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## CIVIL SOCIETY CONCERNS IN ACHIEVING TRANSITIONAL JUSTICE AND ACCOUNTABILITY FOR MASS ATROCITY CRIMES IN ETHIOPIA

In this document the signatory organizations outline our deep concerns with the current transitional justice policy accepted by the Ethiopian Council of Ministers on 17 April 2024. We believe the ongoing conflicts in the Oromia and Amhara regions, the slow progress in implementing the Cessation of Hostilities Agreement in Tigray – alongside reports of ongoing abuses – and the fundamental flaws with the accepted transitional justice policy fail to provide holistic, survivor and victim-centered pathways to peace and justice for all those impacted by the conflict in northern Ethiopia, as well as for victims and survivors of abuses across the country.

It is clear that mass atrocity crimes have taken place and are ongoing in Ethiopia. The commission of these crimes demands accountability for survivors; further investigations into past and ongoing violations in Tigray, Oromia, Amhara and beyond; as well as just reparations and guarantees of non-recurrence. In addition to ending impunity for these

violations, comprehensive transitional justice is essential to address root causes, provide remedies to survivors, promote democracy, prevent future violations and ultimately bring about eventual sustainable peace.

While acknowledging the Ethiopian government’s transitional justice policy is in its early stages, there remain serious concerns regarding both the political will and acting capacity of the federal government of Ethiopia to ensure survivors and victims receive the justice they deserve.

This document highlights how acts by the federal government undermine its credibility in undertaking effective transitional justice and accountability in the country, as well as fundamental concerns with the accepted transitional justice policy itself. The document concludes by providing key points for the international community to consider when addressing the ongoing crises in Ethiopia.

### CONTEXT

On 2 November 2022 the federal government of Ethiopia and the regional governing Tigray People’s Liberation Front (TPLF) agreed to a Cessation of Hostilities Agreement (CoHA), brokered by the African Union (AU), aimed at ending the two-year long conflict in Tigray and the surrounding regions. The UN Human Rights Council-mandated [International Commission of Human Rights Experts on Ethiopia \(ICHREE\)](#) and international human rights groups have found reasonable grounds to believe that the Ethiopian National Defence Forces (ENDF), the Eritrean Defence Forces (EDF) and allied regional forces committed war crimes and crimes against humanity in the Tigray region while Tigrayan and allied fighters committed war crimes in the Afar and Amhara regions. These abuses include indiscriminate bombings, ethnic-based killings, sexual violence, forced displacement, use of child soldiers, destruction of cultural heritage and the systematic

destruction of food, water and health infrastructure. Research from Physicians for Human Rights and the Organization for Justice and Accountability in the Horn of Africa confirms that [conflict-related sexual violence](#) continued unabated in Tigray even in the months following the CoHA, including by the EDF and ENDF. Amnesty International and Human Rights Watch (HRW) also found that Amhara regional forces and militias, along with the EDF – with the complicity of the ENDF – are responsible for the [ongoing ethnic cleansing](#) of Tigrayans from Western Tigray and the area’s occupation.

Additionally, conflict in the Oromia and Amhara regions has intensified. On 14 June 2024 the Office of the UN High Commissioner for Human Rights (OHCHR) released [a detailed update](#) on Ethiopia, examining the human rights situation in the country from January 2023-January 2024. At least

594 incidents of human rights violations occurred during the reporting period, impacting at least 8,253 victims. Government forces were responsible for at least 70 percent of these abuses. The report also concluded that between 4 August and 31 December the federal government's use of unmanned aircraft killed at least 248 civilians and destroyed civilian infrastructure, including schools and hospitals, in Amhara and Oromia. Credible [reports](#) have also emerged indicating senior officials in Oromia have continued to order dozens of extrajudicial killings and illegal detentions in the federal government's conflict with Oromo armed groups. In the Amhara region, HRW has [documented](#) ongoing attacks against medical workers and patients, as well as the destruction of health facilities, amounting to war crimes.

Furthermore, the federal government has failed to cooperate with international and regional bodies involved in monitoring and investigating the situation in northern Ethiopia. The AU Monitoring, Verification and Compliance Mechanism (AU MVCM) faces challenges in accessing significant parts of Tigray that are still under the control of [Eritrean](#) and Amhara forces despite the CoHA's directive for the withdrawal of non-ENDF forces. Additionally, the Ethiopian government has denied and restricted access to independent journalists, human rights groups, and monitors in conflict-affected areas, intentionally impeding the international community's ability to monitor the crisis independently.

## PART I: LACK OF A FAVORABLE ENVIRONMENT FOR TRANSITIONAL JUSTICE AND ACCOUNTABILITY FOR ATROCITY CRIMES

**1.1 OBSTACLES REGARDING THE IMPLEMENTATION OF THE COHA.** At the time of writing, there are clear gaps in the full implementation of the CoHA in Tigray. While progress on some aspects has been made, many issues remain unresolved, including the withdrawal of non-ENDF forces, the return and resettlement of all refugees and internally displaced persons (IDPs), a transition to an elected government in Tigray and assurances of Tigray's representation in federally-created institutions related to transitional justice. The lack of these critical steps indicates that the federal government is unwilling to fully commit to remedying the harms of the past and preventing recurrence, and that a truly victim and survivor-centered transitional process is unlikely to be realized.

**1.2 LACK OF ACCOUNTABILITY.** Further, there has been little accountability for human rights violations and international crimes that have occurred in Tigray. The Ethiopian government conducted a well-orchestrated campaign to obstruct international investigations into war crimes and crimes against humanity that were committed during the two-year war in Tigray. Instead, the Ethiopian

government advocates for a domestic transitional justice mechanism, where the prospects for meaningful justice and accountability are extremely unlikely. Accountability within a domestic mechanism has many shortcomings. Namely, the domestic mechanism does not adequately account for the role of Eritrea, overlooking not only the crimes they committed during the Tigray war but also the crimes that persist despite the signing of the cessation of hostilities agreement. Further, the perpetrators of the war in Tigray are still in power, and the domestic transitional mechanism, as well as the government and affiliated institutions, are not trusted by Tigrayan survivors and victims evidenced by the November 2023 Foreign Affairs article titled "Can Justice Bring Peace to Ethiopia? How to Heal Divisions After Decades of War", which shared the results of a nationwide survey, finding that 98% of Tigrayans do not trust the domestic justice mechanisms. Additionally, there was no participation of the Tigrayan political parties and civil society organizations in the drafting of the transitional justice policy documents. Without meaningful justice and accountability for victims in Tigray, long-term peace is unlikely to be realized since impunity may contribute to future violence.

**1.3 IMPACT OF ONGOING VIOLENCE.** The Ethiopian government has continued to perpetrate acts and permit the existence of conditions that clearly illustrate the lack of a meaningful commitment to the transition to peace and make any government-led effort for transitional justice specious. A transitional justice process cannot successfully progress in an environment where conflict, atrocities, displacement, and a humanitarian crisis persist. Abuses and violations of human rights remain ongoing in Tigray, including due to the continued presence of Eritrean soldiers in border areas of Tigray and Eritrea, as well as skirmishes in other areas of Tigray. Armed conflicts remain ongoing in Amhara and Oromia, while clashes have erupted in other areas of the country, including at the Afar-Somali border. As long as these conflicts persist, it is unreasonable to expect the conflicting parties to willingly participate in the transitional justice process and for survivors to receive the essential psychological and security support necessary to come forward, share information, and actively and meaningfully participate in the process. In this context, the political resolution of these conflicts would allow for the meaningful participation of all populations in the country, including those currently out of government reach, without fear for recourse and should be prioritized.

**1.4 IMPACT OF THE ONGOING HUMANITARIAN CRISIS.** The humanitarian situation across Ethiopia remains dire, with the UN Office for the Coordination of Humanitarian Affairs [reporting](#) 21.4 million people in need of humanitarian aid as of June 2024. Despite the CoHA's inclusion of unfettered humanitarian access in Tigray as a key tenet, parts of Northern, Western, and Southern Tigray still remain hard to reach for humanitarian actors or they face restricted movements in part due to the presence of occupying forces. Across northern Ethiopia, OHCHR's June 2024 [update](#)

highlighted significant challenges faced by IDPs, including lack of access to sufficient food, healthcare, water, and shelter. Healthcare facilities in Tigray and Amhara have been purposefully attacked during the conflict as reported by the ICHREE and [HRW](#), contributing to a lack of access to medical services. To date, there has been no accountability for the 36 aid workers that were killed during the conflict.

The [independent Inter-agency Humanitarian Evaluation report](#) released in June 2024 assessed the humanitarian response in the three northern regions of Ethiopia from November 2020 to April 2023, finding that the humanitarian in-country team was dysfunctional and lacked accountability. This has resulted in a system-wide failure to adequately address the ongoing humanitarian crisis.

**1.5 LACK OF TRUST IN AND/OR FEAR OF GOVERNMENT INSTITUTIONS.** Ongoing abuses by federal forces across the country cast doubt on the sincerity of the transitional justice policy, especially regarding the prevention of recurrent atrocities. Public trust in domestic institutions is crucial for the effectiveness of any transitional justice, post-conflict reconciliation, or accountability process. The federal government has continued to deny abuses were committed throughout the conflict despite the overwhelming, reliable evidence compiled by international and domestic organizations. As recently as 4 July 2024 Ethiopian Prime Minister Abiy Ahmed stated in a speech to Parliament that Ethiopia's forces "[doesn't kill en masse](#)" despite acknowledging the commission of human rights abuses in the country and the need to take responsibility. These dismissive comments continue to foment an environment of distrust.

Survivors in Ethiopia have expressed their suspicions regarding the policy, which remains seemingly in full control of the same officials that are complicit in the abuses they endured. This includes the creation of new institutions as set out in the current policy, which poses uncertainty as to how these institutions will be staffed and by whom. Survivors surveyed have also repeatedly called for an international component to the transitional justice policy to ensure transparency, adherence to international legal standards, and to hold the government accountable to its own policy. In light of the above circumstances, there is strong public concern that the current transitional justice policies will not sufficiently address the harm endured by victims and survivors of mass atrocities.

We also remain concerned that the Ethiopian government appears to be using transitional justice as a tool for what ICHREE deemed "[quasi-compliance](#)" – establishing domestic mechanisms and processes which purport to ensure accountability, but in practice are used to deflect international attention and circumvent scrutiny. The former head of ICHREE, Steven Ratner, said on 26 October 2023, "The use of 'quasi compliance' as a strategy to shut down international scrutiny is deeply concerning, and often comes

at the expense of victims and survivors' rights to truth, justice, reparations, and guarantees of non-recurrence." We echo these concerns in their entirety.

**1.6 DATA DEFICIENCY AND THE ABSENCE OF INCLUSIVE AND INDEPENDENT DOMESTIC HUMAN RIGHTS MONITORING.** The national human rights institution – the Ethiopian Human Rights Commission – struggles to adequately investigate the sheer number of abuses that require attention across the country. The Commission has also been accused of bias against specific survivor populations and of bending to the political will of the federal government. In this current context, the Commission cannot effectively provide the transparent, inclusive, and impartial monitoring the situation across the country demands. Additionally, a purely domestic mechanism cannot ensure accountability for survivors and victims of abuse by forces from neighboring Eritrea, leaving a large population of survivors with few paths forward for justice.

Furthermore, in Oromia, there is a glaring lack of independent and active human rights organizations that monitor, document, or report on human rights violations. This deficiency has persisted since the conflict in the region began in December 2018. As a result, there is a significant information gap. Victims and survivors are left without a secure environment, trust, or an organization that can chronicle both past and ongoing events and abuses. Countless survivors remain anonymous in the ongoing process, too fearful to come forward due to the risk of being targeted by government forces or facing retribution from government officials. This situation highlights the urgent need for special attention, intervention, and the establishment of robust human rights monitoring mechanisms in the region. Such mechanisms will facilitate the preparation for transitional justice to take place.

Patterns have also emerged of the government's attempts to control access to information in conflict zones. In Amhara, Oromia, and Tigray, government offensives have been preceded by internet and communications blackouts and the targeting of independent or international journalists and media personnel with arbitrary arrest, abuse, killing or denial of access.

These attacks on the media have accompanied an escalating crackdown on national civil society, including human rights organizations. A June report by Amnesty International, Front Line Defenders, HRW and others documented "physical and digital surveillance, verbal harassment, intimidation, and threats" against key, independent domestic human rights institutions, as well as a moratorium against registering new organizations since August 2023.

## PART II: SERIOUS CONCERNS REGARDING THE PROPOSED TRANSITIONAL JUSTICE POLICY

**2.1 NON-COMPLIANCE WITH INTERNATIONAL STANDARDS.** The policy adopted by the Council of Ministers fails to meet international standards for transitional justice processes despite calls for review from national stakeholders and international partners. The proposed definitions of key aspects to the policy—including “serious” human rights abuse, victim and reparations – lack adherence to international standards. [A process must provide recognition to victims](#), enhance trust of individuals in state institutions, reinforce respect for human rights, promote the rule of law, and contribute to the prevention of new violations. Furthermore, a process aligned with international standards would ideally be [gender transformative](#), focused on ensuring the policy is survivor-centered, participatory, adaptive, locally-owned and oriented towards addressing root-causes and a broad array of structures of power and domination. The policy does not provide the full spectrum of transitional justice mechanisms indicated necessary by survivors, including an international track for accountability. The policy relies solely on domestic mechanisms which, for many survivors, are part of the very institutions that abused them. Serious questions remain regarding the judicial independence, impartiality, and capability of the current domestic system to deliver accountability through criminal justice effectively as political interference, intimidation, and corruption have long undermined the independence and neutrality of Ethiopia’s justice sector. For the policy to be successful and trusted by victims and survivors, substantial reforms to the judicial system or hybrid court, or referral system to potential international criminal justice may be necessary as a prerequisite. Furthermore, the policy raises concerns on immunity for perpetrators on the basis of government or state functions, giving reasonable grounds to fear that the policy may scapegoat low-level perpetrators while granting immunity to political elites, reinforcing a culture of impunity.

**2.2 LACK OF OFFICIAL LEGAL FRAMEWORK TO ADDRESS INTERNATIONAL CRIMES.** While Ethiopia has ratified the Geneva Conventions and the Convention on the Prevention and Punishment of the Crime of Genocide, which criminalize and define violations deemed war crimes and genocide, respectively, the government has not ratified the Rome Statute of the International Criminal Court – the only international legal treaty that criminalizes acts of crimes against humanity. In order to effectively prosecute all the crimes occurring across the country, a legal framework must be created to define and prosecute these international crimes in the domestic legal system. While draft laws have been proposed to fill this gap, the policy has not been transparent with survivors of atrocities unsure when they will be able to seek justice.

Despite this, the draft policy prioritizes accountability options as entirely discretionary at the domestic level, ruling out international or hybrid trials. This approach allows the Ethiopian government to avoid scrutiny, contradicting international law and standards.

Furthermore, the accountability component lacks any reference to international criminal justice. There is no mention of monitoring and cooperation mechanisms with international bodies, which are needed to foster transparency, independence, and accountability, and to bridge the lack of public trust in the transitional justice policy. The policy also amalgamates various mandates and tasks – mainly fact-finding, amnesty, and reparations – into one commission. These mandates should reside in different bodies to ensure effective implementation.

**2.3 FAILURE TO APPLY A SURVIVOR-CENTERED APPROACH.** While the initial consultations ahead of the formation of the policy surveyed large survivor populations, the needs of those surveyed were not accurately reflected in the final policy. The policy also does not set out the rights survivors will have in the process, nor does it state how the government decides what demands of survivors to include. There lacks a clear plan on how the government will build trust with populations across the country to create an open environment for the process.

Additionally, survivors indicated a desire to be part of all aspects of transitional justice in a bottom-up approach to the creation and execution of the policy. However, the current policy utilizes a top-down approach within the control of Ethiopia’s institutions. Countless survivors remain animus to the ongoing process, afraid to come forward for fear of targeting by government forces and/or retribution. Survivors, particularly in Tigray, including refugees, IDPs, women and girls, persons with disabilities, occupied communities, and the public at large, are not adequately informed, consulted, or meaningfully engaged in the decision-making processes. The lack of representation and participation from Tigray in federal institutions also further contributes to this issue.

**2.4 LACK OF GENDER-SENSITIVITY THROUGHOUT THE POLICY.** Throughout the policy there remains a focus on “significant abuses” committed by “high-level” officials for legal accountability but a reliance on traditional or customary processes for other abuses. Unfortunately relying on a community consensus building process to address the widespread sexual violence perpetrated against women and girls fails to deliver the same level of accountability as a rights-based approach. More clarity is needed regarding how the legacies of sexual violence will be addressed, how courts will take into consideration the sensitivities around sexual violence-based crimes, and how the policy will combat the stigma against women and girls that often causes them to remain silent.

**2.5 ACCOUNTABILITY GAP FOR ABUSES BY ERITREAN FORCES.** As documented by the UN and various international human rights organizations, the EDF have committed systematic and widespread abuses against populations in Tigray, including abuses that amount to war crimes, crimes against humanity and ethnic cleansing under international law. The current policy is confined to the jurisdiction of Ethiopia and provides no pathways to justice for survivors of abuse by Eritrean forces. This gap highlights a serious hurdle for the full realization of justice and accountability for victims and survivors.

## **PART III: RECOMMENDATIONS FOR THE INTERNATIONAL COMMUNITY**

Due to these concerns, we call upon the international community to engage with the transitional justice policy in Ethiopia with caution. The mismanagement of recurrent transitional justice processes has led to cycles of violence against generations of Ethiopians. We encourage the international community to:

- 1. Call for an international aspect to the transitional justice policy, whether through the establishment of hybrid and/or regional courts or through independent international monitors to the process that can provide feedback and assurances throughout the process.**
- 2. Continue to monitor Ethiopia's domestic transitional justice and accountability processes and establish clear benchmarks with which to evaluate and report on its implementation, including a focus on human rights protections and addressing the needs of survivor populations.**

While monitoring the process and its implementation, continue to think creatively on how to proceed in the event that benchmarks for evaluation are not met.

- 3. Continue to hold the Ethiopian government accountable for ensuring unfettered humanitarian access to all areas where populations require assistance and to monitor and review aid delivery processes to ensure the aid is reaching those in need.**
- 4. Call upon both the federal government of Ethiopia and international partners to implement transparent and accurate reporting and dissemination mechanisms for humanitarian and human rights data.**
- 5. Urge the federal, regional, and local governments as well as armed groups across the country, to seek, without preconditions, political resolutions to their disputes and put an end to long-standing armed conflicts that threaten the stability of the country, including in Amhara and Oromia.**

- 6. Call upon the AU, AU MVC, and others to publicly release more reporting on the CoHA and hold the Ethiopian federal government and Tigrayan regional authorities accountable for its full implementation.**

- 7. Commend OHCHR for its continued efforts to monitor the human rights abuses across Ethiopia and call upon them to continue to release future public updates.**