

Distr.: General  
21 September 2022  
Arabic  
Original: English

## الجمعية العامة



## مجلس حقوق الإنسان

الدورة الحادية والخمسون

12 أيلول/سبتمبر - 7 تشرين الأول/أكتوبر 2022

البند 4 من جدول الأعمال

حالات حقوق الإنسان التي تتطلب اهتمام المجلس بها

مذكرة شفوية مؤرخة 19 أيلول/سبتمبر 2022 موجهة إلى رئيس  
مجلس حقوق الإنسان من البعثة الدائمة لإثيوبيا لدى مكتب الأمم المتحدة  
في جنيف

ترفق البعثة الدائمة لجمهورية إثيوبيا الديمقراطية الاتحادية لدى مكتب الأمم المتحدة في جنيف والمنظمات الدولية الأخرى في سويسرا طيه الموقف الرسمي لإثيوبيا من تقرير لجنة خبراء حقوق الإنسان الدولية المعنية بإثيوبيا (A/HRC/51/46)، الذي سينظر فيه مجلس حقوق الإنسان في جلسة التحاور التي ستعقد في 22 أيلول/سبتمبر 2022 (انظر المرفق).

وفي هذا الصدد، ترحو البعثة الدائمة تعميم هذه المذكرة الشفوية ومرفقها\* على أعضاء المجلس بوصفهما وثيقة من وثائق مجلس حقوق الإنسان.

\* يُعمَّم كما ورد، باللغة التي قُدم بها فقط.



**مرفق المذكرة الشفوية المؤرخة 19 أيلول/سبتمبر 2022 الموجهة إلى  
رئيس مجلس حقوق الإنسان من البعثة الدائمة لإثيوبيا لدى مكتب  
الأمم المتحدة في جنيف**

**Main observations of the Government of the Federal Democratic Republic of Ethiopia in respect of the draft report of the International Commission of Human Rights Experts on Ethiopia (ICHREE)**

**Introduction**

1. The Government of the FDRE (hereinafter 'GoE') finds the Report of ICHREE as contained in document A/HRC/5/XX, dated 22 September 2022 incomplete, incoherent, and unsubstantiated. It is a manifestly political statement issued under the guise of an 'investigation report'. The GoE believes that the report was written in breach of all principles of professionalism, independence, impartiality, and standards of proof entailed in any such process under international practice.

2. The GoE regrets the hasty, substandard, and agenda-driven pathway the ICHREE chose to discharge its responsibility. It presents its refutation of the context analysis, methodology, and factual and legal findings as follows.

**Observations in respect of disputed mandate of the ICHREE (para.0, 5, 10)**

3. The GoE reiterates its position that the establishment of ICHREE by the Human Rights Council was uncalled for and founded on a series of erroneous premises.

4. Resolution s-33/1 of 17 December 2021 was adopted after Ethiopia had already accepted the recommendations of the Joint Investigation Report of the EHRC-OHCHR; established the Inter-Ministerial Taskforce (IMTF) to comprehensively deliver on accountability and redress measures; and initiated an independent criminal investigation.

5. Further, the GoE had amply communicated in the past - that the Resolution and ICHREE undermine one of the most settled principles of international law - that the primary responsibility for the promotion and protection of human rights rests with states themselves. This is reaffirmed by the joint investigation report which stated that 'the primary responsibility for addressing the violations found by the JIT rests with the Ethiopian Government, as part of its obligation to protect the rights of all persons under its jurisdiction; international mechanisms are complementary to and do not replace national mechanisms'.

6. The GoE expressed its commitment to collaborate with any human rights mechanism, including the ICHREE, where such engagement is founded on a genuine objective of protecting human rights. As such, in May 2022, a high-level GoE delegation met with ICHREE in Geneva, to meet with the ICHREE. The GoE received the ICHREE for a visit to Ethiopia in July 2022 - to discuss modalities on possible future investigations by the ICHREE in northern Ethiopia and hold meetings with a wide range of interlocutors in Addis Ababa.

7. On the occasion of the meetings, the GoE tabled reasonable offers and conditions defining its understanding of the ICHREE mandate and the modalities of engagement; particular issues of the conversation included the need for the ICHREE to build upon works of the JIT, defining the temporal and spatial scope of the ICHREE investigations, and the ICHREE's responsibility not to undermine accountability and redress measures pursued within the framework of the works of the Inter-ministerial Taskforce (IMTF).

8. Apparently, the ICHREE had arrived in Addis Ababa with a preconceived notion of incriminating 'findings and conclusions'. Despite the positive ambiance created during the meetings, the communication it issued shortly after departing from Addis Ababa - regarding the process of the dialogues and engagements with the GoE - betrays its true intentions. The communique was wholly inconsistent with the high-spirited engagement, promises, and good faith understanding that transpired on the occasion of the meetings.

9. More pertinently, the ICHREE's statement issued on 7 September 2022, wherein it welcomed 'the decision of the UN Security Council to discuss the situation in Ethiopia as a matter of urgency' and further called upon 'the Council to take action under the Charter' and 'keep the situation in Ethiopia and the Horn high on its agenda' - is clearly conceived as political declaration. The call was issued in complete disregard of its mandates under the resolution and duty of neutrality. Nothing in the HRC resolution establishing the Commission and defining its mandate invests, even remotely, any such power or responsibility in the ICHREE. If anything, this ultra-virus act reveals the identity of the ICHREE as a highly orchestrated political agenda advocated by few circles.

10. Hence, against the background of the GoE's genuine commitment to cooperate, the ICHREE's howling that 'despite repeated requests beginning in May 2022, the Federal Government did not grant the Commission access to any areas outside of Addis Ababa, thereby forcing it to conduct most of its interviews remotely' - is, at best, a gross misrepresentation of the facts.

**With respect to the ICHREE's request for an extension of mandate (para.3-4, 9-11)**

11. The ICHREE alluded to several binding constraints 'regarding time, staffing, and lack of access to sites and documents' which forced it 'to select a specific and manageable preliminary group of incidents and themes reflecting some of the most significant violations of international human rights and humanitarian law'. Based on this, the ICHREE submitted that it 'requires additional time and resources for investigations and engagement with stakeholders'.

12. The GoE does not only reject any recognition of the ICHREE's work but also holds that the ICHREE should strictly endeavor to conclude its mandate within the remaining period, expiring in December 2022. It had more than ample time to pursue a meaningful discharge of its mandate.

13. Indeed, against the background of widespread, systematic, and grave violations committed in various parts of the country and the pile of evidence availed, the fact that the ICHREE was able to conclude its 'compilation of media-reporting-like' report focusing on 'three incidents' and 'two themes' speaks so modestly of its capacity or effectiveness. For comparison, the JIT of the EHRC-OHCHR - which investigated violations of human rights, held field investigations for 3.5 months in different locations in the Tigray region, Addis Ababa, Gondar, Bahir Dar and visited IDP camps in Gondar, Dabat, and Dansha under very difficult circumstances, conducted 269 confidential interviews with victims and witnesses of alleged violations, and had held 64 meetings with various institutions - was able to wrap a professional report just within one year.

14. In light of this, it could be held that the ICHREE's failure demonstrates a lack of seriousness of purpose. Any anticipation by the ICHREE to seek renewal of mandate under the guise of 'thoroughly fulfilling its mandate' is absolutely meaningless and a waste of public resources. This is primarily due to two reasons; a) the Commission has already demonstrated its ineffectiveness and disorganization; and b) because any of its works will not be predicated on genuine cooperation with the GoE - and as a result, its findings, conclusions and recommendations mandated under the resolution will literally have no partner-country to work with - rendering it a futile exercise.

**With respect to the context analysis: excessive use of partisan language (para.25)**

15. The ICHREE report is awash with language that demonstrates a partisan pose of the Commission against the GoE. Over the last two years, a pile of evidence has been availed publicly - not to mention a formal admission of the TPLF itself - clearly submitting that the TPLF provoked the war and shall account for consequences thereof. It is a huge moral dereliction for ICHREE to simply reduce the facts of the case and submit that 'Federal and Tigray regional governments declared one another's actions unconstitutional and fighting erupted on 3-4 November 2020'.

16. The incident was more than a 'fighting', and it has an owner and agenda. November 3, 2020, will be remembered forever as a tragic historical milestone; on this occasion - Ethiopian soldiers - from all ranks and files - who had been deployed in the region for more

than 20 years - were betrayed, despicably massacred, and kidnapped by fellow brothers-in-uniform. For any person of integrity, and indeed any commission of moral predisposition tasked with an investigative task, a national military symbolizes pride, honor, and means of collective security. Any treasonous offense of such a scale merits serious treatment and attribution of accountability. The GoE believes that the ICHREE's neglect, in this regard, is way more than a mere manifestation of an honest spoonerism.

**With respect to the relationship of the ICHREE's work with the Joint Investigation Report (para.19-21, 26)**

17. The ICHREE asserted that its mandate 'requires it to **build upon** the JIT report, which investigated alleged violations of international humanitarian and human rights law committed by all parties to the conflict in the Tigray Region from 3 November 2020 to 28 June 2021'. Further, the ICHREE stressed that 'based on temporal scope of its mandate it may investigate alleged violations occurring before the JIT's cut-off date of 28 June 2021 in a manner that **does not duplicate** the work of the JIT'.

18. Based on this, the ICHREE 'reinvestigated' one of the violations falling under the temporal and material scope of the JIT - allegedly committed by the ENDF in the context of the conflict in the Tigray region in November 2020.

19. The GoE realizes that the HRC's resolution tasked the ICHREE 'to conduct a thorough and impartial investigation into allegations of violations and abuses ... in Ethiopia committed since 3 November 2020 by all parties to the conflict ... by building upon the report of the Office of the High Commissioner and the Ethiopian Human Rights Commission'. Further, the ICHREE's own ToR states that it will 'build upon the findings, conclusions, and recommendations of the report of the JIT in a way that **adds value and avoids unnecessary duplication** of effort without limiting the temporal or geographic scope above'.

20. While challenging the premise on which the HRC's resolution was anchored, from the gate-go, the GoE had held candid exchanges and amply demonstrated to the Commission and other pertinent stakeholders - including heads of diplomatic representations, a flexible and reasonable position pertaining to the mandate of the Commission. In this regard, the GoE indicated its position that the ICHREE's work shall **only build on JIT's report** and in particular focus on a) the conflict in Amhara and Afar regions and violations committed since 29 June 2021; b) the conflict in Tigray region and violations committed since 3 November 2020 - exclusively focusing on incidents that are not substantively or geographically covered by the JIT. The GoE was ready to cooperate on clearly established principles that reinforces trust in a collective system built by the community of states in promoting human rights. The underlying idea was to prevent unwarranted competition in investigation efforts and discourage re-investigating alleged violations that had already been covered by the more rigorous fact-finding mission of the JIT.

21. Against such background, the fact that the ICHREE chose to 'reinvestigate' one major incident focusing on the shelling of Mekelle and attacks on civilians and civilian objects - and its finding which attributed responsibility on the ENDF is: a) extremely regrettable; b) counter to the mutual understanding held regarding the competence of the Commission in relation to the conception of 'building on the JIT report', and c) an utter waste of resource for ICHREE who had complained all along about lack of funds. Such time and effort could have been channeled to other violations committed by any one of the actors of the conflict. The Commission's unconcealed approach reconfirmed the impression that **its agenda was political and not human rights**.

**With respect to the fundamental flaws in methodology and standards of proof applied by the ICHREE (para.10-14, 17-18)**

22. The ICHREE admitted that it conducted 'most of its interviews remotely, conducting XX interviews with victims, survivors, witnesses, and other key interlocutors'; it also submitted to have 'examined additional sources, including satellite imagery, print, and audio-visual material, and open-source information' and '... reviewed confidential submissions from a variety of stakeholders'.

23. On the standard of proof, the report indicated that the ICHREE sought to establish and verify facts and circumstances ‘in accordance with the practice of United Nations fact-finding and investigative bodies’ and ‘applied a standard of reasonable grounds to believe to arrive at its factual and legal findings’. In this regard, the ICHREE held that ‘the threshold for this standard was met when it was fully satisfied that it had obtained a substantively reliable body of information, consistent and corroborated with other available material, based on which a reasonable and ordinarily prudent person would have reason to believe that such an incident or pattern of conduct occurred’.

24. Looking at the factual and legal analyses, findings, and conclusions of the ICHREE in relation to the ‘three incidents’ and ‘two themes’ which it identified, the GoE could not help but observe that the Commission’s work was attended by fundamental flaws in methodology and standards of proof as applied by human rights investigation bodies in similar undertakings. In fact, it has been noted with consternation that in various sections of the report, the findings and conclusions drawn by the Commission hardly appear to have been informed by actual verification of data - but greatly resemble a ‘rough-patching of news columns and informational pieces’ that have been availed to the public through various outlets. This becomes more visible when one pierces into the contents of the report with greater technical insight.

25. **First**, both best practice and widely accepted guidelines (including the 2015 UN Commissions of Inquiry and Fact-finding Missions: Guidance and Practice) - clearly require investigation missions to prepare a solid investigation and data collection scheme which identifies the potential sources of information (e.g., witnesses and victims), the methodology for gathering the information (e.g., face-to-face interviews, documents), field missions that would be carried out (where, when, who), information requirements of the investigation, and the type and extent of information needed to meet these requirements.

26. The ICHREE submitted that - to such end - it had deployed various means of information gathering; however, it also admitted to serious binding constraints encountered during the investigation - including lack of access to sites and documents in Ethiopia, absence of cooperation from UN entities, failure to interview persons in the Tigray region because of continued communications blackouts, and denial of access to Sudan and Djibouti to interview Ethiopian refugees. In any genuine human rights investigation, these sources would have been the prime locations that avail the most critical information - primary as well as secondary - regarding the alleged incidences.

27. Inexplicably, though, without any direct access to persons or entities in these jurisdictions, the ICHREE submitted that it undertook a virtual investigation’ and managed to gather the information that leads to the detailed factual findings and conclusions featured in the report.

28. The GoE recognizes that the ICHREE has the freedom to collect information from indirect sources - at the risk of compromising credibility. However, the GoE finds it extraordinarily difficult to believe - as would, any other reasonable person or entity would - that in relation to many of the incidences and themes identified in the report, the ICHREE report was organized in meeting the ‘information requirements’ required under the UN guideline that assist in determining its findings and conclusions. In the GoE’s reading, the integrity of the process of collecting information was seriously compromised - which then impacted the probity of the investigation process itself.

29. **Second, and more significantly**, in almost all its factual conclusions and findings, the report composed findings of the commission of serious crimes committed by a party without specifying what source of information it used or without indicating the standard of proof it employed for the purpose. A typical example is found in para.32-34 where the ICHREE sweepingly concluded that ‘ENDF soldiers also committed rapes and other forms of sexual violence’, ‘sexual violence by ENDF soldiers was so widespread in Mekelle that a “safe house” was established for victim’, ‘ENDF soldiers arbitrarily detained Mekelle residents, frequently subjecting them to severe beatings’, ‘also 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 almost each case, it found the commission of the crimes without even bothering to explain the

circumstances of the crimes, the time and date or duration of the alleged crime, and in limited cases where an indirect and remotely inferential testimony was used (for example, testimony by one health professional who said that ‘his medical facility began receiving rape survivors around 4-5 days after the ENDF took control of Mekelle’) - whether such information implicating a single entity on such scale has been verified, or even better, adequately corroborated by a more direct and reliable testimony.

30. The GoE noted that the crux of the matter lies in the ICHREE’s lack of understanding, haste or indifference in designing a clear evaluation framework and standard of proof. Such a framework would have helped to carefully appraise the relevance of the information to the subject matter of the investigation, the reliability of the source, and the validity or truthfulness of the information received. The ‘reasonable grounds to believe’ standard - which ‘necessitate a reliable body of material consistent with other verified circumstances showing that an incident had happened as alleged’, was hardly heeded in nearly all the factual findings of the ICHREE. Best practice and the UN Guideline dictate that typically the requirement of corroboration would be met by any investigation if it obtains concurring information from two other independent and reliable sources - and in case of information from a reliable primary source, a corroboration availed by one additional independent and reliable source.

31. The ICHREE **failed to adhere to such objective principles** in organizing its report. In this light, the GoE holds that the findings of facts established by the ICHREE as incriminating any of its agencies are informed by a hugely subjective exercise and sub-standard criteria of proof - and hence unacceptable.

**With respect to the factual findings: shelling of Mekelle and attacks on civilians and civilian objects (Para.26-34)**

32. The ICHREE concluded that there are ‘reasonable grounds to believe that the ENDF shelled Mekelle on 28 November 2020, striking civilians and civilian objects days after Tigrayan forces had left the city with their assets. ENDF soldiers also committed extensive extrajudicial killings, rapes and other forms of sexual violence, arbitrary detention, and looting during the seven-month period stretching from 28 November 2020 to 28 June 2021. ENDF personnel also used civilian objects for military purposes and restricted access to medical treatment’.

33. The GoE challenges the ICHREE factual findings; while individual incidents could not be ruled out, the GoE regards ICHREE’s finding as a wholly fabricated propaganda piece aimed at tarnishing the image and reputation of the ENDF on a grander scale.

34. **First**, in relation to the 28 November 2020 shelling, the JIT investigation too had found that several civilian and public facilities in Mekelle city were shelled - resulting in civilian deaths and destruction of civilian and public property and infrastructure. And based on the information collected, the JIT held there are reasonable grounds to believe that all parties to the conflict have undertaken direct attacks on civilians affecting men, women, boys, and girls - and civilian objects enjoying special protection. The JIT concluded that directing attacks against civilians not taking a direct part in hostilities and/or civilian objects **is a serious violation of international humanitarian law, which may also amount to a war crime**. It is to be recalled that the GoE disputed the role of the ENDF - but promised to carry out its own investigation.

35. In spite of such a detailed finding and conclusion, the ICHREE chose to reinvestigate the matter under the guise that ‘the JIT did not make a specific legal finding regarding possible violations arising from the shelling’. The fact that the ICHREE chose to selectively look into this allegation and reinvestigate is not triggered by gaps in JIT findings and conclusion; it is rather prompted by a deliberate desire to **create an agenda and smear the ENDF’s reputation. This is wholly unacceptable**.

36. **Second**, as discussed in the methodology part, international best practices and guidelines require that such a sweeping finding should always be attended to **by direct, reliable, and corroborated evidence** attesting to the commission of the crimes by specific actors. Trying to prove ENDF’s role in the shelling based on information gathered from ‘multiple sources’ in Mekelle does not speak highly about meeting requirements of reliability and corroboration.

37. **Third**, allegations of ENDF soldiers' involvement 'in extensive extrajudicial killings, rapes and other forms of sexual violence, arbitrary detention, and looting during the seven-month period stretching from 28 November 2020 to 28 June 2021' - is simply a bogus charge.

38. The level of impartiality and professional dereliction of the ICHREE team could be read from the fact that: a) findings of extensive sexual violence and rapes committed by ENDF members' were '**proven**' by, to use their own words, 'one witness who said safe houses were established soon after, and a medic who told that he started receiving rape survivors 4-5 days after ENDF took control of Mekelle'.

39. On the other hand, allegations that ENDF 'soldiers committed extensive extrajudicial killings, arbitrary detention, and looting' and 'used civilian objects for military purposes and restricted access to medical treatment' **was not even supported by a single witness testimony**, leave alone reliability and corroboration issues. It was exceedingly obvious that the ICHREE narrated its 'news-story' based on a highly speculative and agenda-driven mindset.

40. **This being said:**

(a) It should also be noted that while the ENDF took effective control of Mekelle on November 28, 2020, its advance towards the city was met only with sporadic resistance from TPLF and its affiliates; the fighting was not of such a scale as to warrant the deployment of heavy artillery and shelling. The GoE continues to refute the speculative theory that attacks came from the direction of the Mesobo mountain where ENDF forces were supposed to have been positioned;

(b) The GoE also underscores the fact that the ENDF follows standard procedures in terms of the protection of the civilian population and civilian objects in all its operations. In conflict settings attended by heavy ammunition, this mainly involves the adoption of precautionary measures such as cautious assessment of military targets and their proximity to civilian areas, the issuance of advance warnings to civilians to stay at home or leave affected areas temporarily, and the conduct of operations at times that are believed to be optimal to avoid or minimize damage to civilians and civilian objects. It should also be noted that throughout the conflict, TPLF's use of civilians as human shields, and storage and operation of armaments inside places of worship – have posed a great challenge to the ENDF.

(c) Far from claiming faultlessness in all situations, the ENDF has also initiated criminal investigations and brought to justice the cases of sixty members who broke protocol and committed crimes during the conflict; more than half of them have been convicted - receiving rigorous imprisonments ranging from five years to a life sentence.

#### **With respect to factual findings: killings in Kobo and Chena (Para.36-45)**

41. The ICHREE tried to address the heinous massacres committed by the TPLF in both towns. Nevertheless, the report was not composed in such a way as to give a full picture of the seriousness of the abuses committed in the Amhara and Afar regions in general and Kobo and Chena in particular. The constraint that the ICHREE had in relation to resources is not an excuse to address all the major incidents caused during the war in respect of which evidence is widely availed, or at the very least acknowledge the general setting of the grief.

42. **(A) The Commission does not offer an exhaustive record of the main incidences and had deliberately intended to conceal violations committed by the TPLF in Amhara and Afar regions**

43. Following the declaration of the unilateral ceasefire by the Federal Government, TPLF forces escalated the war into the Amhara and Afar regions; they marched about 400 kilometers into the Amhara region. The war continued until late December 2021. In the Amhara region alone, TPLF forces invaded North and South Wollo Zones, Wag Himra Zone, South and North Gondor Zones, Oromo Special Zone, and North Showa Zone.

44. TPLF's invasion resulted in enormous losses - human and material. A pending investigation found that not less than 2000 civilians have been victims of extra-judicial killing by TPLF forces, more than 1000 civilians were inflicted with bodily harm, and more than 400 civilians were treated inhumanly. More than 2000 women and girls were raped and

exposed to various forms of sexual violence. The scale of the property damages, destruction, and looting inflicted by TPLF forces is beyond measure. Churches and other religious sites were also destroyed and used as military camps and fighting sheds.

45. Further, across all areas affected by the conflict, several persons had to cope with ethnic insults, and humiliations inflicted by TPLF forces. Millions of ethnic Amharas were displaced from their homes. In the grander scheme of injuries, the massacres perpetrated in Kobo, Chena, Agamsa, Maikadra, Antsokiya-Gemza, Qewot, Mersa, and Delanta stand highest as the most heinous crimes. These incidences have received widespread coverage in national and international media outlets that reported horrific transgressions based on the accounts of eyewitnesses, survivors, victims, and satellite images.

46. In this light, while the GoE bears in mind that the ICHREE had already claimed that it was not endeavoring to present a full account of all the incidences, and finds it to constitute great moral dereliction that the ICHREE failed to present two identified incidents **against the backdrop of a wider set of dreadful incidences** encountered in both regions in respect of which the ICHREE is believed to possess ample first hand and open-source information.

47. **(B) The Commission did not present the true scale and seriousness of the killings committed in Kobo and Chena**

48. Given the gravity of the crimes, the GoE believes that the identified cases were not given the degree of attention and detailed treatment they merit. The report submitted that TPLF forces killed civilians and persons rendered-hors-de combat, raped, looted, and damaged or destroyed civilian infrastructure and property in Kobo and Chena in late August and early September 2021 respectively. In Kobo, the report stated, survivors estimated that hundreds of people were killed, while in Chena, TPLF forces killed scores of people.

49. The GoE believes of the gross professional disregard of the ICHREE is to account for the failure to narrate such grave massacres in-depth and follow the required procedures in the search for sources of information. Instead, the ICHREE hastened to simply rely on inadequate information from handful of sources and drew a shallow and unrepresentative picture of the scenario that unfolded in the two localities. It should be known that in Kobo alone, on 9 September 2021, TPLF fighters killed around 600 unarmed civilians, farmers, and laborers who had been working in nearby farmlands. A report by Al-Jazeera on 25 September 2021 described the incident as ‘the most extensive yet of one of the deadliest known killings of Amharas in the war’. The town of Kobo had also been pictured by the international media and human rights advocacy groups as ‘the town of mass graves’. Likewise, in Chena, more than 120-150 civilians were killed in brutally, most of them executed with their hands tied back.

50. **(C) The Commission used double-standard in its narrative of incidents in the Amhara and Tigray regions.**

51. In its report, the ICHREE stated that on 10 August 2021, the Federal Government called upon all capable citizens to stop them “once and for all”. The ICHREE asserted that this call by the Federal Government caused the line between civilians and combatants to become increasingly blurred. On this basis, the ICHREE concluded that the deaths were **not only of civilians but also of persons rendered hors de combat**.

52. Following on its practice of serious flouting of evidentiary requirements and standards of proof, the ICHREE did not adduce a single source to verify the fact that TPLF forces killed persons rendered hors de combat. This is a gambit of the highest scale with the blood of unarmed civilian farmers and laborers that once again showcases how predisposed the ICHREE is to cross the redline. Any semblance of fairness and objectivity by the ICHREE would have alluded to clear instigations by TPLF’s leader who publicly proclaimed that ‘this war is not going to be conducted by Special Forces or Militias. It is the civilian public war. The whole public will take part; therefore, we call it a people’s war. Starting from children, everyone will take part; we will conduct war using our soldiers’. Similar rhetoric was also aired on multiple media platforms which the ICHREE chose to conveniently ignore.

53. **D) The bundling of the two incidents - in Kobo and Chena - under a single basket is intended to relegate the seriousness of the massacres**

54. In its report, the ICHREE bundled both incidents under a single basket - although they represent different settings and scenarios. The GoE believes that this is a deliberate move on the part of the ICHREE to downgrade the seriousness of the crimes and give a superficial impression of the violations committed by TPLF forces in the eyes of the international community.

**With respect to factual findings: drone strike on Dedebit Internally Displaced Persons (IDP) camp (Paragraphs 46-55)**

55. The ICHREE used a meticulously crafted and yet unfounded prelude with regard to this allegation which it was determined to blame on the ENDF.

56. **First**, the GoE holds that there is no single primary and credible evidence to substantiate the forcible eviction of the Tigrayan community from Humera by the accused forces and in that specified manner.

57. **Second**, the report itself acknowledges that it was an informal settlement that existed in the specific place which allegedly was subjected to the strike. Otherwise, the place is known to be a long-serving military base which the TPLF has always bragged to have commenced its armed struggle nearly half a century ago.

58. In an attempt to make it plausible, the report refers to a story where victims managed to identify the alleged “drone-strike” which was said to have occurred late at night from the humming and buzzing it makes. This, in any ordinary person’s opinion, leaves the allegation a politically motivated fairytale than an investigative report by a human rights expert.

59. Apart from this, the GoE did not have effective control of the alleged area and cannot confirm formally or informally whether there actually was an IDP camp, and whether or not the alleged strike actually happened.

**With respect to factual findings: sexual violence by ENDF, and Fano (para.58-61)**

60. On this thematic area as well, the GoE had reviewed the report by the ICHREE with great disappointment as it reflects the politically motivated mission of the institution.

61. ICHREE’s report submitted that SGBV cases committed against Tigrayan women were violent, brutal, widespread, and systematic - while acts of SGBV committed against women and girls of non-Tigrayan origin were committed on a smaller scale - with minimal gravity; it also demanded a thorough investigation of violations committed only in the Tigray region.

62. The GoE condemns the commission of any SGBV anywhere and by any actor. It feels the enormous pain of the survivors, their families, the community, and the people. It is regrettable to learn of the position of the ICHREE which is discriminatory and one-sided. The report clearly tried to undermine the suffering of one less painful than the suffering of the other - obviously going against the principle of non-discrimination. The survivor-centered approach that the ICHREE claimed to have employed at the time of investigation also indicated non-discrimination as one of the pillar principles to guide its activities - which was obviously not the case in this particular instance.

63. As stated in the preceding sections, human rights investigations must be designed and implemented to guarantee a sound outcome. The ICHREE’s report failed to show the **specific methods used in the investigation** and the **evidence** collection and analysis procedure which help to identify the credibility and accuracy of information gathered; it rather **drew unsupported conclusions with vague or no source of information** indicated in the report.

**With respect to factual findings: concerning allegations against ENDF (para.56-61)**

64. **First**, Ethiopia is one of the first signatories to the Geneva Conventions and had made the principles part of its military operation and laws. Protection of human rights and respect for humanitarian law are major parts of the training manuals and curricula of the ENDF which every soldier is trained. For decades, the ENDF had established its service focusing on those principles. ENDF follows standard procedures in terms of the protection of civilians.

65. **Second**, as a result of this commitment, the ENDF has established an exemplary military discipline recognized internationally - while engaged in peacekeeping missions to several countries - with no track record of violence. Concerning the operation in the Tigray region and areas that were affected by the conflict, the rules of engagement in a booklet were developed and distributed to every member of the army to be strictly followed; all soldiers are commanded to be mindful of the safety and security of civilians. The booklet specifically indicates any violation of rights entails criminal responsibility.

66. **Third**, as indicated in other sections, in this part too, the ICHREE report indicates facts (rather expressions) in a generic manner - without connecting or corroborating them with evidence and arrives at a sweeping conclusion. Such a sub-standard approach in its methods leaves no space for the GoE to identify and investigate the alleged violations. This makes the report very questionable - as it reached conclusions regarding the occurrence of systematic attacks without even establishing the facts in detail.

67. Sadly, SGBV had been committed in the Tigray region by all actors in the conflict including TPLF forces - as the JIT report had already confirmed. It is true that some members of the ENDF, too, had engaged in such acts and since faced justice; nevertheless, these sporadic and isolated incidences by members of the army do not in any way represent the ENDF's values, institutional standing, and reputation.

68. In respect of violations in the Tigray region, while the GoE remains committed to investigating and prosecuting any form of violation committed by the parties to the conflict, it was not able to do so since it has no access to the Tigray region. The region has remained under TPLF control since the unilateral cease-fire.

69. The attack of TPLF in Afar and Amhara regional states has also resulted in the use of SGBV as a weapon of war by its soldiers and worsened the challenge. The report miserably failed to capture the horrific, systematic, and widespread attacks committed on innocent civilians by the TPLF in Afar and Amhara regions.

70. An investigation carried out by the Investigation and Prosecution team has already identified more than 2000 survivors in the two regions alone. The prevalence of social stigma and lack of awareness and inaccessibility of the remote rural areas also meant that there are plenty of unreported cases.

71. Sexual assault including physical and verbal abuse, rape, rape in detention, gang rape, violence against children, older women and women with disabilities, men and boys, and intentional transmission of sexually transmitted diseases were committed by TPLF forces - resulting in unwanted pregnancy, STD, HIV/AIDS and other physical and mental health problems on survivors.

72. The pattern of rapes and gang rapes - subjecting survivors of SGBV to violent acts, degrading and dehumanizing racial slurs used by the perpetrators consistently indicated that victims were subjected to the horrific acts because of their ethnic identity. The involvement of TPLF's military officials in the violence and failure to halt the commission of similar crimes by subordinates underscored in the report proves that the attacks were undertaken as part of a systematic method of war.

**With respect to factual findings: concerning the provision of medical service (para.64-67)**

73. After the unilateral cease-fire and immediate withdrawal from the Tigray region on humanitarian accounts, the GoE has allowed and cooperated with INGOs and UN agencies to operate and provide services in the region - including medical services. Agencies were clustered by areas of specialization to mobilize their resource. At the time of the unilateral ceasefire, nearly 618 million worth of drugs were in stock in Tigray and 218.89 metric tons of medicine were delivered within a year from the cease-fire through INGOs - as the GoE has no physical access.

74. The GoE notes with regret that areas controlled by TPLF during the conflict and subjected to extensive looting and destruction of medical facilities were widely reported by human rights organizations - including the EHRC, and yet, these transgressions were barely looked into by the ICHREE.

75. All in all, the GoE holds that the report was unfair and discriminatory, decidedly one-sided. The allegations of commission of crimes implicating the GoE or its agencies were wholly unsupported by evidence. The GoE expresses its disappointment that the ICHREE failed to adhere to internationally recognized principles and standards in the conduct of its investigation and standards of proof and arrives at unfounded conclusions.

**With respect to factual findings: denial and obstruction of humanitarian access**

76. In a like tune, the GoE is extremely disheartened by the biased and largely uninformed report that the ICHREE submitted in relation to humanitarian access in the Tigray region. The report not only failed to capture the true essence of the reality on the ground, but it also turned a blind eye to efforts made by the GoE unilaterally as well as in collaboration with humanitarian organizations to meet the urgent humanitarian needs of the region. The report ignored the massive humanitarian assistance rendered by the GoE in many parts of Tigray - both during the period of its presence and since the withdrawal.

77. (A). The report described that in early November 2020, the ENDF and affiliated forces in the Tigray region began to systematically loot and destroy goods indispensable to the survival of the civilian population, ransacking homes, businesses, medical facilities, and schools, killing livestock, destroyed food stores, and razed crops.

78. If anything, the ICHREE's finding is based solely on the testimony of a woman - which will not only be insufficient on its own as an account but also could not be regarded as reliable and corroborated. For instance, the report stated that the incident occurred in early November 2020; however, it is public knowledge that the conflict broke out after the TPLF attacked the Northern command on 3 November 2020, and in the period before 28 November 2020, the law and order in the region was under the responsibility of the region. Therefore, it raises an obvious issue of credibility on the part of the ICHREE to conclude that the ENDF and affiliated forces perpetrated the alleged offenses - when they were not deployed in the Tigray region.

79. In relation to the finding that once TPLF forces retook control of large parts of the Tigray region in late June 2021, the GoE shut down electricity, internet, banking and telecommunication services, etc. The GoE submits that the allegations are unfounded and not predicated on closer knowledge and understanding of the scenario that unfolded.

80. The GoE has abundantly proven that TPLF forces intentionally destroyed vital infrastructure including airports, roads, bridges, telecommunication, and electrical installations in the Tigray region while rushing to escape from ENDF's military operations. The GoE had remained committed to the rehabilitation of the region and its citizens during the period of the law enforcement operation and effective control in the Tigray region.

81. All infrastructure redevelopment works and gains were reversed after the TPLF retook control of the region in June 2021 - following the unilateral humanitarian ceasefire. After ENDF's withdrawal from the Tigray region, the GoE never had physical access to the region to provide humanitarian assistance and ensure the continuation of public services.

82. In spite of this, the GoE has always worked towards and collaborated with a plethora of humanitarian organizations to provide humanitarian assistance indispensable to the survival of the people in the Tigray region.

83. It is also to be noted that in July of the same year - after TPLF retook the regional capital of Mekelle, its forces advanced into Afar and Amhara regions, expanding the conflict into previously uninvolved areas. Since then, humanitarian assistance reaching the Tigray region was blocked or obstructed from the TPLF-controlled areas of the Amhara and Afar regional states; as a result, a large number of people were displaced, injured, killed, raped, and electricity, internet, banking, and telecommunication services shut down - all these incidents blamed to the instigation and expansion of the conflict by TPLF forces. This was never factored in the report.

84. Further, in contrast to the report's persistent and inaccurate narrative which claims that vast tracts of the Tigray region had been inaccessible, the GoE, in partnership with international and local organizations, had in fact made significant progress in delivering

humanitarian assistance to care for citizens in the Tigray region both during the period of the ENDF's presence and after its withdrawal.

85. In this light, the GoE submits the existence of concrete proof that since the conflict broke out and during its presence in the Tigray region, 5.8 million people had benefited from the humanitarian aid distributed in seventy-nine of the ninety-two districts in the region. The GoE's contribution stood at 70% - while the share availed by international partners was only 30%.

86. Per the joint protocols established in delivering humanitarian assistance, more than 400 personnel of bilateral and multilateral aid organizations had been provided clearance to travel and undertake assistance works in the region. There were 40 international organizations working on the ground - per the UNOCHA report released on 6 August 2021. About 380,000 metric tons of food items were left in the Tigray region for those in need of food.

87. In respect of humanitarian assistance in the Tigray region since TPLF retook control of the region, the GoE has always permitted regular flow of aid; despite access constraints due to roadblocks and insecurities in the areas under TPLF control, humanitarian assistance by aid NGOs and humanitarian organizations has been organized - which has improved from time to time. As the report of the Disaster Risk Management Commission (DRMC) discloses, 135,164 metric tons of food items, 16,883 metric tons of non-food items, 2.4-billion-birr, 828,425 liter of fuel, and 218,890 metric tons of medicines have been provided to 5.2 million people in **Tigray region from July 2021 to 21 June 2022.**

88. (B) In respect of the Commission's findings that 'GoE used starvation as a method of warfare': the GoE regrets the ICHREE's spurious allegations - while the vivid fact remains that there was no deliberate or willful denial of humanitarian assistance to the civilian population in the Tigray region to use starvation as a weapon of war. The allegations are made without a factual basis and merit to espouse a sinister political objective. The report turns a blind eye to all the humanitarian assistance made to the people of the Tigray region by the GoE - in collaboration with humanitarian organizations.

89. In this line, in spite of ICHREE's vile accusation, the GoE declares that it will continue to collaborate with humanitarian organizations to provide all possible assistance indispensable to the survival of the people of the Tigray region.

#### **With respect to mechanisms addressing transitional justice and related issues**

90. In relation to ICHREE'S conclusions pertaining to the IMTF, only a point or two merits serious consideration.

91. First, the establishment of the IMTF demonstrates the resolve of the GoE to ensure accountability and redress for all violations committed by all actors in the conflict in northern Ethiopia. With active support from the government and its partners, the IMTF has been able to deliver progress on multiple tracks. As such, any attempt by the ICHREE to undermine the IMTF's works - to give the impression that the GoE is not committed to the pledges it undertook - would not detract the GoE from holding on to its commitments.

92. Second, it is also bizarre to note the ICHREE's uncalled-for offensive against the IMTF, where in fact, the ICHREE itself was mandated under the resolution to assist all accountability and redress measures pursued within the framework of the works of the IMTF. It did nothing in this regard.

93. Finally, the ICHREE appears to have serious difficulty distinguishing between the mandates of the IMTF and a transitional justice process. While the IMTF's work lines will naturally pick on some elements of transitional justice, the IMTF is entirely different from anything closer to a transitional justice process. The IMTF is not established to espouse a national transitional justice agenda.

94. In this light, the ICHREE's conclusion that 'the Commission is not convinced that the work of the IMTF meets international and regional standards for transitional justice mechanisms' is a misdirected observation.

**Additional Indications of the Political Nature of the ICHREE's Report**

95. In paragraph 8 of the report, the ICHREE claims to have sent a short list of issues to and received a response from “the Regional Government of Tigray”. The ICHREE has conferred the status of “Regional Government” on a rebel group that is designated as a terrorist organization by the House of Peoples’ Representatives. The characterization of the TPLF as a “Regional Government” does not have any legal basis and is a gratuitous elevation of the TPLF by the ICHREE. Furthermore, under Paragraph 36, before providing the facts concerning the massacres committed by the TPLF in Kobo and Chenna, the ICHREE goes out of its way to assert that “the line between civilians and combatants” have been blurred, implicitly trying to downplay or even legitimizing the massacre perpetrated by the TPLF. Furthermore, under paragraph 119 of its draft report, the ICHREE claims that the Federal Government has invited the EDF to participate in the conflict. Such assertion is not backed by any evidence and betrays the fact that the report is largely a regurgitation of TPLF talking points. The ICHREE also takes it upon itself to express “its concerns about the selection and membership of the National Dialogue Commission”. Although the source for the concern is not indicated in the report, one has to wonder what aspect of ICHREE’s mandate provides a basis for such pronouncements. Overall, these elements of the report, among other things show the heavy political and partisan bent of the ICHREE. The fact that the ICHREE has not been able to secure the cooperation of the Joint Investigation Team which includes the OHCHR also shows its lack of seriousness and credibility. The attempt to justify and downplay TPLF wrongdoings and the effort to heap all sorts of unwarranted conclusions against the ENDF on very flimsy, uncorroborated, and unreliable testimony, at times from a single individual is also very regrettable. The ICHREE has not shown adequate rigor, impartiality, and diligence to earn trust and credibility. Its report shows that its mandate has been usurped to advance political causes at odds with the human rights agenda.

**Regional Mechanisms, Conclusion, and Recommendations**

96. The ICHREE, in yet another ultra-virus act, makes remarks on the peace initiative of the African Union and tries to dictate the terms of the settlement. This is not acceptable. It has no knowledge of this process. In fact, the continued work of the ICHREE is a clear and present danger for peace and stability and the future of Ethiopia. It is being used as a platform for political attacks against the country and its future. It bears full responsibility for these actions.

97. ICHREE’s conclusion makes alarming remarks about ethnic hatred. It is unacceptable for a human rights body to disseminate such falsehood based on their clumsy work.

98. The GoE reiterates that the ICHREE has no mandate whatsoever to pronounce itself on matters of the maintenance of peace and security. It was not given this mandate. The Human Rights Council itself could not have given such a mandate to the ICHREE, since it does not have such competence.

99. The GoE is committed to ensuring humanitarian aid reaches to all affected by the conflict, not just as selectively recommended by the ICHREE.

100. The GoE has brought perpetrators of violations of human rights to justice and has the commitment. The judicial and law enforcement institutions have the capacity to discharge their responsibility to investigate and bring to justice whoever is responsible for violations of international human rights law and international humanitarian law.

101. The GoE is working closely with OHCHR in Ethiopia and other member of the international community. It will continue this collaboration.