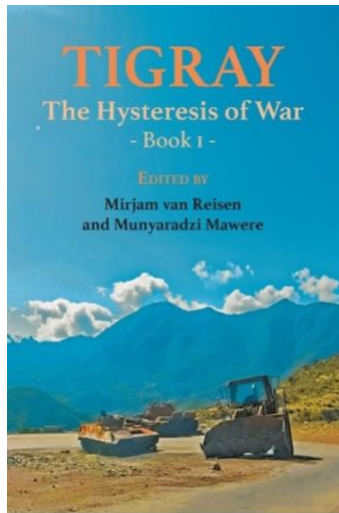


Genocidal Intent in the Tigray War: Establishing Reasonable Grounds Based on Evidence

A. H. Tefera

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Genocidal Intent in the Tigray War: Establishing Reasonable Grounds Based on Evidence

A. H. Tefera

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The loss caused by the riot is compensated by law.

Abstract

The mental element of the crime of genocide, known as a ‘special intent’ to destroy a group in whole or in part, differentiates genocide from other crimes. This chapter investigates whether the atrocities committed against civilian Tigrayans during the Tigray war involved such intent. In the absence of direct evidence, this chapter uses circumstantial evidence, such as statements by state officials, media propaganda, and the contextual patterns of actions, to indicate genocidal intent in the acts committed against the Tigrayan population. It argues that Tigrayans qualify as an ethnic group protected under the Genocide Convention, using both objective and subjective criteria for group identification. The documented crimes, including extrajudicial killings, widespread sexual violence, rape and gang rape, torture, deprivation of essential resources, forced displacement, and the insertion of metallic objects into the victims’ wombs, allegedly perpetrated by the Ethiopian National Defence Force (ENDF), Eritrean Defence Forces (EDF), and Amhara forces, are classified as genocidal acts. This study concludes that there are reasonable grounds to believe that genocide was committed against ethnic Tigrayans. Consequently, it calls on the international community to fulfil its legal and moral duties by investigating these crimes and prosecuting those responsible.

Key words: Tigray war, genocide, Ethiopia, Eritrea, sexual violence, strategic rape

Introduction

Genocide is committed when the prohibited acts mentioned under Article 2 of the Genocide Convention are perpetrated with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such (Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention, 1951). Accordingly, it is vital to prove the special intent, at least with the minimum standard of proof: ‘reasonable grounds to believe’. If the special intent element cannot be established with the minimum standard of proof, the crime committed cannot be designated as a crime of genocide, as proving the mental element/intent is at the core of the crime of genocide.

Legal authorities, including the International Criminal Court *Elements of Crimes* (International Criminal Court 2013), explain that genocide is not about mass killing, unlike the ordinary understanding of many people, it is about the ‘intent’, which is why it is argued that even a single killing can amount to the crime of genocide, provided there is evidence that sufficiently establishes the special intent behind the single killing (Schabas, 2000; International Criminal Court, 2013, Article 6).

Due to the above reason and the hidden nature of the ‘special intent’ element of the crime of genocide, several international and UN based fact-finding bodies, such as the UN Commission of Experts and Amnesty International, have been reluctant to call the atrocities committed in Tigray genocide. One of the core reasons behind the reluctance to use the term genocide, is the difficulty of proving genocidal intent, as the crime is often committed in a secretive and hidden manner. Hence, finding direct evidence is very difficult, according to the reasoning of the judgment in the Trial Chamber of the International Criminal Tribunal for Rwanda, the ICTR (*Prosecutor v. Akayesu*, 1998).

In addition, proving intent is more challenging than proving the facts or incidents that happened on the ground (Tefera, 2014). Even if genocidal intent is established by any means, the crime by its nature is subject to political and diplomatic manipulation and compromise (Van Sliedregt, 2007). For example, fact-finding bodies such as the

UN Commission of Human Rights Experts in Ethiopia has indicated evidence revealing genocidal intent in its findings, yet has failed to conclude that genocide was committed (Human Rights Council, 2022). Consequently, the international community has remained reluctant to conclude that genocide was committed without sufficient evidence.

This chapter aims to explore whether the acts committed by the alleged perpetrators during the Tigray war were committed with the intent of genocide. These acts consisted mainly of killing, rape, siege-induced starvation, deliberately infliction conditions of life calculated to bring about physical destruction, and birth prevention measures.

The main research question that this chapter addresses is: *Were the acts committed against civilians during the Tigray war perpetrated with the special intent to destroy the protected group, in whole or in part, i.e., with genocidal intent?*

In answering this question, the following sub-questions are addressed:

Sub-Q1. *Do the acts committed by perpetrators fall under the category of the prohibited acts mentioned in the Genocide Convention?*

Sub-Q2. *Do Tigrayans constitute a group protected by Article 2 of the Genocide Convention?*

Sub-RQ3. *Can genocidal intent be established?*

Theoretical framework

The international normative framework governing the crime of genocide is provided under Genocide Convention, which requires the fulfilment of three elements in order for an act to constitute the crime of genocide. International criminal tribunals and the International Criminal Court (ICC) have adopted this normative framework, and subsequently built their own jurisprudence based on the Genocide Convention. The primary requirement is that an act should fall under the prohibited acts listed in Article 2(a–e) of the Genocide Convention, which are:

(a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life

calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group. (Genocide Convention, 1951)

The second element of the crime of genocide is the ‘prohibited act’ or acts that target one of the protected (national, ethnical, racial or religious) groups. The third and most important element of the crime of genocide is the requirement of special intent or genocidal intent, which is a critical and distinctive element.

Taking the above elements into account, proving the existence of genocidal intent requires meeting the minimum threshold standard, which is ‘reasonable grounds to believe’ that the perpetrator intended to destroy, in whole or in part, a national, ethnical, racial, or religious group. In line with this, the prosecution’s appeal brief in the case of Akayesu under paragraph 21 indicated that courts and tribunals need to establish the existence of genocidal intent ‘beyond reasonable doubt’ in order to convict a suspect of committing the crime of genocide (*Prosecutor v. Jelusic*, 2000). The above normative framework is globally applicable, including to the atrocities committed against civilians in Tigray.

Another important source of jurisprudence governing the arguments entertained in this chapter are the objective and subjective approaches of establishing genocidal intent. Under the crime of genocide, strong emphasis is given to the subjectivity aspect of the commission of the crime (Kim, 2016). On the other hand, the Genocide Convention provides objective elements, such as the commission of prohibited acts, the manner and pattern of the commission of the acts, and the resources and policy employed in the commission of the crime. Thus, it is widely argued that the subjective state of mind (*mens rea*) of a person or a group of persons (perpetrators) plays a crucial role in determining whether the crime of genocide has been committed or not. Based on this dominant normative framework, this chapter discusses and evaluates the objective and subjective approaches in establishing genocidal intent and tries to reconcile the approaches in a way that fits the overall objective of this chapter in addressing the alleged atrocities committed in Tigray.

In addition to the above normative framework, international criminal tribunals, the ICC, and legal scholars have established jurisprudence governing the crime of genocide in which the crime often requires plotters and those who further the overall policy. “Thus, the crime by its nature requires a wider level of organization which renders it difficult to imagine genocide without the involvement of plotters and organizers particularly state or state-like entities, or a group associated with it” (May 2010). In this context, “[...] at least it is expected that the organizers and planners must necessarily have a genocidal intent” (May 2010), which leads to the conclusion that individual perpetrators acting under the overall genocidal plan are *prima facie* expected to have known the overall genocidal intent and are assumed to have shared and pursued the genocidal intent while committing the prohibited acts, unless proved otherwise (Schebas, 2006). This normative framework is also applicable to the analysis in this chapter determining whether the acts committed against civilians in Tigray were genocidal or not.

Methodology

This research aims to analyse mainly qualitative data that describes the pattern, nature and manifestation of the violations committed against the people of Tigray, in order to establish whether the violations were committed with genocidal intent or not. Accordingly, this chapter employs a qualitative, doctrinal research method,¹ by which evidence gathered from investigative reports from credible entities, a document review, and case studies obtained from investigative bodies are analysed and evaluated against the normative framework governing the crime of genocide.

Data sources

The resources used in this chapter included reports on investigations conducted by organs of the United Nations (UN) and international non-governmental organisations (NGOs) such as Human Rights

¹ The doctrinal research method is the most accepted method of legal research that analyses and synthesises legal principles, facts, and thoughts (Vranken, 2010, pp. 111–121).

Watch and Amnesty International. Investigations conducted by the Team of Experts in South-Eastern Zone of Tigray, 2022, in which the author was involved as co-investigator, were also used. In addition, this chapter relies on media reports, reviews of administrative records and documentary evidence, and the decisions of international criminal tribunals and the ICC.

Analysis

As the determination of the crime of genocide is a legal process, proving genocidal intent according to the ‘reasonable grounds to believe’ standard is a mandatory element, in addition to proof of the material elements (the prohibited acts) that targeted protected groups (ethnic, religious, racial and national groups). In order to establish genocidal intent, this chapter analyses credibly established facts against the normative framework governing the crime of genocide – fact-law analysis. This includes the identification and evaluation of prohibited acts committed against civilians during the Tigray war, such as killing, rape, torture, inflicting conditions of life aimed to destroy, and measures to prevent births, and analysing them against the elements of the crime of genocide mentioned in Article 2 of the Genocide Convention. Evidence of the perpetration of the prohibited acts was acquired from the reports of international investigative bodies, gathered from independent bodies based in Tigray, and collected during the investigation conducted by the Team of Experts in South-Eastern Zone of Tigray, as well as from media reports, a document review and court decisions. In order to infer genocidal intent in relation to the alleged prohibited acts committed during the Tigray war, utterances of/statements made by government officials, military leaders and foot soldiers were analysed to evaluate the context in which the crimes were committed and to assess if there was an anti-Tigrayan government policy that led to these acts. Moreover, the manner and pattern in which the crimes were committed, and the systematic targeting of the protected group, were among the elements evaluated.

Scope of the study

Thematically, the study focused on the elements of the crime of genocide and establishing genocidal intent in relation to the atrocities committed during the Tigray war. Geographically, the study was limited to atrocities committed in the Tigray region. The temporal scope of the study covered the events leading up to the conflict and the events that followed.

Meaning of genocide and genocidal intent

The word genocide was coined by Polish law professor Raphael Lemkin, who combined the Greek term ‘*genos*’ meaning nation, race, or tribe, and the Latin term ‘*cide*’, meaning killing (Lemkin, 2008). The legal concept of genocide is principally restricted to the Genocide Convention of 1951 (Genocide Convention, 1951). This Convention, in addition to customary international law, obligates all states to prevent and punish the crime of genocide.

Article 2 of the Genocide Convention defines genocide as:

[...]any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.
(Genocide Convention, 1951)

Thus, the crime of genocide is committed when the prohibited acts mentioned above (a–e) are perpetrated with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such.

In establishing the crime of genocide, the special intent of the crime is more important than the motive. However, courts and tribunals find it difficult to distinguish intent from motive in cases of genocide. The distinction between intent and motive can be clearly seen in the distinctive meanings of ethnic cleansing and genocide. The report of the UN Commission of Experts on Yugoslavia under paragraph 130 defined ethnic cleansing as “a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring

means the civilian population of another ethnic or religious group from certain geographic areas.” (UN Commission of Experts on Yugoslavia, 1994). Even though both ethnic cleansing and genocide may entail similar acts, the former is based on motives such as political, demographic, and economic, while genocide is based on a special intent to destroy the targeted group (ethnic, racial, religious and national) in whole or in part. Moreover, there is no legal definition given to ethnic cleansing in the international legal instruments (Singleterry, 2010). This means that there is no way by which individuals can be held accountable for committing ethnic cleansing as such. This deprives the act of ethnic cleansing due recognition, as there is no legal definition or punishment provided under the international legal instruments. The only available options for holding perpetrators accountable are as a war crime or crime against humanity, depending on the context and manner of perpetration.

The above point is relevant because there is the possibility that acts of genocide can be masked by the designation of acts as ethnic cleansing. For example, the UN Team of Experts in former Yugoslavia, under paragraph 130, reported that the acts committed were ethnic cleansing, although many were convinced that the crimes were perpetrated with genocidal intent (UN Commission of Experts on Yugoslavia, 1994). In the current situation, the report by Amnesty International on Western Tigray that established ‘ethnic cleansing’ fails to consider the clear plan of, and incitement by, the Amhara authorities to eliminate ethnic Tigrayans from Western Tigray, which is similar to the incitement propagated by Radio Rwanda in relation to the genocide against the Tutsi ethnic group (Metzl, 1997).

Moreover, in 2021, the Office of the Prosecutor of the ICC elaborated that “a policy of displacement could be understood as an *actus reus* of genocide under Art 6 (c) of the Rome Statute” (ICC, 2002), including forced eviction and encouragement of others to resettle in the displaced areas (*Prosecutor v. Al Bashir*, 2009). Consequently, the report does not establish criminal responsibility based on ethnic cleansing as such because there is no crime of ‘ethnic cleansing’ under the international legal framework. Similar reports

have been widely observed several times in different parts of the world (Singleterry, 2010), with the international community failing to criminalise the act of ethnic cleansing. The above-mentioned elements and features of genocide, reveal the amorphous nature of the crime of genocide.

What acts constitute the crime of genocide?

The first element that is required to constitute the crime of genocide is for one or more of the acts mentioned under Article 2(a–e) of the Genocide Convention to be committed.

Killing members of the group

Killing members of a protected group, with the required mental element, is a prohibited act of the crime of genocide under Article 2(a) of the Genocide Convention. Killing is also specified as a prohibited act in Article 6(a) of the Rome Statute of the International Criminal Court (hereinafter called the Rome Statute). According to the explanation contained in *Elements of Crimes*, a publication designed to assist the Court in the interpretation and application of articles 6, 7 and 8, the terms ‘killing’ and ‘caused death’ are interchangeable (International Criminal Court, 2013, p. 2). The term ‘killing’, as provided in Article 2 of the Genocide Convention and Article 6(a) of the Rome Statute, seems neutral in terms of expressing whether it is intentional or negligent killing. However, in genocide there is no negligent killing (as intent is a required element of genocide), therefore, the term killing is interpreted as intentionally killing (*Prosecutor v. Stakić*, 2003). Therefore, if killing constitutes an act of genocide, the element of genocidal intent must be proven.

Causing serious bodily or mental harm to members of the group

Under Article 2(b) of the Genocide Convention, causing serious bodily or mental harm to members of a protected group is an act of genocide, when committed with the required intent. Among the questions that need to be addressed here is what constitutes ‘serious bodily or mental harm’, and what degree of severity should the harm

be. In addressing the first question, the District Court of Jerusalem in the case of Eichmann, elaborated that:

Serious bodily and mental harm can be caused by 'the enslavement, starvation, deportation and persecution of people [. . .] and by their detention in ghettos, transit camps and concentration camps in conditions which were designed to cause their degradation, deprivation of their rights as human beings and to suppress them and cause them inhumane suffering and torture. (Attorney General v. Eichmann, 1968)

Taking the reasoning of the Israeli high court in the Eichman case, siege induced starvation, deprivation of medical facilities, large scale sexual violence, unlawful imprisonment and torture fall within the category of prohibited acts mentioned in Article 2(b) of the Genocide Convention.

Deliberately inflicting on the group conditions of life calculated to bring about physical destruction in whole or in part

Unlike the other prohibited acts, deliberately inflicting conditions of life on the group calculated to bring about its physical destruction, in whole or in part, is not results based. The intention – calculated to bring about – is sufficient; the actual destruction of the group is not required (*Prosecutor v. Akayesu*, 1998). According to the Trial Chamber in the Stakić case, para 571: “Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part’ under sub-paragraph (c) does not require proof of a result” (*Prosecutor v. Stakić*, 2003).

Conditions of life, as provided under Article 6(c) of Rome Statute, include, but are not limited to: “deliberate deprivation of resources indispensable for survival, such as food or medical services, or systematic expulsion from homes” (International Criminal Court, 2013). Looking at the characteristics of this condition, the Trial Chamber of the International Criminal Tribunal for Rwanda (ICTR) in the case of Akayesu noted that:

[t]he expression deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, should be construed as the methods of destruction by which the perpetrator does not immediately kill the members

of the group, but which, ultimately, seek their physical destruction. (Prosecutor v. Akayesu, 1998; Prosecutor v. Stakić, 2003)

In the context of the Tigray war, the fact that the Ethiopian government imposed a strict siege under which humanitarian aid, including food and medicine, were prevented from entering Tigray, can be considered an act of genocide, if the special intent is sufficiently established. In the same manner, the act of expulsion of ethnic Tigrayans from Western Tigray (Human Rights Council, 2022), as an act of ‘systematic expulsion’, could also be an act of genocide, as shelter is considered an essential condition of life. This is similar to the decision of the International Criminal Tribunal for the former Yugoslavia (ICTY) in the prosecution of Karadžić and Mladic cases, where the indictment was based on the expulsion of Muslims by the Serbs to eliminate the latter from large areas of Bosnia Herzegovina (*Prosecutor v Karadžić & Mladic*, 1995; Cryer *et al.*, 2020).

Rape and the deliberate transmission of HIV/AIDS to members of the protected group can also constitute an act deliberately inflicting conditions of life calculated to bring about physical destruction of the group. In Tigray it was reported that “militiamen carrying the [HIV] virus used it as a ‘weapon,’ thus intending to cause delayed death” (Human Rights Council, 1996). Evidence of objective probability that the conditions of life were deprived in a way calculated to bring about the physical destruction of the group can be inferred from “the nature of the conditions of life, the length of time for which the conditions of life were imposed, and the characteristics of the members of the targeted group” (*Prosecutor v. Brđanin*, 2004).

Imposing measures intended to prevent births within the group

This prohibited act came into the consciousness of the international community after the Nazi’s practice of forced sterilization measures against the Jewish people during the Second World War (Cryer *et al.*, 2020). In defining this prohibited act, the ICTR stated in the case of Akayesu that it included: “sexual mutilation, sterilization, forced birth control, separation of the sexes and prohibition of marriages to

constitute measures that intend to prevent births” (*Prosecutor v. Akayesu*, 1998). The Trial Chamber added, under paragraph 507:

[...] during rape, a woman of the said group is deliberately impregnated by a man of another group, with the intent to have her give birth to a child who will consequently not belong to its mother's group. Furthermore, the Chamber notes that measures intended to prevent births within the group may be physical, but can also be mental. For instance, rape can be a measure intended to prevent births when the person raped subsequently refuses to procreate, [...] through threats or trauma. (Prosecutor v. Akayesu, 1998)

In the context of the Tigray war, acts such as inserting stones, sand, metal, and sticks into the womb of the Tigrayan women, gang rape that resulted in damage to the womb, and rape in front of family members (Amnesty International, 2021) amount to the prohibited acts referred to as “measures intended to prevent births” within the group (*Prosecutor v. Akayesu*, 1998), provided that they were committed with the required genocidal intent.

The status of Tigrayans under the Genocide Convention

The second component of the crime of genocide requires that the prohibited acts (*actus reus*) target a protected group or members of that group. A protected group, as per Article 2 of the Genocide Convention, is defined as a “national, ethnic, racial or religious group”.

Those groups were selected by the UN General Assembly to be protected groups, considering that these groups have been the target of hostility. These groups are each identified by their cohesion, homogeneity, membership unavoidability, and stability (Szpak, 2012). To clarify the term ‘unavoidable membership’, we can consider membership to a political group. A political group cannot be regarded as a stable group, because membership is not something that you obtain through birth or in a permanent manner, but, rather, it is based on an individual’s will. This is why political groups are not given protection under the Genocide Convention (Kabatsi, 2005; Lippman, 2000). Yet, it should be noted that despite the above establishment, a few nations, such as Ethiopia, have given protection to political

groups under their domestic criminal jurisprudence (Revised Criminal Code of Ethiopia, 2004).

In several prosecutions related to cases of genocide, it was observed that the absence of a conventional legal meaning for the words ‘national, ethnical, racial, and religious’ group makes it difficult to identify protected groups (*Prosecutor v. Rutaganda*, 2003). For example, one of the challenges in determining the atrocities against the Rohingya population in Myanmar was the debate as to whether the Rohingyas constitute a distinct ethnic group. Similarly, the Trial Chamber of the ICTR in the case of Akayesu found it difficult to determine whether the ‘Tutsi’ fall under the category of ‘protected groups’, because both the Tutsi and Hutu groups share a common language and culture (*Prosecutor v. Akayesu*, 1998). However, decisions of different international criminal tribunals, such as the ICTR, have tried to overcome this challenge by giving meanings to the above terms. As ‘ethnic group’ is given due emphasis in this chapter, it is important to provide the appropriate meaning provided by international criminal tribunals. Accordingly, the ICTR trial chamber has defined an ethnic group as

[...] one whose members share a common language and culture; or, a group which distinguishes itself, as such or, a group identified as such by others, including perpetrators of the crimes. (*Prosecutor v. Kayishema & Ruzindana*, 1999)

The above discussion also leads to the conclusion that the existence of the ‘protected group’ may be objectively or subjectively established. As mentioned by the Trial Chamber of the ICTR. In the case of Semanza, objective existence simply means when the protected group physically exists on the ground, having all their distinct features (Cryer *et al.*, 2020). Whereas the subjective existence of the protected group is determined by the perception of the perpetrator that the target population belongs to either of the protected groups (Cryer *et al.*, 2020). For instance, the ICTY Trial Chamber in the case of Brdanin decided that the relevant protected group may be identified using the subjective criterion of the stigmatisation of the group, notably by the perpetrators of the crime, based on its perceived national, ethnical, racial or religious characteristics (*Prosecutor v. Brdanin*, 2004).

Taking the above-mentioned approaches and normative frameworks into account, what is at issue is whether the Tigrayans fall under either of the groups protected under the Genocide Convention. Considering the above normative framework, Tigrayans share a common language, history, and geographic territory and they consider themselves “as being alike by their common ancestry [it could be real or fictitious] and are so regarded by others including the perpetrators as ‘ethnic Tigrayans’”. Therefore, it is clear that Tigrayans can fall within the category of an ‘ethnic’ group protected by the Genocide Convention.

Number of victims needed to constitute the crime of genocide

The number of victims needed to constitute genocide has been controversial among genocide scholars and criminal tribunals handling cases of genocide. The question directly relates to the interpretation of the phrase ‘in whole or in part’ under Article 2 of the Genocide Convention. Practically speaking, the international community is shocked when people are targeted on mass. Of course, mass atrocities quickly attract the attention of the international community. Scholars, such as Chile Eboe, interpret the term ‘in part’ to constitute a substantial part having a meaningful impact on the group (Eboe-Osuji, 2007). However, the above argument could be challenged on the ground that the crime of genocide is mainly characterised by the special intent element, not by the number of victims. Moreover, the punitive purpose of the crime would be diminished if one has to wait until a substantial part of the population was targeted (Eboe-Osuji, 2007).

To fortify the above argument, in *Elements of Crimes* the International Criminal Court explains that even one victim is sufficient to constitute an act of genocide, provided that the act was committed with the required special intent (International Criminal Court, 2013, Article 6(c)(1)). The Trial Chamber of the ICTY in the case of Jelisić, which stated that “killings committed by a single perpetrator are enough ‘to establish the material element of the crime of genocide’” (*Prosecutor v. Jelisić*, 1999), supports the above assertion.

Taking the above arguments into account, the number of Tigrayans that were subject to the acts is sufficient to constitute the ‘in part’ element under the definition of genocide.

Genocidal intent (*dolus specialis*)

The third and vital element of the crime of genocide is ‘genocidal intent’ (*Prosecutor v. Akayesu*, 1998). As the terms ‘genocidal intent’ and ‘motive’ are often confusing, courts and tribunals entertaining cases of genocide find it difficult to differentiate intent from motive. In real terms, the crime of genocide may be motivated by various motives, such as winning the war, economic or political gain, and so forth. For example, in times of armed conflict, one may find it difficult to identify whether the mass killing committed against civilians is committed to win the war or to destroy the target civilians in whole or in part. Arguments put forward by the defence in the case of *Krštic* before the Appeals Chamber of the ICTY claimed that “the purpose of the killings in Srebrenica was not to destroy the group as such; it was to remove a military threat and this was evidenced by the fact that men of military age had been targeted” (*Prosecutor v. Krštic*, 2004). However, the Appeals Chamber did not accept this argument and found, based on evidence, that the act was intended to destroy the community of Bosnian Muslims in Srebrenica. The Commission mandated to investigate the situation in Darfur stated, in relation to the policy of killing and forcibly displacing members of the Fur, Masalit, and Zaghawa tribes in Darfur, that genocidal intent was not established, but that these acts were “motivated by counter-insurgency warfare” (Human Rights Council, 2005). Similar confusion is likely to exist in relation to the alleged perpetrators of the atrocities during the Tigray war.

To establish genocidal intent, it is important to see how knowledge of the nature and consequence of one’s act differs from the ‘special intent’ requirement. The jurisprudence of the ICTY reveals that special intent should be established for each perpetrator (*Prosecutor v. Krštic*, 2004). One important point that needs to be addressed is what will happen to a foot soldier who knows that his acts are contributing to the overall genocidal plan. In this case, the person may be assumed

to have ‘mere knowledge’ of the genocidal plan, but not necessarily genocidal intent. Concerning this, the Appeals Chamber of the ICTY acquitted General Krštic´ of genocide, as the Chamber could not establish genocidal intent. However, General Krštic´ was convicted of aiding and abetting acts of genocide (*Prosecutor v. Krštic*, 2004). Therefore, in the absence of the special intent in the minds of individuals who knew that their acts were contributing to furthering the genocidal plan, aiding and abetting the commission of genocide can be used to hold these individuals responsible for their acts. This is related to the knowledge-based approach, as distinguished from the purpose-based approach, in which the defendant becomes aware of the overall genocidal plan and decides to participate in the furtherance of the plan (May 2010). This argument is in line with what Larry May refers to as ‘collective genocidal intent’, according to which, genocide cannot be planned and executed by an individual, but rather needs a collective plan and demands the involvement of several individuals or groups and resources for the implementation of the plan.

Therefore, if an individual simply participates in the prohibited acts of genocide, but does not know the overall genocidal plan, there is room for them to defend themselves based on lack of knowledge. However, the ‘knowledge requirement’ could be satisfied by a failure to know what any reasonable person would have known. Consequently, one may still be held responsible, although not as a principal perpetrator, for failing to know what they should have known, as a reasonable person, about their acts and consequences of their acts (May, 2010).

In the situation of the Tigray war, this means that a foot soldier cannot raise the defence that he participated in the killing or rape of civilians without knowing the overall alleged ‘genocidal plan’ against ethnic Tigrayans. The standard with which the foot soldier may be held responsible is that the existence of the overall genocidal plan is obvious and, thus, the defendant should have known that their acts contributed to furthering the overall genocidal plan. Accordingly, even though they may not be liable as a principal perpetrator, proof of lack of knowledge and willingness to further the genocidal plan may not relieve the defendant of responsibility for the crime of

genocide. In line with this argument, the ICTY Appeals Chamber judgment in Krstić case argued:

[...] *Krstic was aware of the intent to commit genocide on the part of some members of the VRS Main Staff, and with that knowledge, he did nothing to prevent the use of Drina Corps personnel and resources to facilitate those killings. There was a demonstrable failure by the Trial Chamber to supply adequate proof that Radislav Krstic possessed the genocidal intent. Krstic is therefore not guilty of genocide as a principal perpetrator.* (Prosecutor v. Krstić, 2004)

The purpose-based approach is the conventional approach by which the ‘intent to destroy’ is interpreted. This approach suggests that genocide is a collective crime that needs the participation of a wider group of people and resources (Cryer *et al.*, 2020). According to this approach, the perpetrators have a common genocidal intent from the beginning. In line with this argument, the ICTR Trial Chamber in the case of Kayishema found that “The killers had the common intent to exterminate the ethnic group and Kayishema was instrumental in the realization of that intent” (*Prosecutor v. Kayishema & Ruzindana*, 1999). The masterminds of the crime of genocide could be heads of states, ministers, military commanders, or religious leaders, etc., who may have the opportunity and the resources to conspire in the genocidal plan.

Whether the acts of killing, rape, and siege-induced starvation targeting Tigrayan population were committed with genocidal intent or with the motive of winning the war against TPLF is addressed in the following sections.

Proving the existence of genocidal intent

The mere fact that an offender has committed a prohibited act under the crime of genocide under Article 2(a–e) of the Genocide Convention does not suffice to establish the perpetration of the crime of genocide. It is, however, vital to proving the most amorphous part of genocide, the special intent, namely that the perpetrator has committed the act to destroy the target group in whole or in part (*Prosecutor v. Kambanda*, 1998; *Prosecutor v. Kayishema & Ruzindana*, 1999).

The mental (*mens rea*) element of genocide is often believed to be the most challenging aspect in establishing the crime. Usually, general intent refers to the objective elements of an offense (*actus reus*). Under the definition in Article 30 of the Rome Statute, it refers to the knowledge or intellectual element. When it comes to the crime of genocide, the general intent refers to the meaning and acts listed under the crime directed against one or more of the groups protected in Article 2 of the Convention (Genocide Convention, 1951; or the Rome Statute of the International Criminal Court, 1998, Article 6(a)–(e)). This means that the perpetrator must know that his/her actions target one or more groups protected under the Convention (Rome Statute of the International Criminal Court, 1998, Article 30(3)). When it comes to the crime of genocide, the special intent – ‘intent to destroy’ – is an additional subjective requirement, beyond the general intent or objective elements of the crime (Triffterer, 2001).

Accordingly, investigative bodies should establish the minimum standard of proof, or degree of persuasiveness, which is ‘reasonable grounds to believe’, to allege genocide. This standard is met when a sufficient and reliable body of primary information gathered by way of investigation, consistent with other information, allows an ordinarily prudent person to reasonably conclude that an incident or pattern of conduct occurred that amounts to the crime at hand (Human Rights Council, 2018). In the case of Darfur, for example, the ICC prosecutor submitted an indictment against Albashir of the Sudan for the alleged crime of genocide against the Fur, Masalit, and Zaghawa ethnic groups in Darfur. The Pre-Trial Chamber reasoned that “[...] the only reasonable conclusion to be drawn therefrom is the existence of reasonable grounds to believe in the existence of a specific intent to destroy in whole or in part the groups” (*Prosecutor v. Al Bashir*, 2009) (in this case the ethnic groups of Fur, Masalit and Zaghawa). The Pre-Trial Chamber also accepted the charges of the prosecution of genocide, believing the minimum threshold of standard of proof (reasonable grounds to believe standard) was met (*Prosecutor v. Al Bashir*, 2010). The jurisprudence of the ICC mentioned above reveals that to establish genocidal intent, investigative or fact-finding bodies are required to establish the minimum threshold which is the reasonable grounds of the standard of proof.

Nevertheless, since the crime of genocide is planned secretly, fact-finding bodies and lawyers find it difficult to find direct evidence that establishes genocidal intent based on the reasonable grounds to believe standard of proof (Kinseth, 2019). Consequently, intent to destroy or genocidal policy is inferred from the facts; the actions and utterances of perpetrators; concrete circumstances; or pattern of acts (*Prosecutor v. Brđanin*, 2004; *Prosecutor v. Gacumbitsi*, 2006; *Prosecutor v. Kamuhanda*, 2004). In this regard, the ICTY Appeals Chamber in *Prosecutor v. Stakić* ruled that “[...] evidence of intent to destroy may be inferred from an accused’s actions or utterances vis-a-vis the targeted group” (*Prosecutor v. Stakić*, 2003). Similarly, the ICTR Trial Chamber, in the case of Rutaganda, stated “[I]ntent can be, on a case-by-case basis, inferred from the material evidence submitted to the Chamber, including the evidence which demonstrates a consistent pattern of conduct by the Accused” (*Prosecutor v. Rutaganda*, 1999).

The difficulty of establishing genocidal intent is not limited to the difficulty of proving the genocidal intent, but the crime in itself is also subject to compromise and manipulation by political leaders alleged to have committed the crime. As Ashley S. Kinseth provided in her contribution, despite establishing genocidal intent, the crime of genocide is by its nature highly compromised on a political and diplomatic basis (Kinseth, 2019). In what she called a ‘political pawn’, the case of Rohingya in Myanmar, for which adequate genocidal evidence was produced, can be mentioned as an example where the decision to designate the acts as crimes of genocide was compromised (Kinseth, 2019).

Moreover, despite credible reports that established genocidal intent and later the ICC’s preliminary findings and indictment for genocide (*Prosecutor v. Al Bashir*, 2009) against Albashir of Sudan, the report of the International Commission of Inquiry on Darfur concluded, on the contrary, that “no genocidal policy has been pursued and implemented in Darfur by the Government authorities, directly or through the militias under their control” (Human Rights Council, 2005). The international community was, in this case, seen to be convinced that killing, serious bodily or mental harm, and the deliberate infliction of conditions of life against the ethnic groups in

Darfur (the Fur, Masalit, and Zhagawa) were committed with genocidal intent, however, the Commission of Inquiry refrained from stating that genocide had been committed in Darfur. This is one manifestation of such compromise, leading to failure to enforce the Genocide Convention. The international community has so far followed the same pattern in determining the crime in other areas where the genocidal intent was established. For example, the UN Commission of Experts in Ethiopia, in paragraph 62 of its investigative report on the alleged atrocities committed in Tigray, said:

[...] the attackers expressed an intent to render the victims infertile by permanently destroying their sexual and reproductive health, The rapes were often accompanied by dehumanizing language that suggested an intent to destroy Tigrayan ethnicity.
(Human Rights Council, 2022)

Yet, even though the report said that there was “intent to destroy Tigrayan ethnicity”, it regrettably failed to conclude that genocide was committed by the perpetrators, referring to war crimes and crimes against humanity instead.

Notwithstanding the above political and diplomatic hurdles, genocidal intent can be established, according to the jurisprudence of international criminal tribunals, if there is an existing genocide policy or those following the orders. The existence of a genocidal policy may be inferred from a wider genocidal plan. At the same time, under Article 6(c) of the *Elements of Crimes* (International Criminal Court, 2013), the specific intent to “destroy a protected group in whole or in part” may be inferred on a case-by-case basis from public statements of authorities; from the scale, pattern, and nature of the crimes committed; and from the utterances and manner of committing the crime, which manifestly shows the intent to destroy the target group in whole or in part (International Criminal Court, 2010). It must be further noted that the degree of proof that courts adopt to convict a suspect for the alleged crime of genocide must be ‘beyond reasonable doubt’ (*Prosecutor v. Krstić*, 2004; Human Rights Council, 2005).

In times of difficulty in establishing genocidal intent, especially when intent is difficult to infer from what the perpetrator says or does, evidence of the context of the alleged genocidal acts may help to

establish the intention of the perpetrator. In this regard, the ICTR Trial Chamber emphasised that the use of context in establishing the genocidal intent should be verified with the actual conduct of the accused (*Prosecutor v. Bagilishema*, 2001).

Genocidal intent in the acts committed against the Tigrayan population

As mentioned earlier, genocide is planned and committed in a hidden manner; accordingly, it is rare to find direct evidence. Consequently, most fact-finding missions on genocide depend on indirect evidence, including utterances of political and military leaders, official and private media propaganda, and the words of the individuals who commit the prohibited acts. In relation to the war in Tigray, for example, Ibreck and de Waal (2022), in an article titled ‘Situating Ethiopia in Genocide Debates’, said that before the eruption of the war, when a bomb exploded at a public rally for the Prime Minister in Meskel Square, Addis Ababa on 23 June 2018, PM Abiy Ahmed accused ethnic Tigrayans of being plotters and anti-peace elements (EBC, 2018). The accusation by PM Abiy that Tigrayans are ‘daylight hyenas’ are also direct encouragements of eradication given the cultural connotation of ‘hyenas’ and their association with the evil eye (Tesfa, Van Reisen & Medhanyie, 2024; Geb & Tesfa, 2024). The policy of “Woyane, game over” by Isayas indicates a policy to terminate the ethnic group of Tigrayans (Tesfa & van Reisen, 2024c). The relation of the effect of the political slogans on the expression by soldiers and their motivation to perpetrate the act of eradication is well established (Geb & Tesfa, 2024; Tesfa, Van Reisen, & Smits, 2024; Kidanu & Tefera, 2024; Tesfa & van Reisen, 2024a; Tesfa & Van Reisen, 2024b; Gebremariam & Abrha, 2024).

Anti Tigrayan discourse also dominated the social media. Tigrayans were labelled as “daylight hyenas, anti-reform et cetera” (Ibreck & de Waal, 2022). In addition, an incendiary documentary film, titled in Amharic as *Yefith Sekoka* (‘The Torment of Justice’) aired on government TV. The documentary narrates that the most cruel crimes perpetrated against the Amhara and Oromo during the Ethiopian People's Revolutionary Democratic Front (EPRDF) era

were perpetrated by Tigrinya-speakers (EBC, 2018; Fana Television, 2018). Consequently, most political crimes were associated with ethnic Tigrayans.

Following PM Abiy's speech, the term 'daytime hyena' was widely used to profile and dehumanise ethnic Tigrayans (Geb & Tesfa., 2024; Tesfa & Van Reisen, 2024a; Tesfa & Van Reisen, 2024b). Other derogatory and profiling words such as '*tsegure limutoch*', which crudely means 'strange', were also widely used by many officials, including the Prime Minister, and the media to label ethnic Tigrayans (Tghat, 2021). Other dehumanising language, such as 'cancer', 'devil', 'weed to be uprooted' were employed against ethnic Tigrayans by Ethiopian officials, including the Prime Minister (Tghat, 2021; Geb & Tesfa, 2024; Tesfa, Van Reisen & Medhanyie, 2024; Tesfa & Van Reisen, 2024a; Tesfa & Van Reisen, 2024b). It is possible to challenge whether these utterances were meant to label Tigrayans in general or whether they were referring only to TPLF officials. In this regard, subsequent government statements provide insight, as they accused the Tigrayan people as a whole of 'treasonous' acts in support of the TPLF and against the ENDF (Ibreck & de Waal, 2022).

Subsequently, the dehumanisation, detention, and killing of ethnic Tigrayans took place all over the country (Anna, 2021a; Kidanu & Van Reisen, 2024; Tesfa, Bächtold, Gebremichael, & Van Reisen, 2024a; Tesfa, Bächtold, Gebremichael, & Van Reisen, 2024b; Tesfa, Van Reisen & Medhanyie, 2024; Tesfa & Van Reisen, 2024a; Tesfa & Van Reisen, 2024b). Tigrayan public servants and business owners all over the country were harassed and subjected to unlawful detention, before and during the war (Amnesty International, 2021). This indicates that the government knew the context and consequences of their utterances.

The report of the European Union Special Envoy, Pekka Haavisto, indicated that senior Ethiopian leaders had frankly stated that they "are going to wipe out the Tigrayans for 100 years" (Anna, 2021b). This is additional evidence of the genocidal blueprint. Moreover, the

United Nations Special Advisor on the Prevention of Genocide mentioned that:

the use of pejorative and dehumanizing language like “cancer”, “devil”, “weed”, “bud” “those who bite the breast of their mother” to refer to the Tigray conflict is of utmost concern. (Nderitu, 2021)

As judicial opinions in case law, including on the Rwanda genocide, reveal, public statements made by officials and politicians that label and dehumanise certain target groups constitute a “direct and public incitement to commit genocide” (*Prosecutor v. Ruggiu*, 2000). In Rwanda, Radio Rwanda and Hutu political leaders spread discourse dehumanising, labelling and spotting ethnic Tutsi (*Prosecutor v. Kayishema & Ruzindana*, 1999).

Another important issue to consider is that the public statements made by political leaders and authorities have influenced the public. Terms such as ‘junta’, ‘woyane²/TPLF’, ‘*tsere levi*’ (non-reformist), and so forth were widely used to refer to the people of Tigray (Geb & Tesfa, 2024; Tesfa, Van Reisen & Medhanyie, 2024; Tesfa & Van Reisen, 2024a; Tesfa & van Reisen, 2024b). In this regard, Ibreck and De Waal (2022) showed how the term TPLF was extended to include the Tigray people as a whole:

Each of the warring parties has cast the conflict in existential terms, with the federal government, Amhara region, and Eritrean state arguing that their security requires the definitive subjugation of the TPLF – often extending this to the Tigrayan people as a whole. (Ibreck & de Waal, 2022)

The terms ‘TPLF’ and ‘*Woyane*’ were also used by foot soldiers and military commanders to refer to the people of Tigray during the armed conflict in Tigray (Geb & Tesfa, 2024; Tesfa, Van Reisen & Medhanyie, 2024; Tesfa & van Reisen, 2024a; Tesfa & Van Reisen 2024b). Daniel Kibret, Social Affairs advisor to the Prime Minister and board member of the Ethiopian Broadcasting Corporation, made anti-Tigrayan speeches on several TV stations. For example, on a live

² A derogatory term used as an ethnic identifier for people from Tigray.

event transmitted through local TVs in 2022, Daniel Kibret, social advisor to the prime minister, stated:

[...] Weyane [Tigray] is not something we can understand. We can only erase it. For instance, Australia... there is an island called Tasmania which is found in southern Australia. They have destroyed Tasmanian tribes until only one person remained. There was only one person left for [continuity of] the race. Only one person! (Plaut, 2022a)

Evaluating the content and context under which the speech was delivered, the term ‘Woyane’³ is not used to refer to the TPLF as a party, rather it is widely understood to refer to the people of Tigray (Geb & Tesfa, 2024; Tesfa, Van Reisen & Medhanyie, 2024; Tesfa & van Reisen, 2024a; Tesfa & Van Reisen 2024b).

In addition, survivors of atrocities in several places in Tigray reported that soldiers of the ENDF, EDF and Amhara forces stated that “they intend to cleanse the bloodline”, while committing acts of sexual violence against women of ethnic Tigrayans and during the extrajudicial killing of civilians (Feleke *et al.*, 2021; Kidanu & Van Reisen, 2024; Kidanu & Tefera, 2024). This leads us to argue that the special intent crafted by the masterminds to target Tigrayans was manifestly shared and furthered by foot soldiers and military commanders on the ground.

In conclusion, it appears clear that derogatory terms were used to refer to the people of Tigray by association, even when they referred to the TPLF. As a consequence of this labelling, ethnic Tigrayans all over the country were subjected to mob justice and extrajudicial actions. Under the following sections, we will specifically address how, and to what extent, the prohibited acts under Article 2(a–e) of the Genocide Convention were accompanied by the genocidal intent in Tigray.

Killing ethnic Tigrayan civilians

The above sections provided an overview of prohibited acts of genocide, including by killing (Article 2(a–e) of the Genocide

³ Weyane (or Woyane) is a derogatory term used to refer to the TPLF, but also more broadly to all Tigrayans.

Convention). This section evaluates whether the acts of killing were accompanied by special intent. In the context of the war in Tigray, state officials established anti-Tigrayan policies and expressed ethnically charged utterances, giving rise to a coordinated campaign against ethnic Tigrayans. The dehumanising and labelling words used by top government officials of Ethiopia were also consistently used by government media. For instance, when a bomb exploded at a public rally in Meskel Square held in support of PM Abiy Ahmed on 23 June 2018, Tigrayans were implicated by the Prime Minister as plotters and characterised as *'yeken jiboch'*, which means 'daytime hyenas' (AFP News Agency, 2018). This was subsequently associated with ethnic Tigrayans by the public. The dehumanising and labelling words were taken as a green light to take all measures against ethnic Tigrayans. Moreover, these words were used by the ENDF and Amhara forces while committing the mass killings of civilians against ethnic Tigrayans (Team of Experts, 2022; UN ICHEE, 2022).

Derogatory words such as 'junta' used by the Ethiopian Prime Minister, initially to refer to the TPLF, were later extended to refer to all Tigrayans. High-ranking officials, media, and even foot soldiers used the term to refer to Tigrayans on numerous occasions. For instance, in one case of investigation conducted in South Eastern Zone of Tigray in 2022, the wife of a priest from village Michael Abiy, in Degua Temben woreda (district) testified:

[...]my husband was repeatedly asking a member of the Ethiopia defense force for mercy saying that he was a priest, and the soldier replied "there is no priest in Tigray, all of you are 'juntas' [...] he then fired and killed him. (Team of Experts, 2022)

The overall governmental policy of targeting ethnic Tigrayans also received the blessing of regional governors, such as the then president of the Amhara Regional State, Mr Agegnew Teshager. In his public statement aired by the Amhara Media Corporate he stated the following:

[...] we will not rest until this enemy is eradicated [...] this people [people of Tigray] are the enemy of Oromia, this people are the enemy of Afar, this people are the enemy of Gambela, this people are the enemy of Somalia, this people are the

enemy of the whole of Ethiopia [...] therefore we need to accomplish what we have started courageously. (Tsehager, 2021)

Such terms were also used by members of the EDF. Victims testified that members of the EDF were heard referring to Tigrayans as ‘Woyane’ while targeting civilians. Investigations conducted by the Team of Experts in 2022 in South-Eastern Zone of Tigray reported that a religious leader named Priest Meresa Abadi (name changed) from the village May-Tekli, Samre district, remembers statements of the commanding officers of EDF in that area, when addressing villagers detained by them on 3 March 2021

[...] you ‘weyanes’ are now like a lizard cornered in a fence [...] you have nowhere to go [...] no one likes you. (Team of Experts, 2022)

Similarly, the investigative report a study conducted in 2022 at Village May Haydi contains the testimony of a 61-year-old man called Bayray Kelali (name changed) who survived the killing:

Armed soldiers started to torture and call them ‘Junta’. Mr Bayray testified that the military commander in the area was heard saying ‘Unless these Tigrayans vanish from this earth, they could not let us [non-Tigrayan Ethiopians] live peacefully,’ consequently, ten family members were stoned to death. (Team of Experts, 2022)

The above testimonies and evidence of the reports of independent investigations undertaken in Tigray indicate that the killing of civilians in some areas was undertaken with genocidal intent and that the EDF was heavily implicated in it (UN ICHEE, 2022).

Causing serious bodily or mental harm to ethnic Tigrayans

According to International Criminal Court in *Elements of Crimes*, causing serious bodily or mental harm to members of a protected group includes, but is not restricted to, “acts of torture, rape, sexual violence, or inhuman and degrading treatment” (International Criminal Court, 2013, p. 2, Article 6(b)). Similarly, the ICTR in the case of *Prosecutor v. Seromba* (2008) interpreted serious bodily harm to encapsulate “nonfatal physical violence that causes serious injury to the external or internal organs” and explained that serious mental harm “includes more than minor or temporary impairment of mental faculties such as the infliction of strong fear or terror, intimidation or

threat” (*Prosecutor v. Kayishema & Ruzindana*, 1999; *Prosecutor v. Semanza*, 2003). For the act to constitute a prohibited act of the crime of genocide, “the bodily harm or the mental harm inflicted on members of a group must be of such a serious nature as to threaten its destruction in whole or in part” (*Prosecutor v. Seromba*, 2008).

Torture, inhumane and degrading treatment, rape and other forms of sexual violence were among the acts, widely reported to have been inflicted against ethnic Tigrayans. The investigation report of conducted by the Team of Experts in 2022 and findings of other independent fact-finding bodies show that torture and ill-treatment was carried out on civilians by members of the ENDF, EDF, and Amhara forces either acting independently or jointly (Human Rights Council, 2022). What is important here is whether or not the acts were committed with the special intent to destroy Tigrayans in whole or in part.

An investigative report of the study conducted in 2022 indicates that acts of torture and ill-treatment were committed against Tigrayan civilians in Dejen village, Enderta district by members of the ENDF and EDF. On 29 April 2021, Tsegay Gebrehiwot (name changed), a 46-year-old victim who was severely beaten by a member of the EDF, testified that the perpetrator was saying “[...] you are fighting and killing us, you are ‘junta’; you are ‘weyane’” (Team of Experts, 2022). The report, undertaken in South Eastern Zone of Tigray, narrates as follows:

On 16 January 2021, at Wejerat, village Gonka, ENDF detained a group of men named Weldu Gidey, Kalayu Birhane, Fitsum Hagos, and Negasi Belay [names changed] and put them behind doors, locked them from outside and set the house on fire resulting in bodily burn, pain, and serious physical and mental harm. When the soldiers commit the act, the ENDF vowed “to eliminate Tigrayans”. (Team of Experts, 2022)

The findings of the investigation also reveal acts of torture and ill-treatment. On 29 January 2021, at the village of Micheal Abiy in Degua-Tembien district, the combined soldiers of the ENDF, EDF, and Amhara Forces arrested and detained a man called Gebray Tsegay (name changed). The witness testified that soldiers put him in

detention for two days and beat him with an iron bar while denying him food and water. He recalls that the soldiers said: “You Tigrayans, we will get rid of you” (Team of Experts, 2022).

In most cases, families of deceased individuals were prohibited from burying the bodies of their relatives. This act inflicts severe mental harm on members of the families. The report of the Team of Experts contains the testimony of a 40-year-old man named Assefa Weldu (name changed) who said that he heard a member of the EDF stating “Killing [civilians] is not enough [...] killing should be accompanied by severe moral infliction on the people of Tigray [...]”, after killing civilians as a result of artillery shelling at in Mawel village in Samre woreda (district) (Team of Experts, 2022). The above-mentioned utterances, such as “we will get rid of you, Tigrayans, we will eliminate you”, are strong indicators of genocidal intent on the part of the soldiers who were committing the acts.

As part of the acts that cause serious bodily or mental harm, rape and other forms of sexual violence were also reported to have been inflicted resulting in serious physical or mental harm to victims (Kidanu *et al.*, 2024; Kidanu & Tefera, 2024). A 27-year-old Tigrayan woman from Western Tigray testified that a militia member of the Amhara forces told her: “You Tigrayans should disappear from the land west of [the Tekeze River]. You are evil and we are purifying your blood” (Amnesty International, 2022). Similarly, on 8 March 2021 four Amhara militiamen stopped Amleset (name changed) and other women. The Amhara men separated Amleset from her children and brother and took her into an abandoned farmer’s house, just a few meters away. After she was gang raped, the militiamen inserted into her genitals a hot metal rod that burned her uterus. She begged them to stop, asking why they were doing that to her and what wrong has she done to them. They replied:

You did nothing bad to us, our problem is with your womb. Your womb gives birth to Woyane [a derogatory term used to refer to the TPLF]. A Tigrayan womb should never give birth. (Kassa, 2021)

Similarly, a 19-year-old woman named Kisanet (name change) who fell pregnant after being raped by Ethiopian soldiers, recalls one of

the soldiers say: “They did this to eliminate Tigrayans, and for the generations of babies delivered to be Ethiopian, because they don’t want the next generation to be Tigrayans [...]”. Bisrat (name changed), a 22-year-old girl from Irob, an indigenous community in Tigray, testified that when the war erupted, she escaped from Adigrat to a place called Haraze, where she was caught by Eritrean troops and raped for 14 days along with other women who fled with her. Bisrat says that despite her pleas to be spared to breastfeed her daughter, they did not stop and said “we are cleansing your wombs, now you will have clean babies that are not Woyane”. From this it is clear that the term Woyane, which on the face of it seems to directly refer to the TPLF fighters, not to the people of Tigray, has been extended to refer to the broader group of Tigrayans. This is in line with (Tesfa, Van Reisen & Medhanyic, 2024; Tesfa & Van Reisen, 2024a; Tesfa & Van Reisen, 2024b).

As reflected in different parts of this chapter, the word ‘Woyane’ has been consistently used by politicians, army leaders, and foot soldiers to refer to the people of Tigray. For example, we have seen that several rape victims testified that perpetrators called them ‘Woyane’ while raping them (Human Rights Council, 2022). Hence, it can be concluded that the above-mentioned prohibited acts of the crime of genocide were accompanied by genocidal intent, which can be inferred from the pattern of the commission of the crime and utterances of the perpetrators.

Infliction of conditions of life calculated to bring about the physical destruction of ethnic Tigrayans

As mentioned, in the previous sections, this element of the crime of genocide is explicitly mentioned under Article 2(c) of the Genocide Convention as a prohibited act. As noted by the Trial Chamber of the ICTR in the Akayesu case, conditions of life are intentionally inflicted to bring the gradual destruction of the intended group in whole or in part (*Prosecutor v. Akayesu*, 1998). Investigation undertaken by the Team of Experts in 2022 found that:

Villages and homes were systematically destroyed and the properties looted, livestock slaughtered and crops burned down, cereals deliberately mixed with foreign objects.

The life-sustaining conditions of the civilian Tigrayans including health centres, hospitals, agricultural instruments of farmers, and water supply systems strategically ransacked and the remaining destroyed. (Team of Experts, 2022)

This finding is evidence of acts amounting to the inflicting conditions of life calculated to bring about the physical destruction of the ethnic Tigrayans. A report by Amnesty International confirmed this finding in Western Tigray; according to the report, the Amhara and regional officials committed widespread pillage of crops and livestock, they looted and occupied Tigrayan homes by force and destroyed sources of livelihood (Amnesty International, 2022). Similarly, Human Rights Watch, in its report on the situation in Western Tigray, stated:

In several towns in Western Tigray, signs were displayed demanding that Tigrayans leave, and pamphlets distributed issuing Tigrayans [...] to leave or be killed. (Human Rights Watch, 2022)

These conditions are not restricted to Western Tigray as is evident from Kahsay (2024); Nyssen *et al.* (2024); Kahsay & Medhanyie, (2024); Medhanyie *et al.* (2024). In addition to these acts, the Ethiopian government imposed a strict siege on the Tigray Regional State, under which basic humanitarian aid supplies, such as food and medicine, and essential services, such as banking and power supply, were prevented from entering Tigray. One may reasonably question whether the siege was imposed with the motive of weakening/subduing the TPLF forces, or whether it can be consider the deliberate infliction of conditions of life calculated to bring about the physical destruction of the people of Tigray.

The siege imposed on Tigray cannot be compared to sieges imposed elsewhere during times of war. For example, according to the UN Commission of Inquiry in the Syrian Arab Republic, the siege imposed in eastern Ghouta of Syria does not fulfil the elements of genocide and was instead characterised as a war crime (Human Rights Council, 2018). The Commission found that genocidal intent could not be establish in the case of Syria. However, the intention and context in which the siege was committed varies from that of the siege on Tigray. To determine whether or not the siege imposed on Tigray

was genocidal it is important to ascertain the context, the patterns of the acts, and other circumstantial evidence.

On the 30 July 2021, the state-owned Amhara Media Corporation broadcasted that Tigray will face a situation “Like Biafra” (Amhara Media Corporation/ አማራ ሚዲያ ኮርፖሬሽን, 2021). The Biafran famine was a devastating humanitarian crisis that occurred during the Nigerian Civil War, which lasted from 1967 to 1970. The famine was one of the most tragic consequences of the war, resulting from the conflict between the Nigerian government and the secessionist state of Biafra. The comparison in the language shows the intentional punishment of famine inflicted upon Tigray with its aspirations of autonomy.

In a similar expression of how he may use his power, Prime Minister Abiy Ahmed stated that it is up to the will of the Ethiopian government whether aid gets into Tigray (Gebre & Marks, 2021). The Ethiopian government repeatedly rejected requests by the international community to allow humanitarian aid to Tigray, citing security assurance, among other reasons, for nearly two years. Ethiopia set aside the security assurance granted by the EU and US envoys on 2 August 2022, according to the EU-US joint statement, 2022. The Ethiopian government continued the repeated promotion and systematic implementation of the siege against the people of Tigray, including by blocking life supply corridors in collaboration with the Afar and Amhara regional governments (Gebreslassie *et al.*, 2024; Kabsay, 2024; Stocker & Medhanyie, 2024).

This pattern indicates that the siege was deliberately imposed with the intent to cause the destruction of the people of Tigray, in whole or in part, which amounts to the crime of genocide. Even though what matters in establishing genocide is the intention, not the result, many have reported that the conditions of life imposed on the people of Tigray by the siege resulted in a large number of deaths due to starvation and lack of medical treatment (Medhanyie *et al.*, 2024;

(Kahsay, Z 2024: Kahsay, B, 2024). Plaut, quoting Nyssen and his team at Ghent University concluded in March 2022:

[...] we made the assessment that so far there are between 150,000 and 200,000 starvation deaths, [...], and more than 100,000 additional deaths due to lack of health care. (Plaut, 2022b)

The International Criminal Court, in *Elements of Crimes*, when defining the term ‘conditions of life’, provides that the term may “may include, but is not necessarily restricted to, deliberate deprivation of resources indispensable for survival, such as food or medical services, or systematic expulsion from homes” (International Criminal Court, 2013, p. 2, Article 6(c), element 4).

It is argued that rape and sexual violence could also be considered as inflicted conditions of life calculated to bring about the destruction of the people of Tigray, as the victims and survivors of the sexual violence testified that perpetrators deliberately raped the victims to disseminate HIV/AIDS. Meseret (name changed), a 26-year-old girl who works in a coffee shop in Edaga Hamus, around 100 kms from Mekelle, testified “after gang raped by Eritrean troops, I went to a nearby drug shop to get post-exposure HIV drugs and contraceptive, and one of the perpetrators who saw me having the drugs stated, ‘why are you having those drugs, we are here to make you HIV positive’” (Amnesty International, 2021).

Many of the women who were gang raped sustained severe injuries and suffered health complications resulting in infertility (Amnesty International, 2021). The report of the UN Committee of Human Rights Experts on Ethiopia:

A woman survivor from north-western Tigray was abducted by ENDF and EDF soldiers at a checkpoint while traveling, she was held and gang-raped over four days before being released: [...] They burned her nipple with a naked flame. Before they let her go, they inserted rocks, plastic and tissue in her vagina. (Human Rights Council, 2022, paragraph 60)

Several survivors interviewed by Amnesty International said that the perpetrators of rape said things like, “This is what you deserve” and “You are disgusting” (Amnesty International, 2021).

Hence, in conclusion, the genocidal intent of the perpetrators can be inferred from their utterances and the pattern and systematic nature of their acts. Taking the context into account, one can deduce that perpetrators knew that the consequence of their acts could be fatal to the victims, as the perpetrators knew that the victims would be left without basic medical support.

Measures intended to prevent births among the protected group

As mentioned earlier, the International Criminal Court in *Elements of Crimes* (International Criminal Court, 2013) does not contain an explicit list of acts that constitute measures intended to prevent births. However, case law, such as Akayesu, mention some acts intended to prevent births: “sexual mutilation, sterilization, forced birth control, separation of the sexes and prohibition of marriages” (*Prosecutor v. Akayesu*, 1998). The ICTR Trial Chamber, in its judgment, also reiterated that when rape is committed to impregnate and lead to birth, and while at the same time preventing birth by the targeted ethnic group, it amounts to a measure to prevent births by forcibly controlling birth (*Prosecutor v. Akayesu*, 1998, paragraph 507).

The following instances reveal the intention of the perpetrators to use rape as a birth prevention method. For example, many victims reported that they were gang raped in front of family members (Amnesty International, 2021). According to the report of the Amnesty International, a 35-year-old mother-of-two from Humera said “On 21 November 2021, three members of the Eritrean troops raped me in front of my child” (Amnesty International, 2021).

In some instances, men were forced to rape their family members (Kassa, 2021). In a related report, Wafaa Said, deputy UN Aid coordinator in Ethiopia, in her briefing to the Sunday Morning Herald on 26 March 2021, stated that there were reports of: “[...] gang rape, rape in front of family members and men being forced to rape their family members under the threat of violence” (Nichols, 2021). In a patriarchal, and highly religious society such as Tigray, raping a woman in front of her family members would lead to extreme trauma and isolation, to the extent of preventing her of

coupling with her husband and preventing her from procreating (Gebremichael *et al.*, 2023).

The other act that may fall under birth prevention measures is the act of inserting materials, such as nails, sharp materials, gravel etc, inside the reproductive organs of the victims to prevent them from conceiving and giving birth to ethnic Tigrayans (Amnesty International, 2021). Houreld interviewed a young woman aged 27 in Adigrat hospital where she testified that “in February, she was repeatedly raped by 23 soldiers who inserted nails, a rock, and another item into her vagina, and she was threatened to death with a knife” (Houreld, 2021).

The pattern of these acts and the knowledge of the perpetrators about the consequences of their acts indicates that the intention is beyond a desire for sexual gratification or to cause physical or psychological harm to the victim, but extends to preventing the women of Tigray from giving birth and continuing the bloodline – in other words, the destruction of the Tigrayan people. This corresponds with genocidal intent.

Conclusion

It is clear from the evidence examined in this chapter (and this book), that the acts perpetrated against the people of Tigray, including killing, rape and sexual violence (including to prevent birth), deprivation of resources indispensable for survival (food and medical services and expulsion from homes), and the siege of Tigray can be considered prohibited acts under Article 2 of the Genocide Convention. Moreover, few would doubt that Tigrayans can be regarded as an ethnic group protected by the Convention. The challenge in proving the crime of genocide is the mental element – intent to destroy in whole or in part (special intent). This special intent is a key requirement that characterises the crime of genocide and distinguishes it from other crimes.

Accordingly, this chapter attempted to determine whether or not the acts committed against civilian Tigrayans during the Tigray war were carried out with the special intent required of the crime of genocide. Like many other cases, it is difficult to find direct genocidal evidence

for the acts committed against civilian Tigrayans, because the architects of the crime sketch the genocidal blueprint and implement it in a hidden manner. This, coupled with the difficulty of proving the mental state of the perpetrators at the time of the commission of the crime, makes it difficult to establish the crime of genocide. The difficulty of proving the mental element of the crime makes it subject to political manipulation. In Darfur and Myanmar, and recently in Tigray, the international community has been reluctant to use the term ‘genocide’, although independent reports have clearly indicated genocidal intent.

Consistent with established jurisprudence, this chapter uses circumstantial evidence, including the utterances of state officials, perpetrators, and media propaganda, together with the analysis of the patterns and context in which the acts were committed, to establish the existence of genocidal intent in the commission of the prohibited acts against the Tigrayan population. The study finds that there is evidence that there are reasonable grounds to believe that genocide was in fact committed against ethnic Tigrayans. Thus, the international community has a legal and moral obligation to investigate the crime of genocide in Tigray and prosecute those responsible.

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Author's contributions

The author conducted the research.

Ethical considerations

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This chapter should be read in conjunction with the ‘Note on content and editorial decisions’ (Book 1).

References

- AFP News Agency. (2018, June 23). Ethiopian PM addresses nation following explosion at rally [Video]. <https://www.youtube.com/watch?v=3dqplBuVtGg> (Accessed on 9 July 2024).
- Amhara Media Corporation/ አማራ ሚዲያ ኮርፖሬሽን. (2021, July 30). ትህነግን ልክ እንደ ቢያፍራ ባሕር ዳር፡ ሐምሌ 23/2013 ዓ.ም (አሚኮ) ወቅቱ እን አውሮፓዊት የዘመን ስሌት 1967 ነበር፤ አፍሪካዊቷ ሀገር ናይጄሪያ [Status update]. Facebook. <https://www.facebook.com/118697174971952/posts/pfbid0mS1NMaY1rC1zGCECXVtvWgcg2XccGZK6rz99KyBYCY5yWZL6ZhaJJkDXw24WCEAEI/> (Accessed on 14 August 2023)
- Amnesty International. (2021, August 10). *Ethiopia: Troops and militia rape, abduct women and girls in Tigray conflict – new report*. <https://www.amnesty.org/en/latest/news/2021/08/ethiopia-troops-and-militia-rape-abduct-women-and-girls-in-tigray-conflict-new-report/> (Accessed on 7 September 2023).
- Amnesty International. (2022, April 6). “We Will Erase You from This Land” Crimes Against Humanity and Ethnic Cleansing in Ethiopia’s Western Tigray Zone. <https://www.amnesty.org/en/documents/afr25/5444/2022/en/> (Accessed on 7 August 2023).
- Anna, C. (2021a, April 29). ‘Clean Out Our Insides,’ Ethiopia Detains Tigrayans Amid War. *The Associated Press*. <https://apnews.com/article/africa-ethiopia-race-and-ethnicity-health-coronavirus-5f22a5aea128cbd659fbf4f810aac973>
- Anna, C. (2021b, June 18). EU envoy: Ethiopian Leadership Vowed to ‘Wipe Out’ Tigrayans. *The Associated Press*. <https://apnews.com/article/europe-ethiopia-africa-ffd3dc3faf15d0501fd87cafe274e65a>
- Attorney General v. Eichmann, 40/61 (1968).
- Convention on the Prevention and Punishment of the Crime of Genocide, 1951, 260 A(III).
- Cryer, R., Friman, H., Robinson, D., & Wilmshurst, E. (2020). *An introduction to international criminal law and procedure*. Cambridge University Press.
- EBC [@EBCworld]. (2018, June 23). *#EBC በአዲስ አበባ መስቀል አደባባይ በምስጋናው ሰልፍ ላይ በደረሰው ጉዳት ጠቅላይ ሚኒስትር ዶክተር ዓቢይ አህመድ መግለጫ* [Video]. <https://www.youtube.com/watch?v=f-oKLLdIINo> (Accessed on 1 November 2024).
- Eboe-Osuji, C. (2007). Rape as genocide: some questions arising. *Journal of Genocide Research*, 9(2), 251-273. <https://doi.org/10.1080/14623520701368669>

- Fana Television [@fanabroadcastingcorporate]. (11 December 2018). የፍትህ ሰቆቃ - በኢትዮጵያ ሲ.ፈ.ጸመ. በነበሩ የሰብዓዊ መብት ጥሰቶች ዙሪያ ተሰራ ዶክመንታሪ [Video]. <https://www.youtube.com/watch?v=kuGKmcIcKGT8>. (Accessed on 1 November 2024).
- Feleke, B., Mackintosh, E., Mezzofiore, G., Polglase, K., Elbagir, N., Arvantidis, B., Platt, A. (2021, March 22). Practically this has been a genocide. *CNN*. <https://edition.cnn.com/2021/03/19/africa/ethiopia-tigray-rape-investigation-cmd-intl/index.html>
- Geb, S. E. & Tesfa, D. (2024). Weaponising the media: Exploring the role of Ethiopian national media in the Tigray War. In: Van Reisen, M. & Mawere, M. (eds.) *Tigray. The Hysteresis of War*, Book 1. Langaa, Bamenda.
- Gebre, S. & Marks, S. (2021). U.S. to Restrict Economic Aid to Ethiopia Over Tigray War. *Bloomberg*. <https://www.bloomberg.com/news/articles/2021-05-24/u-s-to-restrict-economic-aid-to-ethiopia-over-tigray-war> (Accessed on 28 June 2024).
- Gebremariam, H. & Abrha, A. (2024). “Why is god silent?”: Damage and destruction of religious heritage sites in East Tigray. In: Van Reisen, M. & Mawere, M. (eds.) *Tigray. The Panarchy of War*, Book 2. Langaa, Bamenda.
- Gebremichael, M. W., Gebremariam, B., Mitiku, M., Hadush, Z., Tesfay, B., Gerezgiher, A., & Alemu, M. G. (2023). Rape survivors’ experience in Tigray: a qualitative study. *BMC women’s health*, 23(1), 372. <https://doi.org/10.1186/s12905-023-02502-0>
- Gebreslassie, T. G., Kidanu, K., Weldu, L. M., Amare, S. Y., Stocker, J. & van Reisen, M. (2024). Life in darkness: The communication blockade during the Tigray siege. In: Van Reisen, M., Mawere, M. (eds.). *Tigray. War in a Digital Black Hole*, Book 3. Langaa, Bamenda.
- Houeld, K. (2021, April 15). Health official alleges ‘sexual slavery’ in Tigray. *Reuters*. <https://www.reuters.com/world/special-report-health-official-alleges-sexual-slavery-tigray-women-blame-2021-04-15/> (Accessed on 7 September 2023).
- Human Rights Council. (1996). *UN Special Reporter to the Commission on Human Rights, Report on the Situation of Human Rights in Rwanda*, E/CN.4/1996/68.
- Human Rights Council. (2005, February 25). *Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General*. <https://www.legal-tools.org/doc/1480de/pdf/>
- Human Rights Council. (2018). *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, A/HRC/39/65. <https://documents.un.org/doc/undoc/gen/g18/246/15/pdf/g1824615.pdf?token=Q6XVnVq5bxZdyXYOu2&fe=true>

- Human Rights Council. (2022, September 19). *Report of the International Commission of Human Rights Experts on Ethiopia*, A/HRC/51/46. <https://www.ohchr.org/en/hr-bodies/hrc/ichre-ethiopa/index>
- Human Rights Watch. (2022). “We will erase you from this land.” *Human Rights Watch*. <https://www.hrw.org/report/2022/04/06/we-will-erase-you-land/crimes-against-humanity-and-ethnic-cleansing-ethiopias>
- Ibreck, R., & de Waal, A. (2022). Introduction: Situating Ethiopia in genocide debates. *Journal of Genocide Research*, 24(1), 83-96. <https://doi.org/10.1080/14623528.2021.1992920>
- International Criminal Court. (2013). *Elements of Crimes*. <https://www.icc-cpi.int/sites/default/files/Publications/Elements-of-Crimes.pdf>
- Kabatsi, F. (2005). Defining or diverting genocide: Changing the comportment of genocide. *International Criminal Law Review*, 5(3), 3877-400. <https://doi.org/10.1163/1571812054940085>
- Kahsay, B. G. (2024). Humanitarian crises and response of non-governmental organisations in the Tigray War. In: Van Reisen, M., Mawere, M. (eds.). *Tigray. War in a Digital Black Hole*, Book 3. Langaa, Bamenda.
- Kahsay, Z. H. (2024). Famine as a weapon in the Tigray War and the siege. In: Van Reisen, M. & Mawere, M. (eds.) *Tigray. The Hysteresis of War*, Book 1. Langaa, Bamenda.
- Kahsay, Z.H. & Medhanyie, A.A. (2024). The impact of the war in Tigray on undernutrition among children under-five. In: Van Reisen, M., Medhanyie, A.A. & Mawere, M. (eds.) *Tigray. War in a Digital Black Hole*, Book 3. Langaa, Bamenda
- Kassa, L. A. (2021). Tigrayan womb should never give birth: ‘rape in Tigray. *Al Jazeera*. <https://www.aljazeera.com/news/2021/4/21/a-tigrayan-womb-should-never-give-birth-rape-in-ethiopia-tigray>
- Kidanu, G. & Van Reisen, M. (2024). Bodies for battle fields: Systematic use of rape as a weapon of war in Tigray. In: Van Reisen, M. & Mawere, M. (eds.) *Tigray. The Hysteresis of War*, Book 1. Langaa, Bamenda.
- Kidanu, K. G. & Tefera, A. H. (2024). “He had orders, and his superiors were outside”: Strategic rape as genocide in Tigray. In: Van Reisen, M. & Mawere, M. (eds.). *Tigray. The Hysteresis of War*, Book 1. Langaa, Bamenda.
- Kim, S. (2016). *A collective theory of genocidal intent*. TMC Asser Press.
- Kinseth, A. (2019). The ‘Trouble of Proving Genocidal Intent’ The modern Rohingya Crisis in Historical and Political Context. *New York University Journal of International Law and Politics*, 51, 101-122.
- Lemkin, R. (2008). *Axis rule in occupied Europe: Laws of occupation, analysis of government, proposals for redress*. The Lawbook Exchange, Ltd.
- Lippman, M. (2000). Genocide: The Crime of the Century--The Jurisprudence of Death at the Dawn of the New Millennium. *Houston*

- Journal of International Law*, 23, 467.
<https://heinonline.org/HOL/LandingPage?handle=hein.journals/hujil23&div=21&id=&page=>
- May, L. (2010). *Genocide: A normative account*. Cambridge University Press.
- Medhanyie, A. A., Wuneh, A. D., Tefera, A. H., Stocker, J., Kidanu, K., Abebe, G. G., & van Reisen, M. (2024). Genocide through Health Care Violence: The systematic Destruction of health facilities in war. In: Van Reisen, M., Mawere, M. (eds.). *Tigray. War in a Digital Black Hole*, Book 3. Langaa, Bamenda.
- Metzl, J. F. (1997). Rwandan genocide and the international law of radio jamming. *American Journal of International Law*, 91(4), 628-651.
<https://doi.org/10.2307/2998097>
- Nderitu, A. W. (2021). Statement by Alice Wairimu Nderitu, United Nations Special Adviser on the Prevention of Genocide, on the continued deterioration of the situation in Ethiopia. UN.
https://www.un.org/en/genocideprevention/documents/2021-07-30_Statement-on-situation-in-Ethiopia.pdf
- Nichols, M. (2021, March 26). ‘Horrific’: Men forced to rape family members in Tigray, says UN. *The Sunday Morning Herald*.
<https://www.smh.com.au/world/africa/horrific-men-forced-to-rape-family-members-in-tigray-says-un-20210326-p57eaw.html> (Accessed on 7 September 2023).
- Nyssen, J., Ghebreyohannes, T., Negash, E., Meaza, H., Tesfamariam, Z., Frankl, A., Haegeman, K., Van Schaeybroeck, B., Redda, A., Abay, F., Annys, S., Demissie, B. (2024). Impact of the Tigray War on farming: Plight and resilience. In: Van Reisen, M., Mawere, M. (eds.). *Tigray. War in a Digital Black Hole*, Book 3. Langaa, Bamenda.
- Plaut, M. (2022a, January 24). Ethiopian Prime Minister Abiy Ahmed’s social affairs adviser in public call for genocide. *Martin Plaut*.
<https://martinplaut.com/2022/01/24/ethiopian-prime-minister-abiy-ahmeds-social-affairs-adviser-in-public-call-for-genocide/>
- Plaut, M. (2022b, March 13). BREAKING: Tigray war mortality: half a million people? Professor Jan Nyssen, Ghent University. *Martin Plaut*.
<https://martinplaut.com/2022/03/13/breaking-tigray-war-mortality-half-a-million-people-ghent-university/>
- Prosecutor v. Akayesu, ICTR-96-4-T (1998).
- Prosecutor v. Al Bashir, ICC-02/05-01/09-3 (2009).
- Prosecutor v. Al Bashir, ICC-02/05-01/09-95 (2010).
- Prosecutor v. Bagilishema, ICTR-95-1A-T (2001).
- Prosecutor v. Brđanin, IT-99-36-T (2004).
- Prosecutor v. Gacumbitsi, Ictr-2001-64-A (2006).
- Prosecutor v. Jelisić, IT-95-10-T19 (1999).
- Prosecutor v. Jelisić, IT-95-10A (2000).
- Prosecutor v. Kambanda, ICTR 97-23-S (1998).
- Prosecutor v. Kamuhanda, ICTR-99-54A-T (2004).

- Prosecutor v. Karadzic & Mladic, ICTY, IT-95-5/18 (1995).
- Prosecutor v. Kayishema & Ruzindana, Case No. ICTR-95-1-T (1999).
- Prosecutor v. Krštic, IT-98-33-A (2004).
- Prosecutor v. Ruggiu, ICTR-97-32-I (2000).
- Prosecutor v. Rutaganda, ICTR-96-3-A (1999).
- Prosecutor v. Rutaganda, Case No. ICTR-96-3-A (2003).
- Prosecutor v. Semanza, ICTR-97-20-T (2003).
- Prosecutor v. Seromba, ICTR-2001-66-A (2008).
- Prosecutor v. Stakić (“Prijeđor”), IT-97-24-T (2003).
- Revised Criminal Code of Ethiopia*, 2004, Proclamation no. 414/2004.
- Rome Statute of the International Criminal Court*, entry into force, 1 July, 2002.
- Schabas, W. (2000). *Genocide in international law: the crimes of crimes*. Cambridge University Press.
- Singleterry, D. (2010). “Ethnic cleansing” and genocidal intent: A failure of judicial interpretation? *Genocide Studies and Prevention*, 5(1), 39-67.
<https://doi.org/10.3138/gsp.5.1.39>
- Stocker, J. & Medhanie, A. A. (2024). Measuring system change: Shifts in the health landscape under the Tigray siege. In: Van Reisen, M., Mawere, M. (eds.). *Tigray. War in a Digital Black Hole*, Book 3. Langaa, Bamenda.
- Szpak, A. (2012). National, ethnic, racial, and religious groups protected against genocide in the jurisprudence of the ad hoc international criminal tribunals. *European Journal of International Law*, 23(1), 155-173.
<https://doi.org/10.1093/ejil/chs002>
- Team of Experts. (2022, October). ‘Investigation and Documentation of violations of human rights and humanitarian laws during the war on Tigray’. Unpublished document.
- Tefera, A. H. (2014). The elements of rape as a crime of genocide under international criminal law: Case law analysis. *Mekelle ULJ*, 2, 35.
<https://heinonline.org/HOL/LandingPage?handle=hein.journals/mekeulj2&div=6&id=&page=>
- Tghat. (2021, July 18). “The cancer of Ethiopia”: Statement by PM Abiy Ahmed. https://www.tghat.com/2021/07/18/the-cancer-of-ethiopia-statement-by-pm-abiy-ahmed/#google_vignette (Accessed on 15 August 2023).
- Tesfa, D., Bächtold, M., Gebremichael, R. T. & van Reisen, M. (2024a). “Vultures were circumnavigating the areas”: Massacres during the Tigray War. In: Van Reisen, M. & Mawere, M. (eds.). *Tigray. The Hysteresis of War*, Book 1. Langaa, Bamenda.
- Tesfa, D., Bächtold, M., Gebremichael, R. T., Stocker, J. & Van Reisen, M. (2024b). Throwing bodies into the Tekeze River: Assessment of massacres. In: Van Reisen, M. & Mawere, M. (eds.). *Tigray. The Hysteresis of War*, Book 1. Langaa, Bamenda.

- Tesfa, D. & Van Reisen, M. (2024a). 'Cannibals', 'daytime hyenas', and 'not a human race' – 'woyane': The semiotic landscape on the Martyrs' Commemoration Museum. In: Van Reisen, M., Mawere, M., (eds.). *Tigray. The Panarchy of War*, Book 2. Langaa, Bamenda.
- Tesfa, D. & Van Reisen, M. (2024b). Negative stereotyping, creation of a threat, and incitement towards genocide: Discourse analysis of hate-speech disseminated in the Tigray War. In: Van Reisen, M., Mawere, M. (eds.). *Tigray. The Panarchy of War*, Book 2. Langaa, Bamenda.
- Tesfa, D. & Van Reisen, M. (2024c). Regional war by design: The involvement of Eritrea in the Tigray War . In: Van Reisen, M. & Mawere, M. (eds.) *Tigray. The Hysteresis of War*, Book 1. Langaa, Bamenda.
- Tesfa, D., Van Reisen, M., Medhanyie, A. A. (2024). 'Followers of the devil code 666': The writing on the wall of an intent to eradicate a people. In: Van Reisen M. & Mawere, M. (eds.). *Tigray. The Hysteresis of War*, Book 1. Langaa, Bamenda.
- Tesfa, D., Van Reisen, M. & Smits, K. (2024). A secret deal to conceal: The Eritrean involvement in the Tigray War. In: Van Reisen, M. & Mawere, M. (eds.) *Tigray. The Panarchy of War*, Book 2. Langaa, Bamenda.
- Triffterer, O. (2001). Genocide, its particular intent to destroy in whole or in part the group as such. *Leiden Journal of International Law*, 14(2). <https://doi.org/10.1017/S0922156501000206>
- Tsehager, A. (2021, July 26). Televised statement of Mr. Agegnaw Tsehager, former President of the Amhara regional State. *Amhara Media Corporate*.
- UN International Commission of Human Rights Experts on Ethiopia (ICHEE). (2022). *Report of the International Commission of Human Rights Experts on Ethiopia*.
- UN Commission of Experts on Yugoslavia. (1994). Letter dated 24 may 1994 from the secretary-general to the president of the security council (S/1994/674). https://www.icty.org/x/file/About/OTP/un_commission_of_experts_report1994_en.pdf (Accessed on 7 October 2023).
- Van Sliedregt, E. (2007). Joint criminal enterprise as a pathway to convicting individuals for genocide. *Journal of International Criminal Justice*, 5(1). <https://doi.org/10.1093/jicj/mql042>