



Lemkin Institute Statement in Support of an International Investigation of Abiy Ahmed's Crimes in Ethiopia

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Since the outbreak of the war in the region of Tigray in November 2020, Ethiopia's government, under the orders of Prime Minister Abiy Ahmed, has committed egregious crimes against its own citizens including widespread human rights abuses, looting, ethnic-based atrocities, rape, and other forms of gender-based violence. The fact pattern strongly suggests that, among other crimes, the Ethiopian government forces may have committed genocide against the people of Tigray. As a result of two years of vicious warfare between the Tigray People's Liberation Front (TPLF) and federal Ethiopian and Eritrean forces, millions of Ethiopians are in urgent need of humanitarian assistance.

Numerous reports from prominent human rights NGOs and the UN have found that human rights violations, war crimes, and crimes against humanity have been committed with the complicity of the Ethiopian National Defense Force (ENDF) under the orders of the Minister of Defense Abraham Belay, himself under the leadership of Ethiopia's Prime Minister. According to a joint report issued by the UN and the International Commission of the Human Rights Experts on Ethiopia, the ENDF and its Eritrean ally have carried out war crimes and crimes against humanity in Tigray. These include extrajudicial executions, looting such as in Axum, systematic sexual violence, and shellings of towns by the Ethiopian Air Force, such as in Dedebit in January 2022, which killed more than 50 civilians, including children. Moreover, the government has put in place a blockade in the Tigray region resulting in a man-made famine that clearly amounts to a war crime according to the United Nations Office of the High Commissioner for Human Rights (OHCHR) fact-finding mission. These atrocities have driven several tens of thousands of Tigrayans to flee the country to neighboring Sudan. Moreover, as part of his strategy of war, Abiy Ahmed cut off the internet and other forms of communications and imposed travel bans on journalists and other human rights organizations in an attempt to stonewall the international community. This represents a clear attempt by Abiy to escape accountability for his acts.

The behavior of Ethiopian troops violates international human rights law, international humanitarian law, and international criminal law. It is appalling that Abiy, a Nobel Peace Prize laureate who had committed himself to peace and humanity, would oversee such a response to attacks from the TPLF. Abiy Ahmed's unlawful and egregious actions against Tigrayans render him similar to Sudan's former president, Omar al-Bashir, who was indicted by the International Criminal Court (ICC) for his responsibility for genocidal acts carried out by the Government of Sudan military and affiliated janjaweed militias during the war in Darfur. In this context, inflammatory statements by Ethiopian leaders could signal genocidal intent, such as the statement made by a group of officials to Finnish Foreign Minister Pekka Haavisto in June 2021, when they told him that they were going "to wipe out the Tigrayans for 100 years." Such language on the part of official powerholders must be investigated and condemned.

On 2 November 2022, warring parties signed an Agreement for Lasting Peace through a Permanent Cessation of Hostilities mediated by Nigerian former President Olusegun Obasanjo and brokered by the African Union. This peace agreement seeks to permanently stop hostilities, provide unimpeded and safe humanitarian access to people in acute distress, and plan the modalities for disarmament.

While the Lemkin Institute welcomes the peace agreement, and especially its call for transitional justice measures, we wish to call attention to the fact that because the responsibility for assessing accountability and bringing justice to the victims has been devolved to the Federal Government, genuine accountability might not be achieved. Without accountability, the ability of Ethiopia's many national groups, such as Tigrayans, Oromians, and Amharas, to find security, sustainable development, and self-determination within the confines of the Ethiopian state will remain profoundly tenuous. Although the peace agreement has been signed, Tigrayans are still being killed by Eritrean forces, who are still inside Ethiopia on Tigrayan land. Other groups in Ethiopia also continue to suffer identity-based violence. As horrific and genocidal violence against Amhara people in the Oromia region continues to worsen, the government of Ethiopia has done little to address this violence and may be supporting it.

The Lemkin Institute for Genocide Prevention urges the international community to unite behind an accountability program for Ethiopia, beginning with the Prime Minister, whose forces bear responsibility for a large number of the atrocities being committed across the country. Ethiopia will need a long-term transitional justice process in order to find lasting peace in the wake of genocides and many other crimes, but such a process cannot happen when the top leadership has itself committed grave violations of human rights. Impunity for Ethiopia's leadership will stand in the way of any trust in the accountability process, eroding chances of success before the process has even started. In this regard, we call for an independent investigation into the potential war crimes, crimes against humanity, and crime of genocide carried out by Abiy Ahmed since the beginning of the war in Tigray. We also call for strong foreign economic

support for transitional justice mechanisms in Ethiopia, including funding for rebuilding the economies of the peoples and regions destroyed by this vicious war.

If it proves impossible to establish a truly independent accountability process in Ethiopia, one that is able to freely investigate and prosecute the crimes of the Abiy regime among other actors, the Lemkin Institute calls on the international community to refer the crimes to the ICC for investigation. Ethiopia is not a state party to the Rome Statute of the ICC, which means that the Court has, in principle, no jurisdiction over the crimes committed on Ethiopian territory. Nonetheless, the Rome Statute provides other courses of action that could be pursued in order for the ICC's Prosecutor to open an investigation for the crimes committed by Prime Minister Abiy Ahmed, such as a UN Security Council referral (article 13 (2)), referrals by state Parties (article 14 (1)), or an investigation initiated by the Prosecutor itself (article 15 (1)).

The Lemkin Institute recognizes the limitations of ICC investigations, particularly in relation to sitting heads of state, as indictments can encourage them to hold on to their power more fiercely, since their official position could offer them immunity. However, ignoring the problem of war crimes, crimes against humanity, and genocidal violence committed under the auspices of sitting regimes is no guarantor of peace. On the contrary, the lack of thorough justice processes allows violence to be latent, and deepens and extends pre-existing social divisions and conflicts. *The Lemkin Institute therefore exhorts the international community, especially the UN Security Council and all State Parties to the Rome Statute, to refer Ethiopia's situation to the ICC for an investigation of Abiy Ahmed's crimes* on the basis of the above mentioned provisions and Chapter VII of the UN Charter if the regime itself refuses other genuine accountability processes.

There is no possibility of justice without accountability and justice is at the center of enduring peace. Ethiopia is no exception. *The international community must ensure that perpetrators do not benefit from their states choosing to exist outside the international criminal law system.* It is a legal and moral duty to guarantee equal protection and justice for all peoples of the world. The objective of the creation of the International Criminal Court was – and continues to be – the fight against impunity in all corners of the globe.