily or mental harm. The deprivation of critical items created deplorable living conditions and caused serious deterioration of civilians’ physical and mental health. The acts that caused or contributed to sharply elevated rates of malnutrition and starvation among the population in Tigray inevitably caused many Tigrayans to experience serious physical and mental harm. Further investigation is required to establish whether relevant actors carried out these acts with the requisite intent.

(ii) Contextual element

To constitute crimes against humanity, any of the enumerated acts discussed above must have been committed as part of a “widespread or systematic attack directed against a civilian population.” The ICTY has explained what constitutes an attack for purposes of finding crimes against humanity.

In the context of crimes against humanity, an “attack” is distinct from the concept of “armed conflict” and not limited to the use of armed force. Rather, it may encompass any mistreatment of the civilian population. The attack may precede, outlast or continue during the armed conflict and need not be part of it.

The Ethiopian government’s siege of Tigray, as described in the Warring-Party Conduct section above, constitutes “mistreatment of the civilian population” and part of an attack.

857 See above Warring-Party Conduct, section 2(a-c).
858 International Criminal Court, Elements of Crimes, see above note 798, at art. 7(1)(k).
859 See above Overview, section 2. See also Warring-Party Conduct, sections 1(a-c), 2(a-c).
860 This is one of two nexus elements; the perpetrator must also have had knowledge of the attack, as will be discussed below.
861 Prosecutor v. Perišić, Case No. ICTY-IT-04-81-T, Judgment, para. 82 (Sept. 6, 2011).
To satisfy the contextual requirement for crimes against humanity, the act must have been part of an attack that was either widespread or systematic. The terms “widespread” and “systematic” have been elaborated in the jurisprudence of international tribunals and by scholars. The term “widespread” typically refers to the large-scale nature of the attack and the number of victims.\(^{862}\) The term “systematic” refers to the existence of a policy or plan, as evidenced by “the organized nature of the acts of violence and the improbability of their random occurrence.”\(^{863}\) The conduct of Ethiopian and allied forces, especially their use of siege tactics, extensive looting and destruction of civilian property, cutting off civilian access to essential resources, and obstruction of humanitarian aid, were part of an attack that was widespread or systematic or, most likely, both.

To constitute a crime against humanity, the widespread or systematic attack must have been “directed against a civilian population,” rather than against combatants. Many acts of looting of food, water, and health-care systems in Tigray targeted essential objects used primarily, or exclusively, by civilians.\(^{864}\) Ethiopian and allied forces also imposed a siege on the Tigray region, where millions of civilians live. It is firmly established in international law that a population retains its civilian character even if some non-civilians are present among the population.\(^{865}\) The presence of Tigrayan armed forces in Tigray cannot justify directing attacks against civilians and does not alter the analysis here.

The intentional starvation of civilians is, by its nature, a complex and coordinated act that, as a leading international law scholar has argued, will “almost always” satisfy the contextual element of crimes against humanity.\(^{866}\) This is almost certainly the case in Tigray, where Ethiopia and its allies’ extensive, coordinated attacks on objects indispensable to the survival of civilians, use of siege tactics, and obstruction of humanitarian relief, has resulted, predictably, in mass starvation among the civilian population.

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\(^{862}\) See Prosecutor v. Augustin Ndindiliyimana, François-Xavier Nzuwonemeye and Innocent Sagahutu, Case No. ICTR-00-56-A, Judgment (AC), para. 260 (Feb. 11, 2014).


\(^{864}\) See above Warring-Party Conduct, section 1(a-c).

\(^{865}\) Karadžić Judgment, see above note 809, at para. 474.

\(^{866}\) World Peace Foundation, *International criminal law and starvation*, see above note 802.
(iii) Knowledge requirement

To determine whether there was knowledge of a widespread or systematic attack on a civilian population and that the perpetrators’ conduct was part of that attack, either the principal perpetrators or “those at whose behest they were acting” – that is, individuals at higher levels in the chains of command – must have had the requisite knowledge. In order to satisfy the knowledge element, armed forces committing the crimes also must have been “acting in a concerted manner.”

Substantial evidence, both explicit or inferred from context, shows collaboration between Eritrean and Ethiopian armed forces, Amhara Special Forces, and Fano militia. There are clear chains of command within the Ethiopian federal government, the highly professionalized Ethiopian military and, to a somewhat lesser extent, allied Amhara Special Forces and Fano militias. These forces acted in a concerted manner. Further investigation, beyond the information publicly available, is necessary to establish that the relevant actors, whether the direct perpetrators or their superiors, had knowledge of the widespread or systematic attack.

(c) Genocide

Article 2 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) defines the crime of genocide. It states:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

Lowenstein Clinic interviews with former interim administration officials and academic experts who study Tigray corroborated this account.
(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group.873

All states have a duty under the Genocide Convention, as well as under customary international law, to prevent and punish the crime of genocide.874

Although publicly available information suggests that conduct by Ethiopian and allied forces targeting Tigrayans likely satisfies the act and group elements of the crime of genocide, further investigation is necessary to determine whether genocide has occurred in Tigray. In particular, inquiry by an entity with investigative powers is necessary to more precisely differentiate responsibility among parties to the conflict for relevant genocidal acts, to determine if those acts were carried out with the requisite genocidal intent, and, for purposes of potential criminal accountability, to identify specific individual perpetrators.

Because this analysis focuses on starvation and warring-party conduct affecting objects indispensable to survival, it examines only the possible perpetration of genocide through the enumerated act of deliberately inflicting conditions of life calculated to bring about the physical destruction of a group and does not comment on other potential genocide claims.875

Inflicted certain conditions of life upon one or more persons

The first element of Article 6(c) of the Rome Statute, which sets out the particular act of “[d]eliberately inflicting on the group conditions of life calculated to bring about its physical destruction,” is that “the perpetrator inflicted certain conditions of life upon one or more persons.”876 As discussed in depth in the facts section above, the Ethiopian government and allied forces imposed severe restric-
tions on the delivery of humanitarian aid between the beginning of the conflict and June 2021, after which point they prevented the delivery of almost all humanitarian relief to Tigray until April 2022.877

The Ethiopian government coupled this obstruction of humanitarian relief with deprivations of cash, electricity, and fuel.878 Members of the Ethiopian government and allied forces also carried out extensive looting and destruction of objects indispensable to survival.879 These acts, which have affected millions of people, have produced widespread malnutrition,880 famine-like conditions,881 and preventable deaths due to a lack of health care.882 This conduct inflicted devastating conditions of life on the Tigrayan civilian population, but further investigation is needed to determine whether perpetrators acted with the intent and knowledge required to satisfy Article 6(c).

**Particular national, ethnical, racial, or religious group**

The acts of Ethiopian government and allied forces targeting Tigrayans satisfy the group element of the crime: “Such person or persons belonged to a particular national, ethnical, racial or religious group.”883 Tigrayans are a distinct ethnic group with a common language, a shared religion, and distinct cultural traditions.884

**Conditions of life calculated to bring about the physical destruction of the group, in whole or in part**

The actions by Ethiopian government and allied forces that are described throughout this analysis likely meet the requirements for finding the act of “[d]eliberately inflicting . . . conditions of life calculated to bring about [the group’s] physical destruction in whole or in part.”885 As defined by the ICC, the term “conditions of life” may include “deliberate deprivation of resources indispensable for survival, such as food or medical services, or systematic expulsion from homes.”886 The term “deliberately” is a reference to the mental element of the crime of genocide, which requires intent to destroy the group.887 A leading academic commentary on the Rome Statute defines the term “calculated” as

877 See above Warring-Party Conduct, section 3(a).
878 See above Warring-Party Conduct, section 2(a-c).
879 See above Warring-Party Conduct, section 1(a-c).
881 See, e.g., United Nations, “400,000 in Tigray cross ‘threshold into famine,’” see above note 421.
883 International Criminal Court, Elements of Crimes, see above note 798, at art. 6(c), Element 2.
884 See above Legal Analysis, section 2(b).
885 International Criminal Court, Elements of Crimes, see above note 798, at art. 6(c), Element 4.
886 Id., at note 4.
The Ethiopian government and its allies deprived Tigrayan civilians, on a massive scale, of resources indispensable to their survival, creating the certainty of death and mass suffering.

The Ethiopian government and its allies deprived Tigrayan civilians, on a massive scale, of resources indispensable to their survival, creating the certainty of death and mass suffering. Tigray is a food-insecure region that faced further setbacks after the onset of desert locusts and after the conflict prevented many Tigrayans from planting crops.\textsuperscript{890} Looting and destruction of crops further depleted food supply.\textsuperscript{891} In this context, the Ethiopian government almost entirely shut down access to fuel, electricity, and cash in Tigray.\textsuperscript{892} This rendered a substantial part of water infrastructure inoperable, prevented the transport of critical goods, and left many civilians unable to make it edible.\textsuperscript{893} These circumstances left many Tigrayan civilians unable to survive without humanitarian aid. But throughout much of the conflict, the Ethiopian government and its allies heavily restricted humanitarian aid to Tigray.\textsuperscript{894} Then, in June 2021, following the TDF’s capture of much of Tigray, the Ethiopian government almost entirely prevented the entry of humanitarian aid into Tigray until April 2022.\textsuperscript{895}

The conditions of life that members of the Ethiopian government and military inflicted on Tigray created a certainty of death and mass suffering among the Tigrayan population. On July 2, 2021, the United Nations said that 400,000 people were facing conditions of famine in Tigray.\textsuperscript{896} Just before this announcement, the Ethiopian government began imposing siege conditions on Tigray and allowed in only a tiny fraction of the humanitarian aid needed to meet the minimum caloric needs of civilians.\textsuperscript{897} Despite the need for 100 food trucks to enter Tigray per day,\textsuperscript{898} as of September 24, 2021, just 482 trucks had entered in the previous 90 days, meeting approximately 6\% of need.\textsuperscript{899} Further,
from July 12 to September 2, 2021, only 4.2% of the money needed to sustain humanitarian operations had been cleared or dispatched to Tigray.\textsuperscript{900} In total, from July 12, 2021 to January 27, 2022, less than 10% of the humanitarian supplies needed by civilians and humanitarian organizations entered Tigray.\textsuperscript{901} These conditions created a virtual certainty of starvation, and in more than twenty districts of Tigray, people have reportedly starved to death.\textsuperscript{902}

Further investigation is needed to establish, not only that the Ethiopian government and military created conditions of life that could bring about the physical destruction of a substantial part of the Tigrayan people, but also that individual perpetrators acted with knowledge that the conditions were calculated to bring about that destruction.\textsuperscript{903} Such an investigation would need to take into account any countervailing evidence, including, for example, that after the tightening of the siege of Tigray in June 2021, the Ethiopian government still allowed a trickle of aid into the region.

Intent to destroy

Publicly available information strongly suggests that the Ethiopian government and its allied forces targeted the Tigrayan people.\textsuperscript{904} Further investigation is required to determine whether relevant officials acted with genocidal intent, meaning that they intended to destroy, in whole or in part, the Tigrayan people. Determinations of genocidal intent are closely related to the preceding analysis of whether Ethiopian and allied forces imposed conditions of life calculated to bring about the physical destruction of Tigrayans, in whole or in part.

Repeated statements from Prime Minister Abiy and others frequently included vague and overbroad references to “the junta” or to “internal and external enemies of the country” that collapse distinctions between the TDF, the TPLF, and all Tigrayans.

Prominent members of the Ethiopian government have repeatedly made inflammatory statements that could be interpreted as calls to destroy Tigrayans as a group, in whole or in part. Prime Minister Abiy referred to the TPLF as “weeds” and “a cancer”\textsuperscript{905} and called on Ethiopians to “bury this enemy with

\begin{itemize}
\item \textsuperscript{900} United Nations Office for the Coordination of Humanitarian Affairs, \textit{Statement by Acting Humanitarian Coordinator}, \textit{see above} note 333.
\item \textsuperscript{902} Cara Anna, “‘I just cry’: Dying of hunger in Ethiopia’s blockaded Tigray,” \textit{Associated Press} (Sept. 20, 2021), https://apnews.com/article/africa-united-nations-only-on-ap-famine-kenya-ef9fe79cc0c1f35917df1906e9bdf0f46. For a discussion of various estimates of excess mortality, \textit{see above} note 87.
\item \textsuperscript{903} Klamberg, \textit{Commentary on the Law of the ICC}, \textit{see above} note 888, p. 70.
\item \textsuperscript{904} International Criminal Court, \textit{Elements of Crimes}, \textit{see above} note 798, at art. 6(c), Element 4.
\end{itemize}
... blood and bones.”906 He said that “this clique should not be allowed to live with us” and that “if this traitorous force which wants to extinguish us and leave us with nothing . . . isn’t removed, then this won’t be a bright year for Ethiopia.”907 Such repeated statements from Prime Minister Abiy and others frequently included vague and overbroad references to “the junta”908 or to “internal and external enemies of the country”909 that collapse distinctions between the TDF, the TPLF, and all Tigrayans.910

Further, as described in detail above, Ethiopian federal government and allied forces have extensively looted food, water, and health-care systems in Tigray,911 imposed a siege that has decimated civilian life in Tigray,912 and denied the passage of humanitarian relief to civilians in need in Tigray.913 Publicly available information indicates that Ethiopian and allied forces used these acts of looting, siege tactics, and the unlawful obstruction of humanitarian relief to inflict conditions of life calculated to bring about the physical destruction of Tigrayans as a group, as defined in the Rome Statute and the Genocide Convention. Considered together with statements by Ethiopian and allied officials calling for the destruction of the Tigray regional government, these actions depriving Tigrayans of access to food and water, while knowing the deprivation would cause massive starvation and death, provide clear reasons to believe that the Ethiopian government and its allies might have acted with intent to destroy the Tigrayan people, in whole or in part. Further investigation is vital to determine if this conduct was carried out with the requisite intent.

906 Cara Anna & Amanda Seitz, “Facebook removes Ethiopian PM’s post for inciting violence,” Associated Press (Nov. 3, 2021), https://apnews.com/article/technology-africa-united-states-kenya-ethiopia-sedocbcoe65e5cf3d820123d82a52e33; see also “Ethiopian leader, marking year of war, says he will bury foes ‘with our blood’,” Reuters (Nov. 3, 2021), https://www.reuters.com/world/africa/ethiopian-leader-marking-year-war-says-he-will-bury-his-foes-with-our-blood-2021-11-03/ (“The pit which is dug will be very deep, it will be where the enemy is buried, not where Ethiopia disintegrates,’ he [Abiy] said in a speech … at the military’s headquarters in Addis Ababa. ‘We will bury this enemy with our blood and bones and make the glory of Ethiopia high again,’ said Abiy.”).


910 Publicly available statements from victims in Tigray indicate that armed forces have repeatedly accused Tigrayan civilians of membership in or support for the “junta.” See, e.g., Amnesty International, Rape and sexual violence in the conflict in Tigray, see above note 97, p. 15 (“A man who is from the Amhara Special Force came and took me from my home; he said that I was one of the wanted Junta (TPLF/TDF). In detention they beat me … and … came every night to rape me. … They told me ‘You Junta! We will not get anything if you die. We would rather torture you,’ and they beat me, and raped me … ”); Amnesty International & Human Rights Watch, “We Will Erase You,” see above note 2, p. 175. See also “News: Security forces burn civilians to death in Metekel, Benishangul Gumuz; gov’t says act ‘extremely horrific’, pledges accountability,” Addis Standard (Mar. 12, 2022), https://addisstandard.com/news-security-forces-burn-civilians-to-death-in-metekel-benishangul-gumuz-govt-says-act-extremely-horrific-pledges-accountability/.

911 See above Warring-Party Conduct, section 1(a-c)
912 See above Warring-Party Conduct, section 2(a-c)
913 See above Warring-Party Conduct, section 3(a-b).
CONCLUSIONS AND RECOMMENDATIONS

This legal analysis has found, on the basis of publicly available information, that Ethiopia and its allies almost certainly committed grave, starvation-related violations of international law during the war in Tigray, including the use of starvation of civilians as a method of combat. As discussed above, other credible investigations — by the UN-established International Commission of Human Rights Experts on Ethiopia and by non-governmental organizations, including Human Rights Watch and Amnesty International — have documented serious violations by all warring parties, including Tigray forces, in Tigray, Amhara, and Afar that likely amount to war crimes or crimes against humanity.

Given the gravity of the acts documented by human rights investigators and assessed in this analysis, as well as the urgency of the crisis in Tigray, the Clinic presents the following recommendations as potential steps toward preventing further harms to civilians, providing remedies to people who have been harmed by warring parties’ unlawful conduct, and holding accountable those responsible for violations.

Ethiopia and its allies must, as a matter of priority, take all available steps to implement the cessation-of-hostilities agreement and halt the starvation of civilians in Tigray.\textsuperscript{914} The United Nations, the African Union, and officials at the highest levels of UN and AU member states’ governments should apply sustained international pressure on all warring parties to implement the cessation-of-hostilities agreement and halt ongoing violations of international law. All warring parties have an obligation to provide effective remedies, including prompt, adequate, and effective reparations, to victims of serious international law violations in Tigray, as well as to victims in Amhara, Afar, and other areas of Ethiopia affected by the conflict.

**TO ALL PARTIES:**

- Immediately implement the cessation-of-hostilities agreement and cease all violations of international law.

**TO THE ETHIOPIAN FEDERAL GOVERNMENT:**

- Fully lift the siege of Tigray, including by:
  - restoring telecommunications services, without censorship or unlawful surveillance, throughout Tigray;
  - reconnecting Tigray, including areas controlled by Tigray forces, to the federal electrical grid and making all necessary technical repairs to electrical infrastructure in Tigray, Amhara, and Afar; and

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914 See above A Note on the Cessation-of-Hostilities Agreement.
• reversing overly broad and discriminatory fiscal policies, like the directive to freeze all bank accounts opened in Tigray, and restoring, as a matter of priority, banking and microfinance services for civilians throughout Tigray.

• Facilitate the rapid and unimpeded passage of humanitarian relief supplies for civilians in Tigray, including by:
  › allowing the unimpeded passage of commercial and humanitarian supplies of electricity, fuel, and cash to all parts of Tigray; and
  › publicly condemning attacks on or harassment of humanitarian relief workers;

• Remedy the serious violations of international humanitarian law and international human rights law that Ethiopian and allied forces have committed, including in Tigray, by:
  › supporting and contributing funding for the establishment of an independent, internationally administered redress mechanism mandated to provide adequate, effective, and prompt reparations to civilian victims of serious violations of international law, including civilians who have suffered the effects of starvation-related violations in Tigray, Amhara, Afar, and other parts of Ethiopia, regardless of whether it is possible to identify the perpetrator of each specific violation; and
  › investigating, suspending, or prosecuting, in line with international due process standards, all those, including federal and regional government officials and members of Ethiopian and allied forces, credibly implicated in international crimes through planning or implementing unlawful siege tactics, looting humanitarian relief supplies, attacking or harassing humanitarian relief workers, and other conduct.

• Allow immediate and unrestricted access for humanitarian relief workers, journalists, and human rights investigators to Tigray and other parts of Ethiopia, including by cooperating fully with and offering a standing invitation to the International Commission of Human Rights Experts on Ethiopia, the African Commission’s Commission of Inquiry on the Human Rights Situation in the Tigray Region of Ethiopia, and relevant UN special procedures, particularly the UN Special Rapporteur on the right to food, to visit Ethiopia with unrestricted investigative access to all regional states.

TO THE ERITREAN GOVERNMENT:

• Immediately withdraw Eritrean armed forces from all parts of Ethiopia.

• While Eritrean forces withdraw, do not impede humanitarian aid efforts in any areas of Ethiopia where Eritrean forces remain present.
• Allow immediate and unrestricted access for humanitarian relief workers, journalists, and human rights investigators to Eritrea and areas of Ethiopia where Eritrean forces are present, including by cooperating fully with the International Commission of Human Rights Experts on Ethiopia, the African Commission's Commission of Inquiry on the Human Rights Situation in the Tigray Region of Ethiopia, and relevant UN special procedures, particularly the UN Special Rapporteur on the right to food.

• Remedy the serious violations of international humanitarian law and international human rights law that Eritrean forces have committed, including in Tigray, by:
  › supporting and contributing funding for the establishment of an independent, internationally administered redress mechanism mandated to provide adequate, effective, and prompt reparations to civilian victims of serious violations of international law, including civilians who have suffered the effects of starvation-related violations in Tigray, Amhara, Afar, and other parts of Ethiopia, regardless of whether it is possible to identify the perpetrator of each specific violation; and
  › investigating, suspending, or prosecuting, in line with international due process standards, all those, including Eritrean government officials and members of Eritrean armed forces, credibly implicated in international crimes through planning or implementing unlawful siege tactics, looting humanitarian relief supplies, attacking or harassing humanitarian relief workers, and other conduct.

TO TIGRAY REGIONAL AUTHORITIES:

• Facilitate immediate, unrestricted, and sustained humanitarian access to all parts of Tigray.

• Allow immediate and unrestricted access for humanitarian relief workers, journalists, and human rights investigators to and within Tigray, including by cooperating fully with the International Commission of Human Rights Experts on Ethiopia, the African Commission's Commission of Inquiry on the Human Rights Situation in the Tigray Region of Ethiopia, and relevant UN special procedures, particularly the UN Special Rapporteur on the right to food.

• Remedy the serious violations of international law committed by Tigray forces, including in Tigray, Amhara, and Afar, by:
  › supporting and contributing funding to the establishment of an independent, internationally administered redress mechanism mandated to provide adequate, effective, and prompt reparations to civilian victims of serious violations of international law, including civilians who have suffered the effects of starvation-related violations in Tigray, Amhara, Afar, and other parts of Ethiopia, regardless of whether it is possible to identify the perpetrator of each specific violation; and
investigating, suspending, or sanctioning, in line with international due process standards, all those, including regional government officials and members of Tigray forces, credibly implicated in international crimes through looting humanitarian relief supplies, attacking or harassing humanitarian relief workers, and other conduct.

TO THE UNITED NATIONS SECURITY COUNCIL:

- Support the rapid and complete implementation of the cessation-of-hostilities agreement by all parties to the conflict.
- Strongly condemn the use of starvation as a weapon of war during the conflict in Tigray and name the actors responsible.
- Demand prompt, transparent, and impartial investigations into and accountability for the use of starvation of civilians as a weapon of war during the conflict in Ethiopia.
- Support the establishment of an independent, internationally administered redress mechanism mandated to provide prompt, adequate, and effective reparations to civilian victims of serious violations of international law.
- Urge all parties, particularly Ethiopia, to take all appropriate steps to facilitate the efforts of the International Commission of Human Rights Experts on Ethiopia and the African Commission's Commission of Inquiry on the Human Rights Situation in the Tigray Region of Ethiopia and encourage cooperation between UN agencies and these commissions.
- Refer the situation in Ethiopia to the International Criminal Court for investigation of possible war crimes, crimes against humanity, and genocide.

TO THE UN HUMAN RIGHTS COUNCIL:

- Continue to support the UN International Commission of Human Rights Experts on Ethiopia until it has completely fulfilled its mandate, including by calling on Ethiopia and its allies to grant the Commission unrestricted access to all conflict-affected areas of Ethiopia and renewing the Commission's mandate while its investigations are ongoing.
- Commission a study of possible mechanisms for ensuring redress for serious violations of international law during the conflict in Tigray, including prompt, adequate, and effective reparations to civilian victims of starvation-related violations in Tigray, Amhara, Afar, and other parts of Ethiopia.
TO THE UN INTERNATIONAL COMMISSION OF HUMAN RIGHTS EXPERTS ON ETHIOPIA:

- Continue to investigate starvation-related violations of international law in Ethiopia.

- As part of the provision of guidance and technical assistance to Ethiopia to support accountability, reconciliation, and healing, recommend that Ethiopia support and contribute funding to the establishment of an independent, internationally administered redress mechanism mandated to provide prompt, adequate, and effective reparations to civilian victims of serious violations of international law, including civilians who have suffered the effects of starvation-related violations in Tigray, Amhara, Afar, and other parts of Ethiopia, regardless of whether it is possible to identify the perpetrator of each specific violation.

TO UN AGENCIES IN ETHIOPIA:

- Cooperate with the International Commission of Human Rights Experts on Ethiopia, including by sharing information relevant to humanitarian access and starvation in Tigray.

TO THE UN SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD:

- Issue a statement or a joint statement with other UN experts, particularly the UN Special Rapporteur on the situation of human rights in Eritrea, denouncing the starvation-related violations of international law committed during the conflict in Ethiopia, including those committed through the siege of Tigray.

- Immediately request a visit to Ethiopia.

- Call on the UN Human Rights Council to commission a study of possible mechanisms for ensuring redress for serious violations of international law during the conflict in Tigray, including prompt, adequate, and effective reparations to civilian victims of starvation-related violations in Tigray, Amhara, Afar, and other parts of Ethiopia.

TO THE AFRICAN UNION AND ITS MEMBER STATES:

- Support the rapid and complete implementation of the cessation-of-hostilities agreement by all parties to the conflict and take steps to support the African Union’s monitoring, verification, and compliance mechanism.

- Demand prompt, transparent, and impartial investigations into and accountability for the use of starvation of as a method of warfare during the conflict in Ethiopia.

- Support the establishment of an independent, internationally administered redress mechanism mandated to provide prompt, adequate, and effective reparations to civilian victims of serious violations of international law.
• Conduct and publish a review of the African Union’s failure to prevent, respond to, or condemn atrocity crimes, including the use of starvation as a method of warfare, in Ethiopia.

TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLES’ RIGHTS (ACHPR):

• Hold a public extraordinary session on the human rights situation in Ethiopia and request a preliminary briefing by the ACHPR Commission of Inquiry into the situation in the Tigray Region.

• When considering cases against Ethiopia and Eritrea related to serious human rights violations, including starvation-related violations of the rights to life, food, water, and the highest attainable standard of health, use provisional measures and reparations orders to prevent or repair starvation-related harms to civilians.

TO THE INTERGOVERNMENTAL AUTHORITY ON DEVELOPMENT (IGAD):

• Support the rapid and complete implementation of the cessation-of-hostilities agreement by all parties to the conflict and take steps to support the African Union’s monitoring, verification, and compliance mechanism.

• Use all available diplomatic means to urge the Ethiopian government, at the federal and regional levels, to cooperate with the investigative mechanisms established by the African Commission on Human and Peoples’ Rights and by the United Nations.

• Support the establishment of an independent, internationally administered redress mechanism mandated to provide adequate, effective, and prompt reparations to civilian victims of serious violations of international law, including those who have suffered the effects of starvation-related violations in Tigray, Amhara, Afar, and other parts of Ethiopia, regardless of whether it is possible to identify the perpetrator of each specific violation;

• Conduct a public review of IGAD’s systematic failure to protect food security in Tigray.

TO THE UNITED STATES:

• Use all available diplomatic means to support the rapid and complete implementation of the cessation-of-hostilities agreement by all parties to the conflict and take steps to support the African Union’s monitoring, verification, and compliance mechanism.

• Do not restore trade preferences for Ethiopia under the African Growth and Opportunity Act (AGOA) until Ethiopia ceases the use of starvation as a weapon of war, unlawful obstruction of humanitarian relief, and other gross rights violations, in line with AGOA’s requirement that eligible countries do not engage in “gross violations of internationally recognized human rights.”
TO ETHIOPIA’S OTHER INTERNATIONAL PARTNERS:

- Use all available diplomatic means to support the rapid and complete implementation of the cessation-of-hostilities agreement by all parties to the conflict and take steps to support the African Union’s monitoring, verification, and compliance mechanism.

TO TRANSNATIONAL CIVIL SOCIETY ACTORS:

- Support the rapid and complete implementation of the cessation-of-hostilities agreement by all parties to the conflict and take steps to support the African Union’s monitoring, verification, and compliance mechanism.

- Publicly condemn the use of starvation of civilians as a weapon of war in Tigray and call on the Ethiopian federal government and its allies to cooperate with and support credible, independent investigations of starvation-related violations of international law.