

Article

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# **The Application of International Humanitarian Law in the Resolution of a Complex Humanitarian Crisis: A Case Study of the Tigray National Regional State of the Federal Democratic Republic of Ethiopia**

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**Abstract:** The subject of the study is the specifics of the application of international humanitarian law (IHL) to the resolution of the humanitarian crisis in the Ethiopian state of Tigray. Crimes against humanity committed by Ethiopian and Eritrean troops in the conditions of warfare have been studied. It is argued that according to Article 3 of the II Additional Protocol to the Geneva Convention on the Protection of Victims of War, the federal center of Ethiopia, which protects the sovereignty of the State, acts correctly by suppressing the rebels of Tigray. However, this is in contradiction with the UN Security Council resolution on the situation with human rights and the human situation in Ethiopia and the 2021 Human Rights Council resolution S-33/1 “The situation of human rights in Ethiopia” indicating Ethiopia’s violation of its international legal obligations with respect to civilians in armed conflict and IHL norms. Thus, the operation of IHL on the territory of the state is objectively suspended. The provisions and priorities of Refugee Law are considered separately in relation to the specifics of the refugee situation in Ethiopia, in particular the specifics of the Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa of 2009. It was found that both the federal authorities

and the opposing belligerents controlling the settlements of internally displaced persons on the territory of Ethiopia, do not fulfill their obligations under the Convention, which refers to the need for urgent further development of regional international treaties on assistance to forced migrants.

**Keywords:** Ethiopia; Tigray; ethnonational conflict; humanitarian catastrophe; international humanitarian law; legal status; refugees; internally displaced persons

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## I. Introduction

### I.1. Internal Factors of Instability in African States: A Case of Ethiopia

Today, for most unstable countries of the world, one of the key threats to national security remains problems provoked, despite all their differences from each other, by internal factors.<sup>1</sup> The dominance of ethnic and fundamentalist forces in the conditions of the complex ethnic and religious composition of the population of these countries destroys their delicate social composition.

Long before the pandemic, the agencies of the UN cluster humanitarian system warned of a possible crisis, already in 2018 they worked with an unprecedented number of refugees and internally displaced persons, providing emergency assistance to almost 98 million people.<sup>2</sup> Of course, the SARS-CoV-2 coronavirus pandemic and measures to combat it have deepened the inequality separating the developed and marginalized States of the world: approximately 270 million people are at risk of starvation, hundreds of millions of people have lost their jobs, and global labor income has decreased by 10 %.<sup>3</sup> According to the World Bank, in 2021 there was a decrease in remittances by 14 %, which significantly reduced household incomes.<sup>4</sup> The global humanitarian system remains stable for the time being, but the ethical obligations of States to each other are increasing dramatically.

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<sup>1</sup> Poorest Countries in the World 2022. World Population Review. Available at: <https://worldpopulationreview.com/country-rankings/poorest-countries-in-the-world> [Accessed 04.03.2022].

<sup>2</sup> United Nations refugee agency, UNHCR, Global Report – 2018. Available at: [https://reporting.unhcr.org/sites/default/files/gr2018/pdf/GR2018\\_English\\_Full\\_lowres.pdf](https://reporting.unhcr.org/sites/default/files/gr2018/pdf/GR2018_English_Full_lowres.pdf) [Accessed 04.03.2022].

<sup>3</sup> ILO Monitor: Covid-19 and the world of work. Sixth edition. (2020). International Labour Organization. Available at: [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/briefingnote/wcms\\_755910.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/briefingnote/wcms_755910.pdf) [Accessed 05.02.2023].

<sup>4</sup> Ong, R. Covid-19: Remittance Flows to Shrink 14 % by 2021. Available at: [https://www-worldbank-org.translate.google/en/news/press-release/2020/10/29/covid-19-remittance-flows-to-shrink-14-by-2021?\\_x\\_tr\\_sl=auto&\\_x\\_tr\\_tl=ru&\\_x\\_tr\\_hl=ru](https://www-worldbank-org.translate.google/en/news/press-release/2020/10/29/covid-19-remittance-flows-to-shrink-14-by-2021?_x_tr_sl=auto&_x_tr_tl=ru&_x_tr_hl=ru) [Accessed 04.03.2022].

In the countries of East Africa and the Horn of Africa, an extremely dangerous situation has developed in recent years: the combination of ongoing conflicts with climate change, which caused the worst drought and lack of water in the last 40 years, the invasion of locusts, Covid-19 economic afterwords and a sharp rise in prices, the conflict in Ukraine led to an unprecedented high level of regional humanitarian crisis. It is expressed in the catastrophic situation with food security, in the fantastic number of refugees and internally displaced persons who come into conflict with the people who sheltered them, in the absence of unhindered, guaranteed humanitarian access.

The Federal Democratic Republic of Ethiopia (FDRE) is a country at the epicenter of events. In the state of Tigray, the ethnopolitical conflict between local authorities and the federal government, which began almost two years ago, resulted in a humanitarian catastrophe. Thousands of people have been killed or migrated since November 2020.<sup>5</sup> There is evidence that federal troops and their allies, the Eritrean armed forces, committed mass atrocities against the civilian population, gang violence and ethnic cleansing.<sup>6</sup> UN partner aid agencies have repeatedly called for an immediate cease-fire in the region for humanitarian reasons. Back in June 2021 Mark Lowcock, UN Deputy-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, said at an informal meeting of the Security Council that famine had already set in in some areas of the region after federal troops deliberately destroyed crops and livestock.<sup>7</sup> Today, the conflict has not stopped, there has been a return to the starting point. Despite all the efforts of humanitarian organizations, including the World Food Program, there is practically no humanitarian access to Tigray, which means that there is no humanitarian aid. The conflict is affecting the rest of Ethiopia, which is experiencing the worst drought in four decades. The conflict in

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<sup>5</sup> Conflict in Ethiopia. Global Conflict Tracker. Available at: <https://www.cfr.org/global-conflict-tracker/conflict/conflict-ethiopia> [Accessed 04.03.2022].

<sup>6</sup> The Tigray War & Regional Implications (Vol. 1). Oslo Analytica. Available at: <https://eritreahub.org/wp-content/uploads/2021/07/The-Tigray-War-and-Regional-Implications-Volume-1.pdf> [Accessed 06.0.2023].

<sup>7</sup> Besheer, M., (2021). UN: Deaths From Starvation Reported in Ethiopia's Tigray. US news. Available at: <https://www.voanews.com/africa/un-deaths-starvation-reported-ethiopia-tigray> [Accessed 06.02.2023].

Tigray reflected all the key problems of the country in East Africa and the Horn of Africa as a whole. Its specificity lies in the phenomenon of the fundamental opposition of humanitarian aid and the political process by all its actors. The analysis of the conflict from the point of view of international humanitarian law suggests that, firstly, the probability that in the near future the world community will have to reconsider the UN approach to the entire architecture of humanitarian development, in order, secondly, to propose options for strengthening the effectiveness of IHL norms in the settlement of humanitarian conflicts in the conditions of complex interaction of their actors and external factors. Assessments of the application of IHL norms in this situation contribute to understanding the humanitarian foundations of the legal status of civilians and the prospects for providing them with stable protection. The explanation and interpretation of the features of the events taking place in Ethiopia and the actions of their key actors from the point of view of international humanitarian law helps to understand the true meaning of social phenomena and extrapolate it to real political practice. The effectiveness of the latter, a reasonable choice of betting on the “internal principle of consensus or on the external principle of humanitarian intervention” depends on this.

## **1.2. Methodology, Sources and Historiography of the Study**

The authors used qualitative methods of data analysis due to the peculiarities of the subject of the study. The empirical material is analyzed using the frame theory, which defines a “framework analysis” of the situation. Framing involves choosing a number of important events and problems in order to identify the relationship between them, interpret them, and evaluate them (Druckman, 2001, p. 227). The article highlighted the following frames: of conflict — emphasis on disagreements between ethno-regional elites; content and assessment of applicable norms of international humanitarian law; of responsibility — the definition of persons or groups responsible for the problem; of morality — the assessment of the event from the standpoint of the value system, which is the platform of modern humanitarianism. An important method of research was process tracing — a technique

for checking the causal mechanism, the historical-genetic method, etc. Among the applied methods of law are comparative legal, formal legal and the method of legal modeling.

The primary sources of the study were the official documents of the FDRE, statistics collected from various resources such as Statista, World Population Review, Doctors Without Borders, the UN, etc., the contents of the Geneva Conventions on the Protection of Victims of the War of 1949 and Additional Protocol II thereto of 1977, UN Security Council Resolution 2573 and UN Human Rights Council Resolution S-33/1 “The situation of human rights in Ethiopia,” adopted in 2021, the Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa of 1969 and the Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa of 2009, applicable at the regional level. The sources are interconnected according to the principle of complementarity, which allows the researcher to get reliable information about both key events and their context.

Secondary sources are represented by an extensive list of scientific papers directly devoted to the topic under study. The analysis of the elements of this list makes it possible to identify the degree of research interest in the subject under study, summarize the scientific results obtained, and see the existing gaps in the literature. Historiographical sources can be “put” into the following main groups:

– works on IHL are presented by the scientific positions of legal specialists M. Sassoli and S.K. Khamari, who study the system of special principles and sources of IHL. Separately, in the context of the implementation of international legal regulation of the movement of the population, mention is made of a monograph by D.V. Ivanov and N.A. Bobrinsky “The legal status of asylum seekers in modern international law,” which outlines the specifics of granting temporary asylum to such categories of forced migrants;

– on modern humanitarianism (Maxwell and Gelsdorf, 2019);

– works on the peculiarities of Ethiopian federalism and its influence on the formation of ethno – national conflicts in the country (Ismagilova, 2018, Vestal, 1996; Merera, 2009).

Finally, the last group of works relates to the research of the political system of the Tigray state itself (Fiseha, 2020) and to the analysis of the events taking place there today (James and Alihodzic, 2020; Tsehay and Chekol, 2021).

The key research question is whether there are features of the effect of IHL norms in a humanitarian crisis in the conditions of non-international armed conflicts? The issue is considered on the example of the humanitarian crisis in the Ethiopian state of Tigray, which arose as a result of the conflict between the authorities of the state of Tigray and the federal government in 2020–2022.

## **II. The Effect of IHL Norms in a Humanitarian Crisis in the Conditions of Non-International Armed Conflicts**

The legal sources of IHL are fairly stable, and the definition of the type of an armed conflict in the context of an intra-State armed confrontation of the parties belongs to the State itself, on whose territory it takes place. In our opinion, we may be talking about the application of Additional Protocol II to the Geneva Conventions of August 12, 1949, Relating to the Protection of Victims of Non-International Armed Conflicts, 1977. Its content contains legal norms that directly relate to the settlement of the humanitarian crisis in such an armed conflict. Special attention is paid to the regional international legal aspects of assistance to refugees and internally displaced persons in Africa.

In a non-international armed conflict (see further on the legal qualification of the armed conflict in Ethiopia), the protection of the civilian population and civilian objects from the dangers of hostilities is ensured by Articles 13 and 14 of Additional Protocol II to the Geneva Conventions. With the consent of the State-party to the Protocol, in conditions of excessive deprivation of the civilian population and lack of food and medical supplies, humanitarian operations are carried out to provide such assistance; they are carried out without any adverse differences (Part 2 of Art. 18). In addition, the principle of non-discrimination on the grounds of race, skin color, sex, language, religion, political or other beliefs, national or social origin, property status, birth or other status is established in relation to the victims of

such conflicts by Part 1 of Article 2 of the Protocol and must be respected by all belligerents. The belligerents are prohibited from using starvation among the civilian population as a method of conducting military operations, and for this purpose “to attack, destroy, export or render unusable objects necessary for the survival of the civilian population” (Art. 14). These include food stocks, agricultural areas that produce it, crops, livestock, facilities that supply the population with drinking water, its reserves and irrigation systems. The forced displacement of civilians for reasons unrelated to ensuring their security and military necessity is also a ban for the belligerents (Art. 17).

M. Sassoli defines IHL as “the right protecting victims of war from States and all other participants in hostilities” and believes that during an armed conflict “persons from the armed forces are always considered in the line of duty and never act as exclusively private persons.” (Sassoli, 2002, pp. 163, 170). It seems that a more precise formulation of the principle of humanity in IHL today is associated with the humanization of the conditions of armed conflicts. As it is known, international human rights law applies both in peacetime and in wartime. The observance of human rights and freedoms in this situation is viewed as obligations of the belligerents, which are not subject to cancellation. Humanization is aimed, among other things, at limiting the consequences of armed conflicts against civilians and objects excluded from the sphere of military operations in accordance with their legal status and requiring certain protection. S.K. Khamari also notes that IHL is designed to “limit damage,” and the principle of humanity is more relevant to the protection of victims wars.<sup>8</sup>

### **III. Humanitarian Catastrophe in the Tigray Region in 2020–2022**

#### **III.1. Ethnic Cleansing**

The war in Tigray caused enormous damage to the civilian population. Since the beginning of hostilities, the federal authorities have cut off electricity, telephone and Internet in the Tigray area. Air

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<sup>8</sup> Khamari, S.K., (2020). Fundamental principles of International Humanitarian Law. Ipleaders: Intelligent Legal Solutions. Available at: <https://blog.ipleaders.in/international-humanitarian-law/> [Accessed 06.02.2023].



travel and other means of transportation were also banned, because many civilians who had nothing to do with the conflict were trapped in the epicenter of events (Degiorgis, Pochettino, and Alfaro, 2020). In February 2021, Amnesty International stated in its report that in November 2020 Eritrean military killed hundreds of unarmed civilians in the town of Axum located about 187 km north of Mekelle, as a result of indiscriminate shelling, extrajudicial executions and violent acts, which, according to the human rights organization, amounts to a crime against humanity. Not only firearms were used, but machetes.<sup>9</sup> The Eritrean authorities deny the Amnesty International data, but the videos, photos and documented confessions of eyewitnesses are convincing.<sup>10</sup> So in the CNN investigation, based on interviews with 12 eyewitnesses, more than 20 relatives of survivors and photographic evidence, one of the episodes of terror is described in detail.<sup>11</sup> A group of Eritrean soldiers opened fire on the Maryam Dengelat Orthodox Church, in the village of Dengelat, where hundreds of parishioners gathered for the service. People tried to escape by climbing paths in the rocks to neighboring villages. They were pursued by soldiers, shelling the mountainside. The massacre lasted for three days, the soldiers killed everyone indiscriminately – locals, visitors, pilgrims – as a result of the attack, more than 100 people were killed. The military forbade burying bodies in accordance with Orthodox tradition, forcing them to dig mass graves instead. US Secretary of State Anthony Blinken described the military campaign in western Tigray, where the military forces of Amhara and Eritrea were most active during the fighting, as “ethnic cleansing.”<sup>12</sup>

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<sup>9</sup> Ethiopia: The Massacre in Axum. Amnesty International 2021. Available at: <https://www.amnesty.org/en/documents/afr25/3730/2021/en/> [Accessed 06.02.2023].

<sup>10</sup> Atanesyan, G., (2021). The year of the war in Ethiopia. How dreams collapsed in the country and hunger returned. BBC News. Available at: <https://www.bbc.com/russian/features-59122656> [Accessed 06.02.2023].

<sup>11</sup> Arvanitidis, B., Elbagir, N., Feleke, B., Mackintosh, E., Mezzofiore, G., and Polglase, K., (2021). Massacre in the mountains. CNN. Available at: <https://edition.cnn.com/2021/02/26/africa/ethiopia-tigray-dengelat-massacre-intl/index.html> [Accessed 11.02.2023].

<sup>12</sup> Hansler, J., (2021). Blinken: Acts of ‘ethnic cleansing’ committed in Western Tigray. CNN news. Available at: <https://edition.cnn.com/2021/03/10/politics/blinken-tigray-ethnic-cleansing/index.html> [Accessed 06.02.2023].

In April – May 2021, the humanitarian organization *Médecins Sans Frontières* (MSF), or “Doctors without Borders” formed several medical volunteer centers due to the fact that hundreds of thousands of people needed humanitarian assistance. However, as early as March 2021, the organization reported that “Medical facilities in the Tigray region of Ethiopia were looted, vandalized and destroyed as a result of a deliberate and large-scale attack on the health system. Prior to the outbreak of the conflict, Tigray had one of the best health care systems in Ethiopia: medical centers in villages, medical centers and hospitals in cities, as well as an operating information system with ambulances. This healthcare system has collapsed almost completely.”<sup>13</sup> The Director General of the organization, Oliver Ben, stressed that “all this has catastrophic consequences for the population, in addition, medical institutions and medical personnel themselves must be protected during the conflict in accordance with international humanitarian law, which clearly does not happen in Tigray.”<sup>14</sup> The UN High Commissioner for Human Rights, Verónica Michelle Bachelet called for an independent investigation into violations of international humanitarian law, war crimes and crimes against humanity in the Tigray region.<sup>15</sup>

### III.2 Food Security

Another important aspect in the humanitarian crisis is the food catastrophe. Many citizens do not have constant access to sufficient quality and quantity of products. The military simply took cattle and crops from farmers. The UN Food Program put forward the idea of

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<sup>13</sup> Hotchkiss, M., (2021). Widespread destruction of health facilities in Ethiopia’s Tigray region *MSF: Doctors Without Borders*. Available at: <https://www.doctorswithoutborders.org/what-we-do/news-stories/news/widespread-destruction-health-facilities-ethiopias-tigray-region> [Accessed 06.02.2023].

<sup>14</sup> Hotchkiss, M., (2021). Widespread destruction of health facilities in Ethiopia’s Tigray region *MSF: Doctors Without Borders*. Available at: <https://www.doctorswithoutborders.org/what-we-do/news-stories/news/widespread-destruction-health-facilities-ethiopias-tigray-region> [Accessed 06.02.2023].

<sup>15</sup> The UN called for an investigation into reports of mass killings in the Ethiopian Tigray. (2020). UN News. Global perspective. Human stories. Available at: <https://news.un.org/ru/story/2020/12/1392952>. (In Russ.). [Accessed 06.02.2023].

helping the victims, a large amount of money was allocated for the purchase and delivery of food to the Tigray area.<sup>16</sup> Humanitarian aid supplies to Tigray are carried out through the neighboring Afar region. However, the road between Afar and the Tigray region through Semera, the capital of the Afar region, was restricted for security reasons.<sup>17</sup> This made it impossible to deliver food, fuel and other humanitarian supplies to Tigray, although the Ethiopian authorities deny this. At the same time, not only Tigray suffered, but also Afar and Amhara. In January 2022, the leader of the Tigray People's Liberation Front (TPLF), Debretsion Gebremichael, in an interview with the BBC, said that indirect negotiations with the government allowed them to hope for the best and the TPLF wanted a peaceful solution to the conflict.<sup>18</sup> But the path to peace is complicated by Amharic land claims to Western Tigray and the desire of Eritrean President Afwerki to destroy the TPLF. Nevertheless, on March 24, 2022, the federal government announced the introduction of an indefinite humanitarian truce. During this time, significant progress has been made, food aid has been delivered to Mekelle, and a number of other settlements. However, having lasted for only five months on August 24, 2022, the truce was violated and the conflict escalated again. Michael Dunford, Regional Director for Eastern Africa, World Food Program reports that food cannot be delivered to people not because there is no food, but because of the position of the Ethiopian authorities. "You have food that is ever so close to people, but it's not delivered to people who are in desperate need of it. Not because the food is not available. Not because the expertise are lacking. But because of a slow burning tactic from the Ethiopian authorities,

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<sup>16</sup> The Ethiopian authorities said that the way to the Tigray region is now free. (2021). IA Red Spring. Available at: <https://rossaprimavera.ru/news/9b4d13a8> [Accessed 22.02.2023].

<sup>17</sup> Chouhfeh, L., (2021). Tigray Situation. UNHCR – The UN Refugee Agency. Available at: [https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Ethiopia%20Tigray%20Update%20%2311\\_30%20July%202021.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Ethiopia%20Tigray%20Update%20%2311_30%20July%202021.pdf) [Accessed 21.02.2023].

<sup>18</sup> Ross, W., (2022). Some progress in Ethiopia diplomacy – Tigray leader. BBC News. Available at: <https://wardheernews.com/some-progress-in-ethiopia-diplomacy-tigray-leader/> [Accessed 06.02.2023].

federal authorities, to deny these people food.”<sup>19</sup> “For the Ethiopian government for the last two years, this is a tactic of war. Food is a tactic of war” — Abdullahi Boru Halakh Senior Advocate for East Africa, Refugees International agrees with him.<sup>20</sup> On this basis, The World Health Organization Director General Dr. Tedros has said that “nowhere on Earth” were the health of millions of people more under threat than in Ethiopia accusing the federal authorities of organizing the blockade of Tigray.<sup>21</sup>

### **III.3. Refugees and Internally Displaced Persons**

Since the beginning of the confrontation between the Federal Government of Ethiopia and the former authorities of the Tigray region, the number of refugees has increased dramatically. The flow of refugees from Tigray to Sudan is especially large, almost half of them belong to the minor age group. One of the most vulnerable groups is Eritrean refugees. Their situation is complicated by the fact that Eritrea is one of the parties to the conflict. People were forced to leave for other regions from the border areas, but they were transported back against their will, including to Amhara, and this makes them incredibly vulnerable. “I was in northern Amhara about two, three weeks ago. I met Eritreans who had been displaced first from Tigray — first from Eritrea to Tigray where they’d been for an extended period of time; now having to be relocated. And in many ways they are starting over again. And, you know, the plight of the Eritreans is desperate, as is the plight of the

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<sup>19</sup> Dunford, M., (2022). Overcoming Barriers to Humanitarian Access in Northern Ethiopia. Center for Strategic and International Studies. Available at: <https://www.csis.org/analysis/overcoming-barriers-humanitarian-access-northern-ethiopia> [Accessed 06.02.2023].

<sup>20</sup> Dunford, M., (2022). Overcoming Barriers to Humanitarian Access in Northern Ethiopia. Center for Strategic and International Studies. Available at: <https://www.csis.org/analysis/overcoming-barriers-humanitarian-access-northern-ethiopia> [Accessed 06.02.2023].

<sup>21</sup> Nowhere on earth are people at greater risk than Tigray. (2022). The Times on ru. Available at: <https://thetimeson.ru/2022/08/18/nigde-na-zemle-ludi-nepodvergausia-bolshemy-risky-chem-tygrai-govorit-glava-voz/>. (In Russ.). [Accessed 06.02.2023].

population across that region. Anyone impacted by the conflict as it continues is feeling the brunt of it.”<sup>22</sup>

At the beginning of the conflict, many centers were formed for refugees located at the entry points to the border of Ethiopia and Eritrea, but most of them were destroyed in the first two months. More than 10,000 people began to live in the centers, although their maximum capacity is about 300 hundred. In the context of the pandemic, local authorities made attempts to introduce certain security protocols into the management of the camps, but due to the overcrowding of the camps, maintaining protocols became almost impossible.

The main problem is that today all the warring parties put military and political calculations above humanitarian ones. The range of unresolved problems in Ethiopia is growing every day, and their scale can lead to disastrous consequences for many African countries.

#### **IV. Features of the Application of International Humanitarian Law in the Context of the Armed Conflict in Ethiopia**

At the meeting of the UN Security Council on the situation in Ethiopia, which took place on October 6, 2021, UN Secretary-General A. Guterres called it a real humanitarian disaster.<sup>23</sup> He listed the following factors aggravating the crisis: hunger among 7 million citizens in Tigray, Amhara and Afar; difficulty in accessing humanitarian organizations in these regions; constant outbreaks of hostilities that make it impossible to provide vital services to the population. As it is known, the absence of a special resolution on the situation in Ethiopia is due to a discrepancy in the position of Western countries considering the separatist armed forces of Tigray as a defense force or militia, and the position of Ethiopia, according to which the situation in the country

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<sup>22</sup> Dunford, M., (2022). Overcoming Barriers to Humanitarian Access in Northern Ethiopia. Center for Strategic and International Studies. Available at: <https://www.csis.org/analysis/overcoming-barriers-humanitarian-access-northern-ethiopia> [Accessed 06.02.2023].

<sup>23</sup> The absence of peace in Ethiopia may lead to the destabilization of the entire Horn of Africa region. (2021). UN News. Available at: <https://news.un.org/ru/story/2021/10/1411372> [Accessed 06.02.2023].

should not be the subject of discussion by the UN Security Council, as it relates to its internal competence. The position of the Russian Federation is also determined by the effect of Ethiopia's sovereignty on its territory. A separate UN Security Council Resolution 2573,<sup>24</sup> adopted on April 27, 2021, called upon all parties to armed conflicts to "engage immediately in a durable humanitarian pause to facilitate safe, unhindered and sustained delivery of humanitarian assistance, provision of related services by impartial humanitarian actors, consistent with humanitarian principles of humanity, neutrality, impartiality and independence, and medical evacuations, in accordance with international law, including international humanitarian law and refugee law"(Art. 7).

The basis for the qualification of an armed conflict, as is known, is the content of Additional Protocols I and II of 1977 to the Geneva Conventions on the Protection of Victims of War of 1949. According to it, armed conflicts can be international and non-international. Additional Protocol II to the Geneva Conventions (Additional Protocol II)<sup>25</sup> defines a non-international armed conflict as a classic civil war, which implies actions of government forces and armed opposition (rebels) as opposing belligerents; rebel control over a certain part of the territory of the State; a military hierarchy and a responsible command among the belligerents (Part 1 of Art. 1). In accordance with Article 3 of the said Protocol, the sovereignty of the state where such a conflict takes place and the duty of its government "to maintain or restore law and order in the state by all legal means" and to protect its "national unity and territorial integrity are put in the first place." The Protocol excludes the justification of "direct or indirect interference for whatever reason in an armed conflict" or in the internal or external affairs of the party on whose territory it occurs. Thus, Ethiopia's position when considering the situation in the UN Security Council seems quite legitimate.

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<sup>24</sup> UN Security Council Resolution S/RES/2573 (2021) "Protection of civilians in armed conflict." Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/104/98/PDF/N2110498.pdf?OpenElement> [Accessed 06.02.2023].

<sup>25</sup> Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, 1977. Geneva Conventions of August 12, 1949 and Additional Protocols thereto (2011). 5th ed., supplement Moscow: ICRC. Pp. 284–294.

On December 17, 2021, the UN Human Rights Council at a special session adopted resolution S-33/1 “The situation of human rights in Ethiopia,”<sup>26</sup> Paragraph 2 of which calls for “an immediate halt to all human rights violations and abuses and violations of international humanitarian law and international refugee law and for the strict observance of all human rights and fundamental freedoms.” Paragraph 3 of the resolution urged all parties to the conflict “to refrain from direct attacks against civilians as such, including on the basis of their ethnicity or gender, and against objects, in particular those indispensable to the survival of the population, including crops, livestock and medicines, to refrain from incitement to hatred and violence, to avoid further damage to critical civilian infrastructure, and to end any measures that may exacerbate the already acute humanitarian crisis, in particular, by allowing and facilitating the full, safe, rapid and unimpeded passage of humanitarian relief.”

The text of resolution S-33/1 also contains a provision for the appointment of an International Commission of Human Rights Experts on Ethiopia to conduct a thorough investigation of reports of violations of human rights and IHL. The basis for its creation was the report of the Joint Investigation Team, which revealed numerous violations and abuses, including killings and extrajudicial executions, torture, gender-based and sexual violence, violations of the rights of refugees and forced displacement of civilians. The authors of the report concluded that during the conflict in the Tigray region, all the warring parties are responsible for the horrific violations committed during the fighting. The Permanent Representative of Ethiopia expressed disagreement with the adoption of the above-mentioned resolution due to the politicization of the activities of the HRC session, the need for the country’s authorities to protect its sovereignty and territorial integrity from internal aggression and silencing of the outrages carried out by militants of the rebel forces of the Popular Front for the Liberation of Tigray.

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<sup>26</sup> 21 Human Rights Council member States voted for the adoption of the resolution, 11 countries abstained and 15 voted against its adoption, including the Russian Federation, China and Cuba. Resolution S-33/1 “The situation of human rights in Ethiopia,” 2021. A/HRC/S-33/2. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/470/49/PDF/G2247049.pdf?OpenElement> [Accessed 06.02.2023].

Ethiopia has been a party to the four Geneva Conventions for the Protection of War Victims of 1949 (including Geneva Convention IV relative to the Protection of Civilian Persons in Time of War) since 1969 and Additional Protocol II since 1994. It seems that these provisions are a significant part of its international legal obligations with respect to the civilian population in armed conflicts, the fulfillment of which must be ensured at the domestic level. Taking into account the position expressed by Ethiopia, this could be done while strengthening the effectiveness of its national legislation and measures to prevent serious violations of IHL by all belligerents.

As for the situation with forced migration, there are two significant regional international treaties adopted within the framework of the Organization of African Unity and the African Union: the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa of 1969 and the Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa of 2009 (the Kampala Convention of 2009) that entered into force in 2012.<sup>27</sup> The OAU Convention of 1969 contains an expanded definition of the concept of a “refugee”: it includes any person who, due to a well-founded fear of being persecuted on the basis of race, religion, nationality, belonging to a certain social group or political beliefs, is outside the country of citizenship or habitual residence and cannot or does not want to use its protection due to such fears; The term “refugee” is also applied to a person who has left the State of citizenship or habitual residence for reasons of external aggression, occupation, foreign domination or events seriously disturbing public order in some part of the country of origin or in the whole country (Parts 1 and 2 of Art. I). In this complex definition, the universal international legal norm of the UN Convention on the Status of Refugees of 1951 occupies the first place, and the second is its own regional approach to recognizing the legal status of migrants who were forced to leave the State of origin in armed conflicts. The

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<sup>27</sup> The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa of 1969. Available at: <https://treaties.un.org/doc/Publication/UNTS/Volume%201001/volume-1001-I-14691-English.pdf>; The Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa of 2009. Available at: [https://au.int/sites/default/files/treaties/36846-treaty-kampala\\_convention.pdf](https://au.int/sites/default/files/treaties/36846-treaty-kampala_convention.pdf).



specifics of the situation in Ethiopia presupposes the application of a regional legal position regarding the status of refugees. When deciding on the recognition of such a legal status, the host African States may use the content of Part 2 of Article I, defining the situation of an internal armed conflict as an additional basis for its provision.

Another achievement of Refugee Law at the level of the African Union is the consolidation of the institution of temporary asylum in Part 5 of Article II: if a refugee has not received the right to reside in any country of asylum, he “may be allowed to temporarily stay in any state where he first declared himself a refugee, from now on, until the issue of his relocation” (Ivanov and Bobrinsky, 2009, pp. 55–57). The OAU Convention was adopted in Addis Ababa, Ethiopia signed it in 1969 and ratified it in 1973. It should be noted that even in the conditions of an internal armed conflict, it was able to fulfill its international legal obligations and in 2021 it received 386,800 asylum seekers from South Sudan bordering it<sup>28</sup> As for the flow of asylum seekers from Ethiopia, by the middle of 2022 in the territory of neighboring Sudan, it amounted to 73,448 people.<sup>29</sup>

Article VII of the Kampala Convention of 2009 provides for the provision by States-participants of the protection of internally displaced persons<sup>30</sup> during armed conflicts, in accordance with the norms of international law and, in particular, IHL (Part 3). Here, the provisions on the operation of sovereignty and the responsibility of the government to protect territorial integrity and national unity by all legal means are fundamental (Part 2). Members of armed groups are responsible for violations of the rights of such persons under international and national law (Part 4). At the same time, the Convention makes a basic distinction between the armed forces of the participating States and

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<sup>28</sup> Global trends: Forced displacement in 2021. (2022). Copenhagen: UNHCR. P. 17. Available at: <https://www.unhcr.org/globaltrends.html> [Accessed 06.02.2023].

<sup>29</sup> Global trends: Forced displacement in 2021. (2022). Copenhagen: UNHCR. P. 5. Available at: <https://www.unhcr.org/globaltrends.html> [Accessed 06.02.2023].

<sup>30</sup> The term “internally displaced persons” is applied to persons or groups of persons who have forcibly left their places of residence or ordinary residence, in particular, for reasons of armed conflict, situations of general violence, human rights violations, natural or man-made disasters and have not crossed the internationally recognized borders of the State (Para. “k” of Art. I of the Kampala Convention of 2009).

opposition armed groups (Para. “e” of Art. I). Part 5 of Article VII imposes prohibitions on members of such groups arising from the above norms of Additional Protocol II of 1977 and the Geneva Convention IV on the Protection of Civilians of 1949. These include prohibitions on arbitrary forced displacement; obstacles to the provision of assistance and protection to internally displaced persons; denial of their rights to live in satisfactory conditions, with respect for dignity, safety, hygiene, food and water, health care, and the right to family unity; involvement of children in hostilities; forced recruitment, abduction of children, hostage-taking, sexual slavery or human trafficking, especially women and children; obstructing the provision of humanitarian assistance, attacking humanitarian personnel and causing harm, confiscation or destruction of humanitarian materials; violation of the civil status of the settlements of these persons.

In our opinion, the Kampala Convention of 2009 sets an additional goal of containing the military escalation of numerous intra-State conflicts on the African continent and strengthening the norms of IHL that are in force at the universal level. Ethiopia, like most member States of the African Union, participates in this Convention, ratified it in 2020). According to the Office of the United Nations High Commissioner for Refugees (UNHCR), the number of internally displaced persons on its territory in 2021 amounted to more than 3.6 million people.<sup>31</sup> The main issue of implementing the norms of the Convention is related to which of the belligerents controls the settlements of internally displaced persons on the territory of Ethiopia and, accordingly, assumes the fulfillment of these obligations and whether representatives of international organizations (UNHCR) and observers of the African Union can access them.

## V. Conclusion

We investigated the causes of the humanitarian crisis in the state of Tigray, which are a complex interaction of objective and subjective factors that find themselves in an unstable equilibrium.

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<sup>31</sup> Global trends: Forced displacement in 2021. (2022). Copenhagen: UNHCR. P. 25. Available at: <https://www.unhcr.org/globaltrends.html> [Accessed 06.02.2023].

The political elites of the states of Ethiopia understand that due to the internal division along ethnic lines, it is difficult for the country to survive as a single state. The situation requires the creation of a special political mechanism, currently absent, reconciling the interests of regional ethnic groups so that centralization (but in the future, perhaps, authoritarianism), on the one hand, and federalization and regionalization (in the future, perhaps, democratization), on the other, enter into an equilibrium state. The transition from a situational reaction to processes to a responsible strategic policy is a challenge for the Government of Abiy Akhmet. Another challenge is the imposition on this government by the majority of the world community of responsibility for the blockade of people trapped in Tigray — denying them access to food, water and medical care. In the situation of a humanitarian crisis of this magnitude, the significance and features of IHL, in addition to the struggle of the world community for the introduction of its direct effect, consists in a reassessment, in the conditions of armed conflicts of the 21st century, of the possibility and effectiveness of the application of the legal norms of the Geneva Conventions for the Protection of Victims of War of 1949 and Additional Protocol II to them of 1977, in developing, jointly with regional authorities, international agreements on assistance to forced migrants.

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