

**ACHPR/Res. 482 (EXT.OS/XXXII) 2021: Resolution on the Fact-Finding Mission to the Tigray Region of the Federal Democratic Republic of Ethiopia**

*The African Commission on Human and Peoples' Rights (the Commission), meeting in its 32nd extraordinary session, held virtually on 12 May 2021*

*Recalling* its mandate to promote and protect human rights in Africa under Article 45 of the African Charter on Human and Peoples' Rights (the African Charter);

*Bearing in mind* the obligations of the Federal Democratic Republic of Ethiopia (Ethiopia) under the African Charter and other relevant human rights instruments to which it is a party;

*Considering* objectives 3 (f), (g) and (h) of the AU Constitutive Act to promote peace, security, and stability on the continent; promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments; and to which Ethiopia is party since 2002;

*Considering* article 4 (g) of the AU Constitutive Act which provides for non-interference by any Member State in the internal affairs of another Member State;

*Considering* Article 1 of the African Charter, which calls on States Parties to adopt legislative or other measures to give effect to the rights and freedoms guaranteed by the African Charter; the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), the Protocol to the African Charter on the Rights of Women in Africa (Maputo Protocol) and the OAU Convention Governing the Specific Aspects of Refugees in Africa;

*Recalling* Resolutions ACHPR/Res.92(XXXVIII) 05, ACHPR/Res.218(LI) 2012, ACHPR/Res.356(LIX) 2016, ACHPR/Res.429(LXV) 2019 and ACHPR/Res.469 (LXVII) 2020, on the Human Rights Situation in the Federal Democratic Republic of Ethiopia;

Further recalling the United Nations Secretary General's Press Statement (SG/SM/20396) of November 4, 2020 on the situation in Tigray;

Also recalling the statement by the Chairperson of the African Union Commission, H.E. Moussa Faki Mahamat, on the situation in Ethiopia on 9 November 2020, and supporting the AU-led mediation efforts;

*Considering* the two Commission's Press Releases on the socio-political crisis in the Federal Democratic Republic of Ethiopia issued on 9 and 26 November 2020;

Further considering the United Nations Security Council Resolution UNSC 2573 (2021) on the protection of civilians in armed conflict;

Also considering its 2019 Report on “Addressing Human Rights Issues in Conflict Situations: Towards a More Systematic and Effective Role for the African Commission on Human and Peoples' Rights”;

*Noting* the meeting of the African Union Peace and Security Council on 9 March 2021; in which the Prime Minister of Ethiopia, H.E Mr. Abiy Ahmed delivered a statement on the current situation in Northern Ethiopia;

*Considering* the correspondence of the Chairperson of the African Union Commission, H.E Mr. Moussa Faki Mahamat, dated 16 March 2021, informing the Commission of the willingness expressed by the Government of Ethiopia to engage the Commission to undertake investigations jointly with the Ethiopian National Human Rights Commission, into the ongoing crisis in the Tigray Region, at the meeting of the Peace and Security Council of the African Union held on 9 March 2021; and inviting the Commission to consider a self-initiated investigation;

*Taking into account* the decisions taken at subsequent meetings convened by the Commission to consider the said request and its decision of the urgent need to conduct a fact-finding mission in the Tigray Region as soon as possible;

*Considering* the Letter sent to the Ethiopian Prime Minister, H.E Mr. Abiy Ahmed, dated 6 April 2021, informing him of the decision of the Commission to conduct a fact-finding mission to the Tigray Region, during the month of May and requesting the necessary authorization to carry out the mission;

Recalling the Constitution of the Federal Democratic Republic of Ethiopia of 8 December 1994, in particular the provisions of Chapter 3 on fundamental rights and freedoms, human rights and democratic rights;

Deeply concerned about allegations of gross violations in the ongoing conflict in the Tigray region, including sexual violence against women and girls, gang rapes used as weapons of war, killings of civilians by belligerents and extrajudicial killings;

Also noting, and with concern, the situation of Eritrean refugees living in camps in Tigray region, and allegations of abductions, extrajudicial killings and forced repatriation to Eritrea of refugees and asylum seekers;

Deeply concerned about reports of the large-scale movement of Tigrayan refugees fleeing the conflict to Sudan and neighboring countries;

Further concerned about reports of massive and forced internal displacement of thousands of people in the Tigray region who find themselves in situations of isolation;

Expressing its deep concern at reports about the intensity of hostilities which have led to an increased number of victims and casualties in the ongoing conflict, and which have resulted in serious and gross violations of human rights, breaches of international humanitarian and human rights law, refugee rights and the provisions of the Kampala Convention;

Noting with concern the humanitarian crisis in Tigray, the challenges to the population's access to humanitarian assistance, and reports of the use of starvation as a weapon of war;

Recalling reports with allegations of human rights violations against the civilian population, including attacks against civilian infrastructure, destruction of property, looting, destruction of refugee camps, which may constitute war crimes and crimes against humanity;

*Further concerned* about the threats to the safety, security, well-being and livelihood of the people of the Tigray region, as well as the loss of lives, destruction of public and private infrastructure, as the military conflict continues;

*Conscious* of the need to act as soon as possible to contribute to the resolution of the conflict, including the determination of accountability, in order to bring the perpetrators to justice and provide reparation and restoration to the victims, as well as bring about national reconciliation, with a view to enhancing stability, security and peace in the Federal Democratic Republic of Ethiopia;

Noting the report of the Ethiopian Human Rights Commission of 24 March 2021 confirming the killings by Eritrean troops in the town of Aksum and the statement of the Ethiopian Prime Minister acknowledging the violation of human rights in the Tigray region;

Taking note of the Joint Fact-Finding Mission of the Office of the United Nations High Commissioner for Human Rights and the Ethiopian Human Rights Commission announced on 18 March 2021;

The Commission decides:

### **Establishment of a Commission of Inquiry**

1. To establish a Commission of Inquiry into the situation in the Tigray Region;

### **Seat**

2. The seat of the Commission of Inquiry shall be Banjul in the Republic of the Gambia;
3. The fact-finding mission will start its work from its seat in Banjul, and the mission will travel to Ethiopia or neighboring countries when conditions are met;

### **Authority**

4. The authority to establish a Commission of Inquiry is derived from article 45(2) read together with article 46
  - a. The Commission of Inquiry shall carry out its work under the delegated authority of the Commission;
  - b. The Rules applicable to the operation of the Commission of Inquiry shall be the rules of the African Commission on Human and Peoples' Rights, 2020, particularly but not limited to Rule 101 hereof.

### **Duration of the Commission of Inquiry**

5. The Commission of Inquiry will operate for a renewable period of three (3) months.
6. The Commission will communicate the start date of its work in due course.

### **Mandate of the Commission of Inquiry**

7. The mandate of the Commission of Inquiry shall be to:
  - a. Investigating violations of international human rights law and international humanitarian law;
  - b. enquire into and report on alleged sexual and gender-based violence, extrajudicial killings, widespread destruction and looting of public and private property, displacements and other human rights violations reported to be occurring in the Tigray Region of the Republic of Ethiopia;
  - c. Determine whether the extent of the violations may constitute gross human rights violations;
  - d. Collect evidence from survivors, various witnesses, local leaders, medical staff;
  - e. Identify perpetrators of violations of the rights under the African Charter on Human and Peoples' Rights, with a view to contribute to the fight against impunity by holding those responsible for these violations to book;
  - f. Determine the underlying causes of proven human rights violation; ensuring that both the public and key stakeholders are better informed about and more aware of the nature of the conflict and possible factors fueling the conflict;
  - g. Make findings and conclusions based on available research and evidence;
  - h. Develop and recommend proposals for action to remedy the pattern of violation and prevent future violations in the Tigray region;
  - i. Recommend support and/or reparations to be provided to victims of human rights violation;
  - j. Engage with the Ethiopian authorities and all other stakeholders.

### **Investigative Methods**

8. Investigative methods of the Commission of Inquiry, in line with Article 46 of the African Charter on Human and Peoples' Rights, shall include, but not be limited to the following investigative methods:
  - a. Undertake a desk-top review; gathering information and physical, oral and electronic evidence, whether provided publicly or in camera, including under condition of anonymity, from witnesses and experts, by e-mail; telephone calls, virtual meetings and any other available means of communication and likely to be used by the various parties;
  - b. Receive first hand testimonies from all parties to the conflict, including victims and survivors, other witnesses, local officials, medical personnel, or public or private institutions or governments, by any means whatsoever, including but not limited to by means of

- by e-mail; letter, facsimile, courier, telephone, virtual oral conferences;
- c. Undertake in-situ fact-finding missions to enter jurisdictions of any member state of the Union, subject to authorization to do so, and there to undertake entry into and search of sites, premises whatsoever; interview witnesses, in order to obtain physical evidence relevant to the enquiry;
  - d. Evaluate evidence presented, in all forms indicated above, in order to arrive at a conclusion of fact or law, or to express a reasonable opinion on whether violations of the African Charter have occurred, and if so; by whom, and the extent thereof;
  - e. work closely with, and receive information and evidence from, various actors including relevant departments of the African Union, International Organisations, and human rights institutions, as well as civil society;
  - f. Draft a report of its findings following its investigations and eventually make public progressive reports following its investigations and analysis of the available evidence.

### **Standard of Proof**

9. In the course of its work, the Commission shall adopt the same standard of proof as the majority of international commissions of inquiry on human rights that is "reasonable grounds to believe".

### **Composition of the Commission of Inquiry**

10. The Commission hereby appoints the following Commissioners as Members of the Commission of Inquiry:
  - Commissioner Rémy Ngoy Lumbu, Vice Chairperson of the Commission; Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa, who shall be the Chairperson of the Commission of Inquiry;
  - Commissioner Maya Sahli-Fadel, Special Rapporteur on Refugees, Migrants and Internally Displaced Person in Africa; and Chairperson of the Working Group on Death Penalty, Extra-Judicial, Summary or Arbitrary Killings and Enforced Disappearances in Africa;
  - Commissioner Hatem Essaïem, Chairperson of the Committee on the Prevention of Torture;
  - Commissioner Maria Teresa Manuela, Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa; and Special Rapporteur on women's rights in Africa;
  - Commissioner Mudford Zachariah Mwandenga, Commissioner Rapporteur on the Human Rights Situation in Ethiopia and Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa.
11. The Commission reserves the right to co-opt any expert, including military, forensic, communications, ballistics, human rights experts etc. to become a member of the Commission of Inquiry.

### **Report presentation modalities**

12. The report will be adopted and validated by the African Commission on Human and Peoples' Rights, and then presented to

the Peace and Security Council and eventually to the Conference of Heads of State;

13. The publication will be done in such a manner as to protect the confidentiality of witnesses and victims, as may be deemed necessary.

**Secretariat Support**

14. The Commission shall be supported by the Secretariat of the African Commission, African Union and other relevant Organs of the African Union, the Ethiopian authorities, the Commission's partners, in particular the Office of the High Commissioner for Human Rights, and independent experts, with specialized skills, as well as the administrative, technical and logistical support needed for the implementation of its mandate.

**Done virtually, on May 12, 2021**