

# **Towards a Meaningful Peace for Tigray**

## **How to Move from the 'Permanent Cessation of Hostilities Agreement' to a Durable Peace**

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### **Summary**

1. This memo examines the state of implementation of the 'Permanent Cessation of Hostilities Agreement' signed by the Government of the Federal Democratic Republic of Ethiopia (FGE) and the Tigray People's Liberation Front (TPLF) in Pretoria, South Africa, in November 2022, fifteen months on.
2. The Pretoria Agreement is deficient in many ways. The Nairobi Declaration on Modalities for Implementation, which followed shortly thereafter, did not fill the major gaps. What exists is a barebones commitment to ending active hostilities with only the vaguest outline for how the parties will resolve their political differences and move the country forward. Most of these deficiencies were evident at the time. There was, and remains, a danger that the agreement serves as an instrument for continuing the objectives of the war in a different way.
3. Nonetheless the Pretoria Agreement and Nairobi Declaration are the only basis for moving forward. This memo examines what has and has not been implemented and what should be the next steps.
4. Key unimplemented provisions include the restoration of the administrative territory of Tigray under the constitution, the return of IDPs to their places of origin; the disarmament, demobilization, and reintegration of TDF combatants; efforts towards

transitional justice; resumption of humanitarian assistance at scale, and efforts towards post conflict rehabilitation and reconstruction.

5. The two parties have agreed to jointly evaluate the implementation of the agreement in the presence of the AU panel that midwifed the agreement. This is an opportunity for a frank appraisal of what needs to be done.

## **I. Background**

6. Despite the role of the African Union in convening the negotiations, it is evident that the process and the text represent a regression from the norms, principles and institutions of the African Union's peace and security architecture, from the Constitutive Act of 2000 to the 'silencing the guns' initiative. It turns the clock back to the barebones model of peace accords characteristic of the era of the Organisation of African Unity.

7. The document signed by the FGE and TPLF in Pretoria is entitled: 'Agreement for Lasting Peace through a Permanent Cessation of Hostilities.' The title itself indicates a major problem. Normally a cessation of hostilities is a temporary, interim measure that paves the way for negotiation towards a political settlement that would resolve the main disputes that generated hostilities. A 'permanent cessation of hostilities' is a newly-introduced and undefined concept. The implication, deliberate or inadvertent, is that the agreement is a truce, promising that the two parties will not fight one another, leaving everything else open.

8. Missing is a roadmap towards political normalization and the necessary mechanisms for returning to the status quo ante in line with the 1994 Constitution of the Federal Democratic Republic of Ethiopia. It only provides an indication (article 10(2)) for some sort of political dialogue and/or negotiation to continue between the parties.

9. The Agreement fails to articulate clear provisions related to post conflict reconstruction and rehabilitation (PCRD). Normally one would have expected a commitment to a Joint Assessment Mission by international aid donors. However, the Agreement only mentions some aspects of PCRD in its section on humanitarian issues. The brief mention of PCRD also provides little formal role for the UN and other international partners, despite the fact that the bill for the destruction of Tigray amounts to an estimated \$30 billion USD (according to the most recent damage

assessment report of the interim regional administration), and the reality accepted by all that the FGE does not have the means to pay.

10. Article 7(2)(d) of the Agreement requires the FGE to 'Mobilize and expedite humanitarian assistance for all those in need in the Tigray Region and other affected areas, and ensure unhindered humanitarian access.' It is the last point listed in the section entitled 'Confidence-building measures.' There is no mention of the international prohibition on starvation as a weapon of war.

11. Despite these shortcomings, however, the rationale for making the peace work is strong. At the signing of the agreement both Tigray and the FGE were weakened and unable to sustain a continued war. If implemented, the agreement has key provisions that enable the parties for a cessation of hostilities.

## **II. Key Provisions of the Pretoria Agreement and the Nairobi Declaration**

12. Despite any misgivings to the Pretoria agreement and the Nairobi modalities one should understand that any peacebuilding effort should start from its full implementation. In order to review its implementation, it is important to understand the key elements for the agreement and its modality.

13. The agreement articulated the following key principles to underpin the agreement:

- a. The respect of sovereignty, territorial integrity, and unity of the FDRE;
- b. Respect the legality of for the norms and principles enshrined in the Constitution of the FDRE;
- c. Respect for fundamental human rights and democratic norms and principles;
- d. Respect for the African Charter on Democracy, Elections, and Governance Accountability in accordance with the Constitution
- e. Respect for the principle of justice in accordance with the AU transitional justice policy framework;
- f. Unhindered humanitarian access to all in need of assistance and the use of humanitarian aid exclusively for humanitarian purposes.;
- g. The need for recognizing reconciliation, rehabilitation, relief, and reconstruction as important principles for peacebuilding.

14. The agreement underlined the need for good faith commitment in the implementation of the cessation of hostilities and subsequent stages of the ceasefire process.

15. Concerning the ceasefire and the resumption of services, the following was agreed:

- a. Article 3 of the Pretoria agreement calls for an immediate ceasefire between the Ethiopian National Defense Force (ENDF) and the TDF and obliges the parties to immediately disengage their forces from combat positions; and also obliges them from overt and covert acts of violence; laying of mines; sabotage; airstrikes; direct or indirect acts of violence; and subversion or use of proxies to destabilize the other party or collusion with any external force hostile to either party.
- b. The agreement does not mention the use of food and/or any humanitarian aid or restrictions on access to it as a weapon of war, and does not explicitly prohibit starvation crimes.

16. Disarmament Demobilization and Reintegration of Tigray Defense Force (TDF) members included the following:

- a. Article 6 of the agreement details the integration and/or the disarmament and demobilization of combatants of TDF combatants. It calls for the dissolution of the TDF based on the recognition that there should only be one national defense force.
- b. The Agreement details the need to develop a plan to be designed and implemented to integrate and demobilize the TDF combatants with immediate effect to the signing of the agreement. This was later followed by the Nairobi Modalities of Implementation which detailed that the disarmament of the Tigrayan forces.
- c. The modalities of implementation (article 2 (2.1)) details that the disarmament of heavy weapons from the TDF to be done concurrent to the withdrawal of non-ENDF and foreign forces from the administrative boundary of Tigray and this to be completed in one month of the signing of the Modalities of Implementation.
- d. The modalities agreement further calls for the formation of a joint committee to be formed and work out on a detailed plan for the disarmament of light weapons from the TDF.

17. A transitional justice mechanism is to be established:

- a. Article 10(3) of the agreement tasks the FGE to design and implement a national transitional justice policy aimed at accountability, ascertaining the truth, redress for victims, reconciliation, and healing, consistent with the Constitution of FDRE and the African Union Transitional Justice Policy Framework.
- b. The article emphasizes that such a policy should be developed in a participatory way where inputs from all stakeholders, and civil society groups through public consultations and formal national policy-making processes are considered and accommodated properly.

18. Concerning Federal Authority in Tigray and representation of Tigray in Federal institutions, the agreement states the following.

- a. Article 9(1) of the Pretoria Agreement stipulates that federal authority in the region should be reinstated through enabling the federal government to control all federal level institutions in the region.
- b. Article 9(2) also calls the federal government to ensure the representation of Tigray in the federal institutions including the House of Federation and the House of Representatives in accordance with the FDRE constitution and all applicable laws of the federal government.

19. Post Conflict Reconstruction and Rehabilitation of Tigray is not dealt with in any detail. There is no single clause clearly related to this. It is only in article 5 on humanitarian access that we see some relevant provisions.

- a. Article 5(1) articulates that the FGE should expedite the provision of humanitarian aid in collaboration with humanitarian agencies taking into account the specific needs of vulnerable groups including women, children, and the elderly.
- b. Article 5(2) also calls the parties to cooperate among themselves and with the relevant humanitarian agencies to assist in reuniting families.
- c. Article 5(3) demands the FGE to facilitate the return and reintegration of internally displaced persons and refugees following the assurance of a security situation that permits such return.

20. Concerning disputes over boundary and identity issues, article 10(4) indicates that issues related with contested areas and identities should be resolved based on the Constitution of the FDRE.

21. The beginning of a political negotiations to achieve political settlement is covered in article 10(2), that calls for the resumption of a political dialogue to find lasting solutions to the underlying political difference between the parties. It specifies that this should begin within two weeks following the restoration of the federal authorities in Tigray and the representation of Tigray in the federal institutions and when and all other confidence building measures detailed in article 7 are implemented.

### **III. Taking Stock of the Implementation of the Pretoria Agreement and the Nairobi Declaration**

22. Fifteen months after the signing of the Pretoria Agreement and fourteen months from the signing of the Nairobi Declaration on modalities of implementation, implementation is meagre. Over 1.2 million displaced Tigrayans are still in IDP camps, over 30% of the territory within administrative boundary of the region is still under the control of non-ENDF and foreign forces. The Federal Government claims to have met its obligations arising from the agreement and accuses the interim administration of Tigray for failing to do so. In the same token the interim administration claims to have done its part but points to the FGE for failing to do so.

23. The two parties have agreed to jointly evaluate the implementation of the agreement in the presence of the AU panel that midwifed the agreement.

#### ***Initial Steps***

24. The initial response to the signing of the agreement was not encouraging. Some wavering signs were seen from the leaders of Tigray on some of the key terms. On November 13, the day the Nairobi Declaration was signed, the TPLF leaders backtracked on parts of the Pretoria deal, including by explicitly rejecting the removal of the regional government and its replacement by an all-inclusive interim administration. However, they did not persist with this rejection. Some suggest that they did not intend to renege on the agreement but were posturing to deflect internal criticism on their concession to accept the dismantling of the existing Tigray government. Similarly, the Government of Eritrea and the Amhara forces (both allies of Abiy Ahmed in his war against Tigray) continued to express their misgivings over the Pretoria agreement.

However, Prime Minister Abiy Ahmed publicly welcomed the deal and stressed that more war would be futile despite the misgivings of his allies.

25. Once signed the parties showed early commitment by disengaging their forces from combat positions although serious abuses by Amhara and Eritrean forces were reported during this process of disengagement. Furthermore, the officials of the FGE were able to visit Tigray and the leaders of the TPLF were able to travel to Addis Ababa without their security detail.

26. Essential services like banking and telephone services soon resumed and the region was connected to the national electric grid system though at reduced capacity from the pre-war level of the services. Early progress included the TPLF's [delisting](#) from its terrorist designation, which was a precondition to form an inclusive interim administration for the region. Immediately thereafter the [Interim Administration for Tigray](#) was formed and some funds to begin began to flow to pay civil servants and pensioners.

27. Regular [Ethiopian Airlines](#) flights started two months after the signing of the agreement and all land transport corridors from the center of the country were technically opened few weeks to the signing of the agreement. However, it is only the Afar corridor that is serving the region as the rest of the Amhara region is at war with the federal government. Restrictions on humanitarian organizations and their personnel and supplies were lifted, a move that encouraged the humanitarian aid. However, three months after this the United Nations World Food Program halted its operations as a result of 'coordinated food theft that involved federal and regional authorities' and this was soon followed by USAID and other aid agencies, a move that completely locked the regions for subsequent months while the life of the majority of the population was facing famine like conditions.

28. Despite these steps, key elements in the Pretoria Agreement and Nairobi Declaration are yet to be implemented. These include:

- a. The restoration of the administrative territory of Tigray in accordance with the Constitution;
- b. The return of IDPs into their places of origin;
- c. The disarmament, demobilization and reintegration of TDF combatants;
- d. Efforts towards transitional justice;
- e. Resumption of humanitarian programming at scale;
- f. Efforts towards post conflict rehabilitation and reconstruction.

## *The Restoration of the Administrative Territory of Tigray*

29. Today the removal of non-ENDF and foreign forces from within the administrative boundary of Tigray is not yet complete. The whole Western zone, parts of North Western zone, and substantive areas of three districts of the Southern zone are still occupied by the Amhara security forces and the Amhara regional administration has extended its administration to these places. In a similar fashion 55 kebeles from the Eastern, Central, and north-western zones of Tigray are still under the occupation of the Eritrean Defense Forces.

30. Prime Minister Abiy in his recent address to his parliament stated that referendum will be held to determine the issues of [disputed boundaries](#) between the Amhara and Tigray regions. This is consistent with his habit of proposing ad hoc solutions to disputes that should properly be handled by constitutional procedures.

31. The constitution of the FDRE recognizes the rights of nations and nationalities for self-rule. [Proclamation 251/2001](#) is the legal instrument that details the process for demands to self-rule as part of its details in detailing the powers and duties of the House of Federation in interpreting the constitution with a particular focus on administering the demand of peoples for self-rule.

32. In recent years, the demand for self-administration was first raised by the people of the [Silte Nationality](#) who at the time were considered part of the Gurage Nationality and organized under the Gurage zone. Proclamation 251/2001 was informed by this case, that determined the status of the Silte people by means of a referendum held by the National Election Board of Ethiopia (NEBE). The Silte Nationality won the recognition of being a distinct nationality and created an independent zonal administration under the SNNP.

33. The proclamation says that any group of people that has a request for the recognition of an identity and self-rule should first provide a petition that consists of at least 5% of the population for the council of representatives at that level. The regional council that received the petition then makes a decision concerning a referendum. If the decision is to administer a referendum, it asks the NEBE to organize it. It would either recognize the identity and/or enable it create its own administrative body if and when a two third majority votes accordingly. If the regional council rejects the petition, the community could appeal to the House of Federation for constitutional interpretation. One can therefore conclude that implementing the Pretoria Agreement means assuring



the pre-war status quo of the administrative boundary of Tigray. Any identity-related question from either Wolkait or Southern Tigray thereafter should be presented to the regional house of representatives of Tigray and follow the legally set appeal procedures to the House of Federation when and if the demanding sections of the communities believe that their rights are not respected.

34. As part of his coalition-building tactics, Abiy in 2018 [established an administrative and boundary issues commission](#) (proclamation 1101/2019) sidelining these constitutional procedures and mechanisms. This commission was [dissolved](#) on December 2023 without addressing a single administrative boundary and/or identity issue. Most recently, Abiy, outside the spirit of the Pretoria Agreement, has been telling the public that a referendum is going to be handled to address the disputed areas of Tigray and claims that those areas will be under the administration of the federal government until the referendum. The guarantors of the Pretoria Agreement should note that this proposition is against the spirit of the agreement and hold the FGE by its signature and words.

35. The regional administration of Tigray on the other hand believes that there is no boundary dispute between the two regions what exists is a claim by the Amhara forces claiming that the people of Wolqait-Tsegedi-Tselemti and Raya are Amharas by identity and should therefore be included within the Amhara regional. If and when such a request from the people arises, the Constitution has mechanisms of addressing it which should be respected. In order to do this, status quo should be maintained in the so-called disputed areas. Furthermore, the Tigray regional house of representatives should be established through election first so that the appropriate body to take such petitions comes into place. It is with this premise that the Tigrayan authorities are demanding the return of the status quo so that the annexed 30% territory of Tigray is returned.

### ***Return of IDPs to their Places of Origin***

36. Approximately 1.2 million Tigrayans were displaced from their places of origin by the annexation of those places by the Amhara region or their annexation or occupation by the Eritrean Defense Force. While those areas remain occupied their return remains impossible. In fact, there is evidence for continuing displacement of Tigrayans from those areas.

37. IDPs live under dire humanitarian conditions according to the most recent [Human Rights Monitoring Report](#). They remain encamped on open ground, or in schools, universities or factory sites.

## ***Disarmament, Demobilization and Reintegration of TDF Combatants***

38. The Pretoria Agreement stipulated that the TDF should be demobilized. However, its demobilization was set to be contingent to two things: (a) full withdrawal of non-ENDF and foreign forces from the administrative boundaries of Tigray, followed by the return of the constitutionally-authorized administration; and (b) the provision of programs and resources to properly rehabilitate the combatants into productive civilian life. Neither condition has been met.

39. The occupying forces remain inside Tigray and the administrative boundaries of Tigray have not been reinstated. Proper rehabilitation programs and packages for the return of combatants into civilian life are not yet in sight. Despite this, Tigray has sent over 50,000 combatants home providing a three months stipend promising that reintegration package will then be provided. But, eight months on, nothing has yet been made available. Despite this, however, Tigray needs to return combatants into civilian life and such a project needs to be supported from a [compassionate humanitarian need](#) perspective. Proper medical support, physical, and economic rehabilitation is not in place for over 30,000 disabled veterans leave alone reintegration of and rehabilitation for over 200,000 battle-hardened TDF combatants. For those reasons, disarmament and demobilization, one of the key promises of the [Pretoria agreement is not](#) implemented.

40. The FGE created a national DDR commission with a branch in Tigray a few weeks after signing of the Pretoria agreement. However, the commission thus far has not been seen to engage in any resource mobilization effort other than closed-door meetings and scanty attempts towards [designing a program](#). Most recently, Tigrayans have learned that the European Union and AU have allocated 15 million euros and [\\$900,000 USD respectively](#) towards DDR. However, whether the required resources will be mobilized in full and effectively used to the effort is yet to be seen.

## ***Transitional Justice***

41. The [International Commission of Human Rights Experts on Ethiopia](#) (ICHRE) has confirmed that civilian Tigrayan civilians were subjected to egregious violations by the ENDF, EDF, Amhara Special Forces in the two years after the beginning of the war in November 2020. Killings were perpetrated *en masse*. The Commission also confirmed that rape and other forms of sexual violence against women were perpetrated on a massive scale and large numbers Tigrayan women, men, and children (including ENDF soldiers of a Tigrayan origin) were detained. Its findings also assert that starvation was

used as an instrument of war along with massive looting and destruction of objects indispensable to the survival of the civilian population.

42. One of the foremost demands of Tigrayan civilians has been that there be a process of justice for these crimes. This should include prosecuting those responsible and availing resources and mechanisms to redress damages.

43. Recognizing this, article 10(3) of the Pretoria Agreement provides for a mechanism for transitional justice. Subsequent to the signing of the agreement, the Federal Ministry of Justice drafted 'a green paper' for transitional justice and appeared to have consultations on it over the next six months. Initially, these were seen as moves in the right direction. Through time, however, it became clear that the FGE has no genuine interest in transitional justice. Some argue that the FGE's intent for launching the process was [to pretend to conform to international norms](#) as a smokescreen for doing nothing. The design of the green paper elevated respect for national sovereignty and opposed any independent international investigation on crimes committed. It contained no mechanism for investigating the crimes committed by foreign forces like the Eritrean Defense Forces. Most importantly, the supposed national transitional justice policy was used as the justification for closing down the ICHREE, even while the members of the Commission argued that their job was both essential and incomplete.

44. Today, all discussions towards [developing a transitional justice policy](#) and mechanism have become completely muted. There is no nationally-agreed policy for transitional justice. Families of deceased civilians, survivors of sexual violence, and all other victims of the war are still waiting to get justice. Perpetrators of these crimes and other crimes related to the overall destruction of Tigray's social and economic infrastructure are enjoying complete impunity.

### ***Humanitarian Assistance***

45. Tigray was subjected to starvation and a near-total blockade of humanitarian assistance during the war. Shortly after humanitarian aid resumed, the exposure of large-scale coordinated theft led to a complete shutdown of food distributions by the World Food Program. Combined with a failure to provide essential agricultural inputs, the inability of IDPs to return to their homes and a severe drought, the humanitarian crisis has deepened.

46. The FGE has insisted that [reports of humanitarian crisis in Tigray are exaggerated](#) at best and false at worst, contradicting appeals from the Interim Regional Administration and humanitarian agencies. The refusal of the FGE to acknowledge the scale of the crisis despite [the alarming call of parliamentarians who recently visited Tigray](#) provides an alibi for international donors that are reluctant to devote resources to responding to Tigray when they face other competing demands on their limited budgets.

47. Humanitarian assistance resumed in November with smaller, [smaller targeted](#) distributions. They have yet to be scaled up. The humanitarian crisis, and the lethargic federal response, is not only contributing to an unfolding human tragedy but is also undermining confidence in the Pretoria Agreement. While living conditions deteriorate towards outright starvation, Tigrayans ask what is the benefit of the 'permanent cessation of hostilities.'

### ***Post-Conflict Rehabilitation and Reconstruction***

48. No substantive rehabilitation and reconstruction efforts are yet in place. The federal government claims that it has thus far disbursed [approximately 37 billion birr](#) (approximately \$370 million USD). However, this amount did not even cover the arrears of salaries of civil servants and pensioners. We can take note of the 72-billion-birr (approximately \$720 million USD) and 45.1 billion birr (approximately \$451 million USD) budget subsidies of the federal government to the Oromia and Amhara regions for the budget year of 2023/24.

49. The damage Tigray incurred in the two years' war is estimated to amount to over \$30 billion. The survey of the damage assessment commission remains work in progress and does not include the destruction in those areas that are not still under the control of the interim government, the loss and damage suffered by individual households, or the lost opportunities of more than two years without investment, schooling or other normal activities. Despite such a magnitude of destruction, the FGE has not been seen organizing donor conferences aimed at creating awareness on the magnitude of the damage and encouraging the donors to raise funds for reconstruction and rehabilitation.

50. Of the dozens of donors-funded projects in Tigray that were interrupted by the war, none have resumed a year to the signing of the Pretoria agreement. Little is going to the rehabilitation of the over 70% that hospitals and health facilities are [vandalized and looted](#); the over 80% [vandalized and destroyed schools](#). Nothing is going into the

rehabilitation of individual households of Tigray whose assets who for example have lost 70% of the [bee colonies](#) are destroyed. Schools resumed but often running [under the shade of trees](#); medical professionals are back to their work stations but to wrecked clinics and hospitals without proper supplies of medicine and medical equipment.

#### **IV. The Way Forward**

51. Despite misgivings to the process that gave rise to the Pretoria Agreement and its contents, everyone agrees that the option is not reneging or dismantling the agreement but implementing it and building upon it. This memo concludes with a proposed set of steps.

##### ***Step 1: Restore Tigray's Boundaries***

52. The critical path in implementing the Pretoria Agreement is the return of Tigray to its prewar administrative boundary. Once the full administrative boundary of Tigray is under the control of the Interim administration, it will open room for the return of IDPs into their places of origin. On a related development, conditions for the disarmament demobilization and reintegration of the TDF combatants will also be in created. The return of IDPs and TDF combatants into their places of origin and into civilian life will also have an impact towards an accelerated reconstruction and rehabilitation of Tigray.

53. One can therefore see that the key factor that is dragging the full implementation of the Pretoria agreement is the return of Tigray into its pre-war administrative boundary.

54. As outlined above, the Pretoria agreement (article 10(4)) indicates that issues related with contested areas and identities to be resolved based on the constitution of the FDRE. This brings the importance of understanding the Constitution and related legislation in regard to resolving demands related with identity contestations and related boundary disputes. The guarantors of the Pretoria Agreement should insist that constitutional procedures are followed and not ad hoc measures.

55. The FGE should not be allowed to continue using this issue as part of its 'politicking' directed to build temporary coalitions by making false promises and/or creating confusion around the issues of identity and boundary contestations. The guarantors of the agreement should at least make sure that the FGE calls the non-ENDF and Foreign forces move out of the administrative boundary of Tigray.

## **Step 2: Donor Conference for a Full Spectrum of Assistance for Humanitarian Aid, Return of IDPs, DDR, Post-Conflict Rehabilitation**

56. Tigray's material needs are immense. As noted, they cover urgent humanitarian aid, assistance for the return of IDPs to their homes, assistance for the DDR of former combatants, and a comprehensive program of post-conflict rehabilitation.

57. The full contents of the damage assessment report developed by what the government of Tigray called 'The Genocide Inquiry Commission' should be made public.

58. A multi-donor Joint Assessment Mission would have been a preferred course of action, leading to a donor conference at which assistance needs were identified and responsibilities allocated. That is still the best option. However, humanitarian needs are so urgent that they should be provided without precondition or delay.

## **Step 3: Independent, Impartial Human Rights Investigation**

59. It is essential to reinstate an independent international committee of human rights experts to investigate fully on the crimes committed in the Tigray war, with an expanded mandate to address violations in the conflicts in Amhara, Oromo and other regions of the country. An international mechanism to prosecute perpetrators for the crimes committed in Tigray is needed. Such a process would not only add credibility to the process but also enables the mechanism to have jurisdiction over crimes committed by the Eritrean Defense Forces and other foreign forces.