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NOT DETAINED

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS**

In the Matter of:

[REDACTED],

Respondent

In Removal Proceedings

File No.: A [REDACTED]

RESPONDENT'S MOTION TO REOPEN

NO FEE REQUIRED PER 8 C.F.R. § 1003.8(a)(2)(ii)

I. INTRODUCTION

Respondent [REDACTED] (“Mr. [REDACTED]”) is an Ethiopian national who has lived in the United States since he was 10 years old, first as a refugee and then as a lawful permanent resident. In May 2019, the Immigration Judge (IJ) ordered Mr. [REDACTED] removal to Ethiopia. While detained, Mr. [REDACTED] appealed that decision, but the Board of Immigration Appeals (“Board”) dismissed his appeal in November 2019. Since the time of his last hearing, the Ethiopian government has begun committing genocide against Tigrayans like Mr. [REDACTED], and Mr. [REDACTED] has been diagnosed with a brain tumor in his pituitary gland. In light of the changed country conditions in Ethiopia, Mr. [REDACTED] seeks reopening of his removal proceedings so that he may pursue Convention Against Torture (“CAT”) protection for which he is *prima facie* eligible. Mr. [REDACTED] also merits *sua sponte* reopening given the totality of his dire circumstances. Lastly, Mr. [REDACTED] respectfully asks the Board to reopen his proceedings because he did not receive a valid Notice to Appear (“NTA”) in accordance with the recent Supreme Court case *Niz-Chavez v. Garland*.

II. STATEMENT OF FACTS AND PROCEDURAL HISTORY

A. Mr. [REDACTED] Arrives to the United States as a Refugee

Mr. [REDACTED] was born in Khartoum, Sudan on [REDACTED]. Exh. B, Decl. of [REDACTED] at ¶ 1. Before his birth, his parents had fled to Sudan as refugees of the civil war in Ethiopia. *Id.* Although Mr. [REDACTED] has never stepped foot in Ethiopia, he holds Ethiopian citizenship,¹ and his parents raised him and his siblings as Ethiopians, specifically Tigrayans. *Id.* at ¶¶ 1, 11. Tigrayans are an easily recognizable, mostly Christian ethnic group who mainly live in the Tigray region in northern Ethiopia. *Id.* at ¶ 2. Mr. [REDACTED] parents gave him a distinctly Tigrayan name, taught him to speak Tigrinya, the local language, and imparted Tigrayan culture, history, and politics on him. *Id.* at ¶ 1. At the age of ten, after suffering significantly while living in Sudan but still unable to return to

¹ Despite being born in Sudan, Mr. [REDACTED] is not a Sudanese citizen because Sudan does not recognize birthright citizenship. See Exh. UU, Sudanese Nationality Act.

Ethiopia, Mr. [REDACTED] and his family came to the United States as refugees on [REDACTED], 1985. *Id.* at ¶ 3; Exh. LL, Form I-94. Mr. [REDACTED] and his family instantly connected with the Tigrayan and Ethiopian communities in Georgia and continued to celebrate their Ethiopia roots. Exh. B, [REDACTED] Decl. at ¶ 4. On July 30, 1986, Mr. [REDACTED] obtained lawful permanent resident status effective as of July 25, 1985. Exh. MM, Form I-181.

B. Despite a deficient NTA, the IJ ordered Mr. [REDACTED] removed to Ethiopia.

In December 2017, Immigration and Customs Enforcement detained Mr. [REDACTED]. Exh. B, [REDACTED] at ¶ 5. The Department of Homeland Security (“DHS”) served Mr. [REDACTED] with an NTA the same day, charging him with being convicted of controlled substances-related violation.² Exh. NN, December NTA. On January 19, 2018, DHS served him with an amended NTA. Exh. OO, January NTA. Neither NTA specified the date and time of his hearing. Exhs. NN, OO, December/January NTAs. On January 25, 2018, Mr. [REDACTED] was served with a separate Notice of Hearing, setting his first master hearing for January 30, 2018. Exh. PP, Notice of Hearing. The IJ terminated Mr. [REDACTED] proceedings on July 26, 2018, pursuant to *Pereira v. Sessions*, 138 S. Ct. 2105 (2018). Exh. QQ, July 26, 2018 IJ Dec. However, the Board overturned the IJ’s decision on appeal, relying on the now-abrogated *Matter of Bermudez-Cota*, 27 I&N Dec. 441 (BIA 2018), which held that an NTA that did not set a date and time for the noncitizen’s hearing could still vest jurisdiction in the IJ if such information was supplied in a subsequent Notice of Hearing. Exh. RR, January 16, 2019 BIA Dec.

² Mr. [REDACTED] has other criminal convictions as well, including robbery by force, attempt to commit robbery, battery, and burglary in the first degree. The IJ admitted his criminal conviction records into the record as Exh. 7 from his May 21, 2019 hearing. *See also* Exh. SS, May 21, 2019 IJ Dec. at 2. DHS did not charge Mr. [REDACTED] as being removable on the basis of these convictions.

On May 21, 2019, the IJ ordered Mr. ██████ removed to Ethiopia, concluding that he was not eligible for cancellation of removal due to his criminal record.³ Exh. SS, May 21, 2019 IJ Dec.. Mr. ██████ appealed the order, but the Board dismissed his appeal on November 4, 2019. Exh. TT, November 4, 2019 BIA Dec.

C. The country conditions in Ethiopia have considerably worsened since 2019.

1. Conditions in 2019

In 2019, Ethiopia was experiencing what some called a “miracle.” Exh. H, Gardner and Rosser, “‘Abiy Ahmed is our Miracle’: Ethiopia’s Democratic Awakening.” Reformer Abiy Ahmed Ali was selected as prime minister in April 2018 on a platform of democracy, human rights, and peace. Exh. F, Maasho, “Ethiopia’s New PM Pledges Reforms to End Violence.” He immediately instituted “a number of positive changes in the human rights climate,” including decriminalizing opposition political movements, inviting the return of exiled opposition leaders, enabling the formation and unrestricted operation of new political parties and media outlets, releasing thousands of political prisoners, and revising oppressive laws. Exh. E, U.S. Dep’t of State, “Ethiopia: 2019 Country Reports on Human Rights Practices.” It was “[t]he time of greatest hope for a smooth transition to a democratic political order, respectful of human rights.” Exh. C, Decl. of Dr. Alex de Waal at ¶ 3.

In particular, Ethiopia’s Tigrayan minority—a mostly Christian ethnic group concentrated in the northern Tigray region of the country—felt “assured . . . that they were close to [Prime Minister Abiy’s] heart” after he visited the Tigrayan capital of Mekelle less than three weeks after taking office. *Id.* He delighted Tigrayan audiences by delivering a speech in the local language; praising Tigrayan culture, art, and philosophy; promising to bring jobs, good governance, and development

³ The IJ determined that Mr. ██████ convictions for robbery by force and battery were aggravated felonies rendering him statutorily ineligible for cancellation of removal. *See* Exh. SS, May 21, 2019 IJ Dec. at 2–3.

to the region; and heralding the return of peace and prosperity. Exh. I, Getachew and Tessema, “Ethiopia: New PM Receives Rapturous Welcome in Tigray.”

In recognition of his political reforms and efforts to secure peace with neighboring Eritrea, Abiy received the Nobel Peace Prize in 2019. Exh. G, “The Nobel Peace Prize for 2019 Announcement.” The committee praised Abiy for implementing “important reforms that give many citizens hope for a better life and a brighter future,” including lifting the country’s state of emergency, granting amnesty to thousands of political prisoners, ending media censorship, legalizing opposition groups, firing corrupt military officers and civil servants, giving greater voice in politics to women, pledging to hold free and fair elections, and engaging in peace talks with Eritrea, Djibouti, Kenya, Somalia, and Sudan after many years of tension in the region. *Id.* Flush with “an enormous sense of opportunity,” it seemed Ethiopia was on the rise, poised to become the powerhouse of Africa. Exh. J, Brookings Institution, “Ethiopia: Africa’s Next Powerhouse?”

Aware of these improving conditions in his country of citizenship, Mr. ██████ was not afraid of being removed to Ethiopia at the time of his individual hearing on May 21, 2019. Tr. at 22:8-9 (“Do you fear anyone will harm you if you go to Ethiopia, sir?” “No.”).

2. Current Conditions

Since then, “Ethiopia has slipped into a multi-sided political crisis” that has led to allegations of crimes against humanity, ethnic cleansing, and genocide against the Tigray people. Exh. C, de Waal Declaration at ¶ 4. On the night of November 3, 2020, Abiy announced that the Tigray People’s Liberation Front (“TPLF”)—an erstwhile guerilla force and Tigrayan political party—had attacked a federal military base in Tigray. Exh. L, Walsh and Dahir, “Why Is Ethiopia at War With Itself?” Within hours, Abiy ordered a military offensive into the region, which has since escalated into a full-fledged civil war in which the government has systematically targeted the entire Tigrayan civilian population. *Id.* Abiy declared a six-month state of emergency in Tigray; restricted access to phone, cell phone, and internet services; and limited all travel to and from the region. *Id.* Ethiopian troops,

aided by militia fighters from the Amhara region and Eritrean troops, quickly seized control of Mekelle and other major towns. *Id.*

Then the killings started. On November 9, 2020, forces allegedly loyal to the TPLF were accused of targeted killings of Amhara people in Western Tigray. Exh. V, Amnesty International, “Ethiopia: Tepid International Response to Tigray Conflict Fuels Horrific Violence over Past Six Months.” Reprisal attacks against Tigrayan residents in the area soon followed, with looting, mass detentions, and extrajudicial killings. *Id.* Amhara forces rounded up more than fifty Tigrayan civilians from the town of Mai-Kadra, ordered them to climb down into a freshly dug ditch, and shot them dead. Exh. BB, Houreld, et al., “How Ethnic Killings Exploded from an Ethiopian Town.” In late November, Eritrean troops acting at the behest of the Ethiopian government massacred hundreds of Tigrayans in the city of Axum, shooting them in the street, “carr[ying] out systematic house-to-house searches, [and] extrajudicially executing men and boys.” Exh. U, Amnesty International, “The Massacre in Axum.” Hundreds, if not thousands, of male residents were rounded up, detained, and tortured. *Id.* Attacks and massacres like these continue unabated.⁴

The Ethiopian and Eritrean militaries have also used rape, sexual torture, and sexual slavery as weapons of war. Exh. Q, Nichols, “Sexual Violence Being Used as a Weapon of War in Ethiopia’s Tigray, U.N. Says”; *see also* Exh. R, Houreld, “Health Official Alleges ‘Sexual Slavery’ In Tigray.”

⁴ *See* Exh. C, de Waal Decl. at ¶ 4 (noting that there have been 150 documented massacres of civilians during the conflict, the vast majority of them against Tigrayans); Exh. V, Amnesty International, “Ethiopia: Tepid International Response to Tigray Conflict Fuels Horrific Violations over Past Six Months” (reporting that Ethiopian forces summarily executed Tigrayans near Axum in January 2021); Exh. X, Walsh, “Eritrean Troops Continue to Commit Atrocities in Tigray, U.N. Says” (reporting that Eritrean troops continued to commit atrocities against Tigrayans in April 2021); Exh. Z, Elbagir, et al., “Tigrayans Told ‘We’ll See if America will Save You Now,’ as Hundreds Rounded up by Ethiopian and Eritrean Soldiers” (reporting that Ethiopian and Eritrean soldiers detained, beat, and tortured hundreds of young Tigrayan men in May 2021); Exh. T, Anna, “EU Envoy: Ethiopian Leadership Vowed to ‘Wipe Out’ Tigrayans” (reporting in June 2021 that Ethiopian leaders told a European envoy they intended to “wipe out the Tigrayans for 100 years”); Exh. L, Walsh and Dahir, “Why is Ethiopia at War With Itself?” (reporting that Ethiopian troops and allies showed “no sign of pulling military forces back from the Tigray region” as of June 2021); Exh. Y, International Crisis Group, “Ethiopia’s Tigray War: A Deadly, Dangerous Stalemate” (predicting that the Tigray conflict and human rights abuses could last for years).

Of the hundreds of reported cases, many Tigrayan women detail that their assailants said they were intent on “cleansing” the Tigrayan bloodline or stopping Tigrayan women from giving birth to future TPLF fighters. *See* Exh. O, Feleke, et al., “Practically This has Been a Genocide” (reporting that a group of soldiers tied a woman to a rock, stripped her, stabbed her, and raped her for ten days); *see also* Exh. P, Kassa, “‘A Tigrayan Womb Should Never Give Birth’: Rape in Tigray” (reporting that doctors have removed nails, rocks, and pieces of plastic from inside the vaginas of rape victims). In response to these atrocities, the United States has accused the Ethiopian government of committing ethnic cleansing against Tigrayans. Exh. M, Hansler, “Blinken: Acts of ‘Ethnic Cleansing’ Committed in Western Tigray”; *see also* Exh. N, Walsh, “Ethiopia’s War Leads to Ethnic Cleansing in Tigray Region, U.S. Report Says.”

As part of its ethnic cleansing campaign, the Ethiopian government is trying to erase Tigrayan identity, culture, and language. Exh. S, Anna, “‘Leave No Tigrayan’: In Ethiopia, an Ethnicity is Erased”; *see also* Exh. N, Walsh, “Ethiopia’s War Leads to Ethnic Cleansing in Tigray Region, U.S. Report Says.” Government forces in control of western Tigray destroyed Tigrayans’ ID cards and replaced them with new documents in Amharic that eliminate all traces of Tigrayan identity. Exh. S, Anna, “‘Leave No Tigrayan’: In Ethiopia, an Ethnicity is Erased.” Soldiers who rape Tigrayan women tell them to accept Amhara identity or be raped again. *Id.* At hospitals in Tigray, patients are forced to speak Amharic in order to receive medical care. *Id.*

Another tactic in this ethnic cleansing campaign is the intentional infliction of a humanitarian crisis. Ethiopian forces and their allies are intentionally exterminating Tigrayans by withholding humanitarian aid and deliberately destroying health care facilities. *See* Exh. KK, Houreld and Paravicini, “UN Official Accuses Eritrean Forces of Deliberately Starving Tigray”; *see also* Exh. HH, Medecins Sans Frontieres, “People Left with Few Healthcare Options in Tigray as Facilities Looted, Destroyed.” More than 5 million people, the vast majority of the Tigray population, urgently need humanitarian assistance. Exh. L, Walsh and Dahir, “Why is Ethiopia at War With Itself?” As

many as 2 million Tigrayans are displaced, nearly 65,000 have fled to Sudan, and 350,000 are experiencing famine. *Id.*, see also Exh. JJ, Walsh, “Famine Hits 350,000 in Ethiopia, Worst-Hit Country in a Decade.” With all but 13 percent of Tigray’s medical facilities looted, vandalized, or deliberately destroyed, Tigray’s healthcare system has collapsed. Exh. HH, Medecins Sans Frontieres, “People Left with Few Healthcare Options in Tigray as Facilities Looted, Destroyed.”

The violence is not restricted just to the Tigray region—Tigrayans across the country risk violence, arbitrary arrest, and even death. Exh. C, de Waal Decl.; see also Exh. K, U.S. Dep’t of State, “Ethiopia: 2020 Country Reports on Human Rights Practices.” Tigrayans are easily recognizable in Ethiopia and government forces have arrested Tigrayans across Ethiopia for as little as speaking Tigrayan and held them incommunicado in sweltering, filthy prisons where they are beaten, accused of being terrorists, denied food, and forced to participate in re-education programs. Exh. CC, Paravicini, “Ethiopia’s Crackdown on Ethnic Tigrayans Snares Thousands”; see also Exh. DD, Anna, “‘Clean Out Our Insides’: Ethiopia Detains Tigrayans Amid War.” The government has also forcibly relocated Tigrayans back to the killing fields of Tigray as part of its ethnic cleansing campaign. Exh. N, Walsh, “Ethiopia’s War Leads to Ethnic Cleansing in Tigray Region, U.S. Report Says.” The government interrogates anyone trying to flee the country and prohibits Tigrayans from leaving. Exh. W, Marks and Dahir, “As War Goes on in Ethiopia, Ethnic Harassment is on the Rise.”

Mr. ██████ is aware of the ethnic genocide unfolding in Ethiopia and is “extremely fearful” of being deported there. Exh. B, ██████ Decl. at ¶ 7. He has heard reports from family that Eritrean soldiers killed his great uncle, raped one of his cousin’s children, and burned down his uncle’s home in Mekelle. Five of his cousins are dead. *Id.* at ¶ 9. Because Mr. ██████ is Tigrayan, has never spent a day of his life in Ethiopia, and cannot speak the national language of Amharic, he will be “easily recognized as Tigrayan and targeted” if he is deported. *Id.* at ¶ 11.

D. Mr. [REDACTED] is in very poor health due to a brain tumor.

While Mr. [REDACTED] was detained, he was diagnosed with a brain tumor in his pituitary gland, hypothyroidism, extreme spinal inflammation, acid reflux, nerve damage, and diabetes. Exh. B, [REDACTED] Decl. at ¶ 6; Exh. XX, [REDACTED] Request; Exh. ZZ, Medical Record. As a result, he has a weak immune system, extremely low testosterone levels, lost all of his teeth, gained over 70 pounds, grew breasts, and experienced severe pain, depression, and anxiety. Exh. B, [REDACTED] Decl. at ¶ 6; Exh. XX, [REDACTED] Request; Exh. ZZ, Medical Record. In January 2021, Mr. [REDACTED] was released from detention pursuant to *Fraihat v. ICE*, Case 5:19-cv-01546-JGB-SHK (C.D. Cal. 2021) due to his medical conditions. Exh. YY, [REDACTED] Release. Mr. [REDACTED] had brain surgery to remove his tumor on June 23, 2021. *See* Exh. B, [REDACTED] Decl. at ¶ 6; Exh. AAA, Medical Records Noting June 23, 2021 Brain Surgery.

III. LEGAL STANDARDS

A “motion to reopen is an ‘important safeguard’ intended ‘to ensure a proper and lawful disposition’ of immigration proceedings.” *Kucana v. Holder*, 558 U.S. 233, 242 (2010) (quoting *Dada v. Mukasey*, 554 U.S. 1, 18 (2008)). By “[e]nacting [the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)] in 1996, Congress ‘transform[ed] the motion to reopen from a regulatory procedure to a statutory form of relief available to the alien.’” *Id.* at 249 (quoting *Dada*, 554 U.S. at 14); *see also Dada*, 554 U.S. at 15 (stating the law “guarantees to each alien the right to file” a motion to reopen proceedings); *Lin v. Att’y Gen.*, 681 F.3d 1236, 1241 (11th Cir. 2012) (“IIRIRA guarantees an alien the right to file one motion to reopen”). The Board should grant a motion to reopen when there are intervening circumstances that might change the result in the case. *Dada*, 554 U.S. at 12 (“A motion to reopen is a form of procedural relief that ‘asks the Board to change its decision in light of newly discovered evidence or a change in circumstances since the

hearing.” (citation omitted)); *INS v. Rios-Pineda*, 471 U.S. 444 (1985); *Matter of S-Y-G-*, 24 I&N Dec. 247 (BIA 2007); *accord* BIA Practice Manual § 5.6.

In general, a motion to reopen must be filed within 90 days of the date of entry of a final administrative order. INA §§ 240(c)(7)(A), (C)(i). However, that deadline is subject to equitable tolling. *See Avila-Santoyo v. Att’y Gen.*, 713 F.3d 1357 (11th Cir. 2013). Moreover, there is no time or number limit on the filing of a motion to reopen if the basis of the motion is to apply for relief in the form of asylum, withholding of removal, or protection under the Convention Against Torture, and the motion is based on changed country conditions arising in the country of nationality. *See* INA § 240(c)(7)(C)(ii); 8 C.F.R. § 1003.2(c)(3)(ii). The respondent must show that such evidence is material and was not available at the time of the previous proceeding. *See* INA § 240(c)(7)(C)(ii); 8 C.F.R. § 1003.2(c)(3)(ii). The applicant must also show *prima facie* eligibility for the underlying relief requested, accompanied by the proper application for relief and its supporting materials. *See* 8 C.F.R. 1003.2(c)(1); *INS v. Wang*, 450 U.S. 139, 145 (1981) (per curiam); *Matter of J-G-*, 26 I&N Dec. 161 (BIA 2013); *Matter of L-O-G-*, 21 I&N Dec. 413, 420 (BIA 1996) (explaining an immigration court may reopen proceedings when the new facts alleged, together with the facts already in the record, “indicate a reasonable likelihood of success on the merits.”). Additionally, the Board may at any time reopen a proceeding in which it has made a decision. 8 C.F.R. § 1003.2(a)

IV. ARGUMENT

Mr. [REDACTED] respectfully asks the Board to reopen his proceedings because 1) he did not receive a valid NTA in accordance with the Supreme Court’s recent decision in *Niz-Chavez v. Garland*, 2) he has shown changed country conditions in Ethiopia and *prima facie* eligibility for CAT

protection; and 3) his case merits *sua sponte* reopening considering his brain tumor and the genocide occurring in Ethiopia.

A. The Board should reopen and terminate Mr. [REDACTED] proceedings in light of *Niz-Chavez*.

The Board should reopen and terminate Mr. [REDACTED] removal proceedings because the IJ and the Board relied on a defective NTA to order his removal and dismiss his appeal, respectively. The Board must terminate proceedings even if it finds that INA § 239 is a claims processing rule because Mr. [REDACTED] timely objected to the defective NTA. Although Mr. [REDACTED] is not required to show prejudice, the defective NTA prejudiced him by impinging on his right to counsel. Mr. [REDACTED] merits equitable tolling of the 90-day motion to reopen filing deadline.

1. The IJ and Board lack jurisdiction over Mr. [REDACTED] proceedings because of a defective NTA.

On April 29, 2021, the Supreme Court held that “a notice to appear” under INA § 239(a)(1) constitutes a single document, provided at a discrete time, and containing all of the statutorily-required information, including the time and place of the removal proceedings. *See Niz-Chavez v. Garland*, 141 S. Ct. 1474 (2021). The NTA is what vests jurisdiction and commences removal proceedings before an immigration court. 8 C.F.R. § 1003.14(a) (“Jurisdiction vests, and proceedings before an Immigration Judge commence, when a charging document is filed with the Immigration Court by the Service.”); 8 C.F.R. § 1003.13 (defining a “charging document” as “a written instrument which initiates a proceeding before an Immigration Judge,” including a NTA). Because neither of Mr. [REDACTED] NTAs contained all of the statutorily-required information in a single document provided at a discreet time, his case was not properly commenced. “Unlike most arguments, challenges to subject-matter jurisdiction may be raised by the defendant ‘at any point in the litigation,’ and courts must consider them *sua sponte*.” *Fort Bend Cnty. v. Davis*, 139 S. Ct. 1843,

1849 (2019) (quoting *Gonzalez v. Thaler*, 565 U.S. 134, 141 (2012)). Thus, the Board should reopen Mr. [REDACTED] proceedings to terminate them.

In 2018, the Supreme Court determined that a putative NTA that does not designate the time or place of a noncitizen’s removal proceedings is not a “notice to appear” as defined under INA § 239(a), and thus does not trigger the “stop-time rule” under INA § 240A(d)(1)(a). *Pereira v. Sessions*, 138 S.Ct. 2105 (2018). Subsequently, however, the Board concluded an otherwise defective NTA meets the requirements of INA § 239(a)—and still vests jurisdiction with the IJ—where a subsequent notice of hearing sent to the respondent provides the missing information. *See Bermudez-Cota*, 27 I&N Dec. at 411. In reaching this conclusion, the Board noted *Pereira*’s “narrow” framing and found the tailored nature of this decision counseled against applying its analysis to the jurisdictional context. *Id.* at 443.

The *Niz-Chavez* Court rebuked the “two-step notice process” advanced by the Board in *Bermudez-Cota*. Unlike *Pereira*, which answered the “narrow question” of whether a NTA that does not specify the time and place of proceedings triggers the “stop-time rule,” *see Pereira*, 138 S. Ct. at 2110, 2113, *Niz-Chavez* does not invoke limiting language in its discussion regarding the essential elements of the NTA. Instead, the Supreme Court employed expansive language— repeatedly referring to the NTA as the “case-initiating document” or the “charging document,” and relying on cross-references to the term within other statutory provisions as evidence of the discrete nature of the document. *Niz-Chavez*, 141 S. Ct. at 1482–84. Thus, the Supreme Court’s ruling in *Niz-Chavez* is not limited to the context of the “stop-time rule,” and the notice-by-installment process advocated by Board no longer resolves the issue of whether a defective NTA can properly commence removal proceedings. *Niz-Chavez* has now established that a putative NTA lacking statutorily-required information is not a valid charging document.

The putative NTAs in this case did not grant jurisdiction to the Immigration Court, and in turn the Board, because they lacked the time and date of the first court hearing. Noting the

importance of an NTA as a “case-initiating document[,]” the Court held that an NTA “must include the catalogue of information Congress has said the defendant or respondent is entitled to receive in that document—and no one thinks this information may be provided by installment. Nor does anyone dispute that Congress has said *this* case-initiating document must include (among other things) ‘[t]he time and place at which the proceedings will be held.’” *Id.* at 1482 n.2 (citing INA § 239(a)(1)(G)(i)). Instead of serving Mr. [REDACTED] a single document containing *all* of the statutorily-required information, the government served Mr. [REDACTED] with several documents containing such information, the type of practice the *Niz-Chavez* Court rebukes. *See* Exhs. NN, OO, PP, December/January NTAs, Notice of Hearing. This means there is no valid NTA in this case. Where there is no valid NTA, there is no jurisdiction.

The government might contend that finding NTAs invalid where there is missing information may impact thousands of cases, but *Niz-Chavez* precludes this argument. The government in *Niz-Chavez* argued that filling out NTAs in their entirety is a challenging task and not as practical as sending the required information in a series of documents. *Niz-Chavez*, 141 S. Ct. at 1485. The Supreme Court rejected the government’s argument, noting that allowing this government practice to continue would lead to “wild” results where the government would be “free to send a person who is not from this country—someone who may be unfamiliar with English and the habits of American bureaucracies—a series of letters . . . over the course of weeks, months, maybe years, each containing a new morsel of vital information.” *Id.* In rebuking this practice, the Supreme Court reasoned that “pleas of administrative inconvenience and self-serving regulations never ‘justify departing from the statute’s clear text.’” *Id.* Thus, the Board must reopen and terminate Mr. [REDACTED] proceedings for lack of jurisdiction.

2. **The Board must terminate proceedings even if it finds that INA § 239 is a claims processing rule.**

The Board must reopen and terminate proceedings even if it finds that INA § 239 is a claims processing rule because Mr. [REDACTED] has timely objected to the government’s failure to comply with the rule and has suffered prejudice as a result. “[A] claim-processing rule is one that ‘seek[s] to promote the orderly progress of litigation by requiring that the parties take certain procedural steps at certain specified times.’” *Ortiz-Santiago v. Barr*, 924 F.3d 956, 963 (7th Cir. 2019) (quoting *Henderson ex rel. Henderson v. Shinseki*, 562 U.S. 428, 435 (2011)). Failure to comply with a claim-processing rule may be waived or forfeited by the opposing party. *Id.* at 962.

Mr. [REDACTED] has raised a timely objection to the government’s failure to include the time and place of proceedings on his NTAs. Specifically, on July 26, 2018, Mr. [REDACTED] asked the IJ to terminate his proceedings based on his defective NTA. He again raised the issue of a defective NTA during his appeal of the May 2019 removal order. He now again asserts this objection within a reasonable amount of time after the Supreme Court’s issuance of *Niz-Chavez* on April 29, 2021. Accordingly, Mr. [REDACTED] has not waived the right to raise this claim even if the Board finds that this is a claims-processing rule.

Furthermore, Mr. [REDACTED] is not required to show prejudice. *See Avila de la Rosa v. Garland*, No. 20-1956 (7th Cir. June 24, 2021) (holding that where a noncitizen timely objects to a defective NTA, no showing of prejudice is required). This is true despite the Board’s ruling in *Matter of Rosales Vargas*, 27 I&N Dec. 745, 753 (BIA 2020) (reversing termination of proceedings pursuant to respondents’ timely challenge to deficiencies in their notices to appear due to “no apparent prejudice”). The ultra vires introduction of a prejudice exception by the Board as to whether the NTA served on a noncitizen satisfies the statutory requirements delineated by Congress is inappropriate. The Board’s reliance on a lack of prejudice is inappropriate as INA § 239(a)(1) does not carve out a prejudice exception. Any such reading of the statute to include a prejudice component would violate basic canons of statutory interpretation as it would require prejudice to be read into a vague or ancillary provision. *See Whitman v. American Trucking Ass’ns*, 531 U.S. 457 (2001) (“Congress, we

have held, does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions—it does not, one might say, hide elephants in mouseholes.”). To require a separate showing of prejudice, when time and place information has been omitted from the NTA, would effectively excuse noncompliance with the statute. Disregard for the law by the government in such a manner should not be encouraged. *See Burdeau v. McDowell*, 256 U.S. 465, 477 (1921) (Brandeis, J., dissenting).

But even if prejudice is inappropriately included in the analysis, there is actual prejudice to Mr. [REDACTED] here due to the government’s failure to comply with the statutory requirements under INA § 239(a). Mr. [REDACTED] did not receive the Notice of Hearing until mere days before his first hearing and four weeks after he was served with his original NTA. *See* Exhs. NN, OO, PP. The short notice prevented him from finding legal counsel who could effectively represent him considering the complex nature of his case. Although the IJ granted Mr. [REDACTED] continuances to find an attorney, the continuances were brief, and Mr. [REDACTED] remained unrepresented and struggled to understand the procedures and what relief he could obtain for the majority of the proceedings. The four weeks between his original NTA and the Notice of Hearing before any hearings occurred would have been invaluable to equipping Mr. [REDACTED] with helpful representation.

Therefore, the Board should terminate proceedings based on the government’s failure to comply with the statutory requirements under INA§ 239(a), even if it finds that these requirements are not jurisdictional. After all, as the Supreme Court opined, “If men must turn square comers when they deal with the government, it cannot be too much to expect the government to turn square comers when it deals with them.” *Niz-Chavez*, 141 S. Ct. at 1486; *see also Gonzalez v. Thaler*, 565 U.S. 134, 146 (2012) (“[C]alling a rule nonjurisdictional does not mean that it is not mandatory . . .”).

3. The Board should equitably toll the normally applicable filing deadline.

The Board should deem Mr. [REDACTED] motion timely-filed under equitable tolling principles. A litigant is “entitled to equitable tolling,” if he shows “(1) that he has been pursuing his rights

diligently, and (2) that some extraordinary circumstance stood in his way’ and prevented timely filing.” *Holland v. Florida*, 560 U.S. 631, 649 (2010) (quoting *Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005)). Under that standard, Mr. [REDACTED] merits tolling of the deadline.

First, extraordinary circumstances prevented including the above argument earlier because the Supreme Court had not yet issued *Niz-Chavez*, which made clear that subsequent hearing notices do not ameliorate a defective NTA. *See supra*. Second, Mr. [REDACTED] has been diligent in seeking to reopen his removal proceedings in that he previously sought termination, albeit unsuccessfully, under pre-*Niz Chavez* law and by filing this motion well within 90 days of the *Niz-Chavez* decision, wherein the Supreme Court clarified the proper interpretation of the statute. He also filed this motion despite his significant health problems (detailed above). The Board should therefore equitably toll the normally applicable filing deadline.

B. The Board should reopen Mr. [REDACTED] proceedings because country conditions in Ethiopia have drastically changed since his May 21, 2019 hearing.

The Board should reopen Mr. [REDACTED] removal proceedings because country conditions in Ethiopia have significantly deteriorated since his May 21, 2019 hearing before the IJ, and Mr. [REDACTED] is now *prima facie* eligible for CAT protection. There is no time or numerical limit on the filing of a motion to reopen to request relief under CAT based on changed country conditions in the country of nationality, and such evidence is material and not previously available at the time of the previous proceeding. INA § 240(c)(7)(C)(ii); 8 C.F.R. § 1003.2(c)(3)(ii); *Jiang v. Att’y Gen.*, 568 F.3d 1252, 1254, 1256 (11th Cir. 2009); *accord Go v. Holder*, 744 F.3d 604, 607–09 (9th Cir. 2014) (explaining that the changed country conditions exception also applies to motions to reopen to apply for CAT protection); Exh. BBB, *Matter of A-J-L-A-F-*, AXXX XXX 910 (BIA Dec. 7, 2018) (reopening proceedings for respondent to seek deferral of removal under CAT upon finding anti-Western threat from the government-sponsored Popular Mobilization Forces constitutes changed country conditions in Iraq).

1. Country conditions have significantly worsened in Ethiopia since Mr. [REDACTED] May 21, 2019 hearing.

When Mr. [REDACTED] last appeared before the IJ on May 21, 2019, Ethiopia was led by a Nobel Peace Prize Laureate who promised to transform the country into a beacon of peace and democracy. Today, that same Nobel Laureate is committing genocide against the Tigrayan minority in Ethiopia. Mr. [REDACTED], a member of the targeted Tigrayan people, is at grave risk of torture or death if he is deported. These circumstances satisfy the legal standard for changed country conditions, and the Board must therefore reopen his removal proceedings.

When adjudicating motions to reopen based on changed country conditions, the Board “compare[s] the evidence of country conditions submitted with the motion to those that existed at the time of the merits hearing below.” *Matter of S-Y-G-*, 24 I&N 247, 253 (BIA 2007). The respondent bears a “heavy burden” to show that new evidence “is material, reflects changed circumstances arising in the country of nationality, and supports a prima facie case for a grant” of relief. *Matter of J-G-*, 26 I&N 161, 169 (BIA 2013); *accord Ali v. Att’y Gen.*, 443 F.3d 804, 813 (11th Cir. 2006). In determining whether the respondent’s proffered evidence meets that standard, the Board must give reasoned consideration to all evidence presented. *Tan v. Att’y Gen.*, 446 F.3d 1369, 1376 (11th Cir. 2006).

A respondent can meet his burden by showing that conditions within his country of nationality have intensified, escalated, or deteriorated. *See Jiang*, 568 F.3d at 1258 (concluding that evidence of increased enforcement of China’s one-child policy, which caused fear of forced sterilization, established changed country conditions). However, mere continuation of existing country conditions does not rise to the level of a changed country condition. *See Matter of S-Y-G-*, 24 I&N at 257 (“Change that is incremental or incidental does not meet the regulatory requirements for late motions of this type.”); *accord Gutierrez v. Att’y Gen.*, 532 F. App’x 845, 847 (11th Cir. 2013) (finding no changed country conditions where the evidence “at most . . . show[ed] that the Petitioners

face the same fear of persecution . . . that they did at the time of their 2008 removal hearing”). Nor do changes in personal circumstances alone. *See* 8 C.F.R. § 1003.2(c)(3)(2); *Jiang*, 568 F.3d at 1258; *Matter of C-C-*, 23 I&N Dec. 899 (BIA 2006) (denying a motion to reopen based on birth of second child, which caused fear of forced sterilization, because no change in country conditions showed an increased risk to the respondent due to birth of the second child).

The ongoing genocide against the Tigrayan people in Ethiopia, which began more than a year and a half after Mr. [REDACTED] individual hearing, indisputably constitutes a changed country condition. As described at Section II.C.1., *supra*, in 2019, Ethiopia was experiencing a “miracle.” Exh. H, Gardner and Rosser, “‘Abiy Ahmed is our Miracle’: Ethiopia’s Democratic Awakening.” Reformer Abiy Ahmed Ali became Prime Minister in April 2018, promising peace, democracy, stability, and respect for human rights. Exh. F, Maasho, “Ethiopia’s New PM Pledges Reforms to End Violence.” At first, Abiy followed through on his promises, lifting the country’s state of emergency, legalizing opposition groups, inviting the return of exiled opposition leaders, ending media censorship, releasing thousands of political prisoners, revising oppressive laws, promising to hold democratic elections, and engaging in historic peace talks with Ethiopia’s neighbors after decades of tension and war. Exh. E, U.S. Dep’t of State, “Ethiopia: 2019 Country Reports on Human Rights Practices;” *see also* Exh. G, “The Nobel Peace Prize for 2019 Announcement.” Abiy also promised to heal divisions in his own country, promising Ethiopia’s Tigrayan minority jobs, good governance, peace, and prosperity. Exh. I, Getachew and Tessema, “Ethiopia: New PM Receives Rapturous Welcome in Tigray.” Inspired and impressed by these reforms, the Nobel Committee awarded Abiy the Nobel Peace Prize in 2019. Exh. G, “The Nobel Peace Prize for 2019 Announcement.” Mr. [REDACTED], aware of the momentous transformation taking root in Ethiopia, was therefore unafraid to return at the time of his individual hearing. Tr. at 22:8–9 (“Do you fear anyone will harm you if you go to Ethiopia, sir?” “No.”).

The same Prime Minister who accepted a Nobel Peace Prize in 2019 is committing ethnic cleansing and genocide against Tigrayans today. As a result, Mr. [REDACTED], a Tigrayan himself, is terrified of being removed to Ethiopia. Since the beginning of the Tigrayan conflict on November 3, 2020, Ethiopian forces and their allies have engaged in a systematic extermination campaign against the Tigrayan people.⁵ Soldiers have committed as many as 150 massacres of Tigrayan civilians—rounding up men and boys and shooting them in the street; forcing groups of Tigrayans into ditches where they are shot and killed; going house-to-house and executing any Tigrayan they find.⁶ Women describe horrific gang rapes and sexual slavery by soldiers who insist on “cleansing the bloodline.” Exh. O, Feleke, “Practically This has Been a Genocide”; *see also* Exh. P, Kassa, “‘A Tigrayan Womb Should Never Give Birth’: Rape in Tigray.” Refugees fleeing across the border into Sudan describe mass detentions and torture.⁷

Not only is the government massacring Tigrayan civilians, it is also trying to erase Tigrayan identity, culture, and language. Exh. S, Anna, “‘Leave No Tigrayan’: In Ethiopia, an Ethnicity is Erased.” Government forces have destroyed Tigrayan ID documents, forced Tigrayans seeking

⁵ *See* Exh. M, Hansler, “Blinken: Acts of ‘Ethnic Cleansing’ Committed in Western Tigray (reporting that the U.S. government has accused the Ethiopian government and its allies of committing ethnic cleansing in Tigray); *see also* Exh. FF, Fick, “Ethiopian Orthodox Church Head Says Genocide is Taking Place in Tigray,” (reporting that the head of the Ethiopian Orthodox Church has accused the government of genocide); Exh. EE, Anna, “Refugee Doctor Chronicles Tigray’s Pain as he Treats it” (documenting the story of a physician who has treated many victims of the Tigrayan conflict, who says “[i]t is definitely genocide . . . If someone is being attacked for their identity, if they’re threatened to be vanished because of their identity, there is no other explanation for this.”).

⁶ *See* Exh. C, de Waal Decl. at ¶ 4 (noting that there have been 150 documented massacres of civilians during the conflict, the vast majority of them against Tigrayans); Exh. U, Amnesty International, “The Massacre in Axum” (documenting a systematic massacre of hundreds of civilians over a 24-hour period in Axum); Exh. BB, Houreld, et al., “How Ethnic Killings Exploded from an Ethiopian Town” (documenting a massacre of nearly 50 Tigrayan civilians who were rounded up, forced into a freshly dug ditch, and shot).

⁷ *See* Exh. Z, Elbagir, et al., “Tigrayans Told ‘We’ll See if America will Save You Now,’ as Hundreds Rounded up by Ethiopian and Eritrean Soldiers” (documenting the arrest, detention, and beating of hundreds of young Tigrayan men); Exh. CC, Paravicini, “Ethiopia’s Crackdown on Ethnic Tigrayans Snares Thousands” (documenting the government’s nationwide crackdown on Tigrayans); *see also* Exh. DD, Anna, “‘Clean Out Our Insides’: Ethiopia Detains Tigrayans Amid War” (describing horrific conditions facing Tigrayans in Ethiopian prisons).

medical care to speak Amharic, and threatened to rape Tigrayan women who do not accept Amharic identity. *Id.*

The government is also inflicting a targeted humanitarian crisis on the Tigray region by withholding humanitarian aid and deliberately destroying over 80 percent of the region’s health care facilities. *See* Exh. KK, Houreld and Paravicini, “UN Official Accuses Eritrean Forces of Deliberately Starving Tigray”; *see also* Exh. HH, Medecins Sans Frontieres, “People Left with Few Healthcare Options in Tigray as Facilities Looted, Destroyed.” More than 5 million Tigrayans urgently need humanitarian assistance, 2 million are internally displaced, and 65,000 have fled to Sudan. Exh. L, Walsh and Dahir, “Why is Ethiopia at War With Itself?”; Exh. JJ, Walsh, “Famine Hits 350,000 in Ethiopia, Worst-Hit Country in a Decade.”

The still unfolding Tigrayan genocide represents far more than mere continuation of country conditions that existed in 2019: it represents a country’s dramatic fall from peace and hope to chaos and violence. Two years ago, Prime Minister Abiy Ahmed Ali accepted a Nobel Peace Prize; today, he is massacring his Tigrayans like Mr. ██████████. This drastic change is enough to satisfy Mr. ██████████ “heavy burden” to present new evidence that “is material, reflects changed circumstances arising in the country of nationality, and supports a prima facie case for a grant” of relief. *Matter of J-G-*, 26 I&N Dec. 161, 169 (BIA 2013).

2. Mr. ██████████ is prima facie eligible for CAT protection.

Mr. ██████████ is *prima facie* eligible for protection under CAT.⁸ Where ruling on a motion requires the exercise of judgment regarding eligibility for the relief sought, the Board does not

⁸ ██████████ recognizes the binding caselaw concluding that his 2017 burglary conviction under Georgia Code § 16-7-1 is an aggravated felony and therefore a particularly serious crime for purposes of both asylum and withholding of removal. INA §§ 208(b)(2)(A)(ii); 241(b)(3)(B)(ii); *United States v. Gundy*, 842 F.3d 1156 (11th Cir. 2016) (concluding that Georgia Code § 16-7-1 is divisible); Criminal Indictment at Exh. 12 from May 21, 2019 hearing (stating that Mr. ██████████ burglary indictment was based on an accusation that he unlawfully entered a dwelling house). Accordingly, he has focused his relief arguments here on CAT protection.

require a conclusive showing that, assuming the facts alleged to be true, eligibility for relief has been established. By granting reopening, the Board does not rule on the ultimate merits of the application for relief. *Matter of L-O-G-*, 21 I&N Dec. 413, 418–19 (BIA 1996). Rather, a *prima facie* case is established ““where the evidence reveals a reasonable likelihood the statutory requirements for relief have been satisfied.”” *Mendez-Gutierrez v. Gonzales*, 444 F.3d 1168, 1171 (9th Cir. 2006) (quoting *Ordonez v. INS*, 345 F.3d 777, 785 (9th Cir. 2003)); *see also* *Esparza-Sanchez v. Sessions*, 690 F. App’x 268, 269 (5th Cir. 2017) (“To make a *prima facie* showing of eligibility for asylum, a movant must demonstrate a reasonable likelihood that he has met the requirements for relief.”) (citing *Flores v. INS*, 786 F.2d 1242, 1247 (5th Cir. 1986)); *Tadevosyan v. Holder*, 743 F.3d 1250, 1255 (9th Cir. 2014) (concluding the Board abused its discretion in denying the motion to reopen and explaining that the Board does not require a conclusive showing that relief has been established, but rather that the Board is willing to reopen where the new facts alleged, when coupled with the facts already of record show that it would be worthwhile to develop issues further at a plenary injunction hearing on reopening).

An applicant for protection under CAT must establish that it is more likely than not that he would be tortured if removed to the proposed country of removal. 8 C.F.R. § 1208.16(c)(2). “Torture,” in turn, is defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. 8 C.F.R. § 1208.18(a)(1). In assessing whether a respondent is likely to be tortured, the adjudicator must consider, *inter alia*, “[e]vidence of gross, flagrant or mass

violations of human rights within the country of removal, where applicable; and other relevant information regarding conditions in the country of removal.” 8 C.F.R. § 1208.16(c)(3).

As outlined above, Ethiopian officials, including the Ethiopian military, are routinely arresting without charge, raping, torturing, and murdering Tigrayans like Mr. ██████ Exh. C, de Waal Decl. at ¶¶ 4, 8-11; Exh. M, Hansler, “Blinken: Acts of ‘Ethnic Cleansing’ Committed in Western Tigray; Exh. FF, Fick, “Ethiopian Orthodox Church Head Says Genocide is Taking Place in Tigray”; Exh. EE, Anna, “Refugee Doctor Chronicles Tigray’s Pain as he Treats it”; Exh. U, Amnesty International, “The Massacre in Axum” (documenting a systematic massacre of hundreds of civilians over a 24-hour period in Axum); Exh. BB, Houreld, et al., “How Ethnic Killings Exploded from an Ethiopian Town” (documenting a massacre of nearly 50 Tigrayan civilians who were rounded up, forced into a freshly dug ditch, and shot). In addition, the Ethiopian government, though aware of the atrocities being committed by vigilantes and lynch mobs, not to mention the Eritrean military (which is acting in concert with the Ethiopian government), “has not taken any effective action to stop abuses... and, at times has even encouraged such abuses.” Exh. C, de Waal Decl. at ¶ 9. Mr. ██████ thus has more than demonstrated a reasonable likelihood that he will more likely than not be tortured if he is removed to Ethiopia, and accordingly has shown *prima facie* eligibility for protection under CAT.

C. The Board should *sua sponte* reopen.

Even if the Board declines to grant reopening based on *Niz-Chavez* or changed country conditions, Mr. ██████ requests that the Board *sua sponte* reopen his removal proceedings based on the extraordinary circumstances presented. *See* 8 C.F.R. § 1003.2(a). The “Board has the ability to reopen or remand proceedings when appropriate, such as for good cause, fairness, or reasons of administrative economy.” *Matter of Yewondwosen*, 21 I&N Dec. 1025, 1027 (BIA 1997). The Board has observed that *sua sponte* reopening is “reserved for truly exceptional situations,” *Matter of G-D-*,

22 I&N Dec. 1132, 1134 (BIA 1999), and warranted “in unique situations where it would serve the interest of justice,” *Matter of X-G-W-*, 22 I&N Dec. 71, 73 (BIA 1998).

Several factors, in their totality, make the circumstances surrounding Mr. ██████ removal extraordinary. First, the Ethiopian government is currently committing genocide against Tigrayans, Mr. ██████ ethnic group. *See* discussion at section II.C.2., *supra*. If removed to Ethiopia, Mr. ██████ faces torture, starvation, and likely death.

Second, Mr. ██████ suffers from several severe medical conditions, including a brain tumor in his pituitary gland, hypothyroidism, extreme spinal inflammation, acid reflux, nerve damage, and diabetes. Exh. B, ██████ Decl. at ¶ 6. As a result, he has a weak immune system and experiences severe pain, depression, and anxiety. *Id.* Because the Ethiopian and Eritrean armies have pillaged Tigrayan hospitals and clinics and restricted humanitarian aid, Mr. ██████ will have no way of getting the medical care he needs. *See id.* at ¶ 11; Exh. HH, Medecins Sans Frontieres, “People Left with Few Healthcare Options in Tigray as Facilities Looted, Destroyed.” Moreover, Mr. ██████ would be unable to get proper care even in other parts of the country because the Ethiopian government has forcibly relocated Tigrayans back to Tigray as part of its ethnic cleansing campaign. Exh. N, Walsh, “Ethiopia’s War Leads to Ethnic Cleansing in Tigray Region, U.S. Report Says.”

Finally, having lived in the United States since the age of ten, his immediate family, entire support system, and life are here in the United States. Exh. B, ██████ Decl. at ¶ 10. His siblings, who are all United States citizens, care deeply for him and have promised to help him in any way they can. Exh. VV, Letters of Support from Siblings; May 21, 2019 Tr. at 35:20-22. (“And if it’s allowed, we would fully support him to get help, rehab, therapy, whatever he needs. We’re all, you know, willing to do whatever it takes.”). Mr. ██████ himself has committed to being a better person, leaving behind his past with drugs and crime. Exh. WW, ██████ Letter of Intent. The IJ gave significant weight to Mr. ██████ rehabilitation efforts and strong support system, and would have granted him cancellation were it not for his disqualifying criminal history. Exh. SS, May 21, 2019 IJ

Dec. (“Had the respondent been eligible for cancellation, given much of the equities in this case, the respondent may very well have been able to obtain that form of relief. The Court is mindful that he has lived in the United States for most of his life . . .”); May 21, 2019 Tr. at 44:5–13 (“[A]t the end of the day when we’ve tried everything and there’s nothing else to try, there’s not a whole lot more I can do about your case. You know, the family is exceptional. I have no reason to doubt that you’re a decent person. That’s probably why I worked so hard in your case to make sure that we’ve uncovered every rock possible to see what you – I still remember your brother’s testimony. It was pretty powerful. I had no reason to doubt that he would be supportive. And just your whole family’s here and supporting you. There’s no reason to believe that you’re not a smart person and you’ve made unfortunately some tough mistakes along the way.”). These favorable equities significantly outweigh countervailing considerations raised by Mr. [REDACTED] criminal history.

Given these extraordinary circumstances, the Board should exercise its discretion to grant *sua sponte* reopening of Mr. [REDACTED] case.

V. CONCLUSION

For the foregoing reasons, this Board should reopen Mr. [REDACTED] proceedings and terminate them for lack of a proper NTA, or, in the alternative, reopen Mr. [REDACTED] proceedings and remand so that he may pursue CAT protection.

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	<p><i>“A number of positive changes in the human rights climate followed Abiy’s assumption of office. The government decriminalized political movements that past administrations had accused of treason, invited opposition leaders to return to the country and resume political activities, allowed peaceful rallies and demonstrations, enabled the formation and unfettered operation of new political parties and media outlets, continued steps to release thousands of political prisoners, and undertook revisions of repressive laws.”</i></p> <p><i>“The government took steps to prosecute selected members of senior leadership for human rights abuses but decided on a policy of forgiveness for lower-level officials under its broader reconciliation efforts. The government took positive steps toward greater accountability under Abiy to change the relationship between security forces and the population.”</i></p>	
F	<p>Aaron Maasho, “Ethiopia’s New PM Pledges Reforms to End Violence,” Reuters, April 2, 2018, available at https://www.reuters.com/article/us-ethiopia-politics/ethiopias-new-pm-pledges-reforms-to-end-violence-idUSKCN1H90N2.</p> <p><i>“Ethiopia’s new prime minister, Abiye Ahmed, promised on Monday to push through democratic reforms in an effort to end three years of unrest that first erupted in the province of Oromiya from where he hails.”</i></p> <p><i>“After taking the oath of office, the former army lieutenant colonel struck a conciliatory tone towards the opposition but did not mention the possibility of lifting a six-month emergency rule imposed in February after Hailemariam resigned.”</i></p> <p><i>“‘Democracy cannot be realized in the absence of rights, be it civil or economic rights.’ Abiy said. ‘We all need to have a platform to voice our concerns,’ he told the packed gathering, where some dissidents were also allowed to attend.”</i></p>	118
G	<p>The Nobel Peace Prize for 2019 Announcement, available at https://www.nobelprize.org/prizes/peace/2019/prize-announcement/.</p> <p><i>“The Nobel Peace Prize 2019 was awarded to Abiy Ahmed Ali ‘for his efforts to achieve peace and international cooperation, and in particular for his decisive initiative to resolve the border conflict with neighbouring Eritrea.’”</i></p>	123

	<p><i>“In Ethiopia, even if much work remains, Abiy Ahmed has initiated important reforms that give many citizens hope for a better life and a brighter future. He spent his first 100 days as Prime Minister lifting the country’s state of emergency, granting amnesty to thousands of political prisoners, discontinuing media censorship, legalising outlawed opposition groups, dismissing military and civilian leaders who were suspected of corruption, and significantly increasing the influence of women in Ethiopian political and community life. He has also pledged to strengthen democracy by holding free and fair elections.”</i></p>	
H	<p>Tom Gardner and Charlie Rosser, “‘Abiy Ahmed is our Miracle’: Ethiopia’s Democratic Awakening,” The Guardian, Sept. 25, 2018, available at https://www.theguardian.com/global-development/2018/sep/25/abiy-ahmed-miracle-ethiopia-democratic-awakening.</p> <p><i>“Something extraordinary is happening in Ethiopia. Under new prime minister Abiy Ahmed, authoritarianism and state brutality appear to be giving way to something resembling democracy. A country that began the year crippled by anti-government protests is now being lauded as a model for the region. One of Africa’s most autocratic ruling parties, the Ethiopian People’s Revolutionary Democratic Front (EPRDF), is today led by a man who professes to believe deeply in freedom of expression.”</i></p> <p><i>“In the capital, Addis Ababa, huge crowds have been welcoming home exiled dissidents. Residents who once feared speaking publicly about politics now talk of little else. Flags and symbols long banned by the EPRDF blossom across the city.”</i></p>	129
I	<p>Addis Getachew and Seleshi Tessema, “Ethiopia: New PM received Rapturous Welcome in Tigray,” Anadolu Agency, Apr. 13, 2018, available at https://www.aa.com.tr/en/africa/ethiopia-new-pm-receives-rapturous-welcome-in-tigray/1117346.</p> <p><i>“The new Ethiopian prime minister, in a pacifying and unifying move on Friday, arrived at Mekele city, the capital of the Tigray regional state in northern Ethiopia, to a rapturous welcome. Addressing the crowd assembled at the Martyrs’ Village, Prime Minister Abiy Ahmed Ali, who hails from Oromia, spoke in the Tigrigna language to a cheering gathering. ‘The people of Tigray, together with people in other regions, fought for the prevalence of democracy in Ethiopia,’ he said. He said the Tigray region was the epicenter of Ethiopia’s ancient civilization, philosophy, art, music, and religion. ‘It is impossible to think of Ethiopia without Tigray, which, together</i></p>	144

	<p><i>with the rest of Ethiopian peoples, defended the maintained unity of Ethiopia.”</i></p> <p><i>“‘Creating jobs, deepening good governance, making a united effort to make poverty a history, are top priorities,’ he said. ‘The burning issues of the time is peace and development.’”</i></p>	
J	<p>Witney Schneidman, “Ethiopia: Africa’s Next Powerhouse?” Brookings Institution, Mar. 26, 2019, available at https://www.brookings.edu/blog/africa-in-focus/2019/03/26/ethiopia-africas-next-powerhouse/.</p> <p><i>“Ethiopia’s prime minister, Dr. Abiy Ahmed—the youngest African leader at 42 years old—has initiated a series of unprecedented economic and political reforms in his first 12 months in office. The core challenge that he faces is moving the economy from state-led to market-based growth while overseeing far-reaching political reforms. Success is far from guaranteed but his accomplishments so far have created an enormous sense of opportunity within the country.”</i></p> <p><i>“Ethiopia has been one of the continent’s best economic performers, growing at a rate of 10 percent for the past 15 years. It has been a model of state-directed development with a government that permitted no political opposition but invested heavily in infrastructure, agriculture, education, and other sectors. Since Abiy’s emergence as prime minister, there has been a sweeping political opening with indications that economic reforms will be almost as significant. If Abiy is able to succeed with his reforms, Ethiopia will emerge as one of Africa’s undisputed leaders.”</i></p>	149
EVIDENCE OF COUNTRY CONDITIONS NOW		
K	<p>United States Department of State, Bureau of Democracy, Human Rights, and Labor, “Ethiopia: 2020 Country Reports on Human Rights Practices” available at https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/ethiopia/.</p> <p><i>“On November 4, fighting between the ENDF and the Tigray Special Forces resulted in protracted conflict in the northern region of Tigray. The fighting affected the entire region. As of the end of the year, there was very limited access to Tigray, except for the capital Mekele, resulting in a lack of reporting and making it difficult to ascertain the extent of abuses. There were numerous reports of looting and destruction of infrastructure in Tigray, including in refugee camps. There were reports that government security forces, security forces from neighboring regions, the Eritrean military,</i></p>	153

	<p><i>private militias, and the Tigray People’s Liberation Front Regional Security Force all committed human rights violations and abuses, including extrajudicial killings, sexual assaults, forced displacement of civilian populations, and torture. There are reports that government security forces engaged in arbitrary arrests and detentions. International organizations, including the United Nations reported that a humanitarian crisis was unfolding and they prepared to assist with basic services, food, and medical supplies.”</i></p> <p><i>“On November 4, telephone, cell phone, and internet services were shut down in the Tigray Region and as of December 31, the internet was still down, although telephone services improved throughout the region.”</i></p> <p><i>“As tensions mounted between the national government and the Tigrayan regional government, there were multiple reports of Tigrayan security officials, public officials, and other ethnic Tigrayans who were arrested, detained, or asked to step down or take a leave of absence from their official positions. On November 24 and December 25, the EHRC and the Ethiopian Human Rights Council released assessments describing targeted ethnic killings that began November 9 in Mai-Kadra and surrounding towns. Prior to the November 9 attack, Tigrayan militias and regional security services reportedly asked for the identification documents of Amharans before targeting them. The attack resulted in approximately 600-1,200 deaths, including bodies discovered in mass graves near Abune Aregwai Church, and the destruction of private property.”</i></p>	
<p>L</p>	<p>Declan Walsh and Abdi Latif Dahir, “Why Is Ethiopia at War With Itself?,” New York Times, November 5, 2020, updated June 10, 2021, available at https://www.nytimes.com/2020/11/05/world/africa/ethiopia-tigray-conflict-explained.html.</p> <p><i>“Months after starting an offensive in northern Ethiopia that has killed thousands of people, displaced millions, and led to charges of atrocities like ethnic cleansing, the Ethiopian government and its allies have shown no sign of pulling military forces back from the Tigray region.”</i></p> <p><i>“His government has declared its political and military foe, the Tigray People’s Liberation Front, a terrorist group, and there have been reports of thousands of ethnic Tigrayans around Ethiopia, mostly soldiers and police but also civilians, being held in detention without charge.”</i></p>	<p>190</p>

	<p><i>“The war has deepened ethnic tensions and created an immense humanitarian and political crisis that involves neighboring countries and could destabilize the entire Horn of Africa.”</i></p> <p><i>“More than 5 million people, the great majority of Tigray’s population, urgently need assistance, United Nations and local officials say. An estimated 1 million to 2 million people have been displaced from their homes, and more than 63,000 have fled to Sudan. United Nations officials and other humanitarian agencies warned on June 10 that the conflict had afflicted 350,000 people with famine.”</i></p>	
M	<p>Jennifer Hansler, “Blinken: Acts of ‘Ethnic Cleansing’ Committed in Western Tigray,” CNN, March 10, 2021, available at https://www.cnn.com/2021/03/10/politics/blinken-tigray-ethnic-cleansing/index.html</p> <p><i>“Secretary of State Tony Blinken for the first time Wednesday used the term ‘ethnic cleansing’ to describe human rights abuses he said have been carried out in the Western Tigray region of Ethiopia, calling the situation ‘unacceptable.’”</i></p> <p><i>“The challenge in Ethiopia is very significant. And it's one that we're very, very focused on, particularly the situation in Tigray where we are seeing very credible reports of human rights abuses and atrocities that are ongoing,” he said during a House Foreign Affairs Committee hearing Wednesday.”</i></p>	197
N	<p>Declan Walsh, “Ethiopia’s War Leads to Ethnic Cleansing in Tigray Region, U.S. Report Says,” New York Times, Feb. 26, 2021, available at https://www.nytimes.com/2021/02/26/world/middleeast/ethiopia-tigray-ethnic-cleansing.html.</p> <p><i>“Ethiopian officials and allied militia fighters are leading a systematic campaign of ethnic cleansing in Tigray . . . according to an internal United States report obtained by The New York Times.”</i></p> <p><i>“Fighters and officials from the neighboring Amhara region of Ethiopia, who entered Tigray in support of Prime Minister Abiy Ahmed, are ‘deliberately and efficiently rendering Western Tigray ethnically homogeneous through the organized use of force and intimidation,’ the report says.”</i></p> <p><i>“[In] several towns ethnic Tigrayans had been attacked and had their homes pillaged and burned. Some had fled into the bush; others</i></p>	201

	<i>had crossed illegally into Sudan and still others had been rounded up and forcibly relocated to other parts of Tigray, the report said.”</i>	
O	<p>Bethlehem Feleke, et al., “‘Practically This has Been a Genocide,’” CNN, March 22, 2021, available at https://www.cnn.com/2021/03/19/africa/ethiopia-tigray-rape-investigation-cmd-intl/index.html.</p> <p><i>“CNN has spoken with nine doctors in Ethiopia and one in a Sudanese refugee camp who say they've seen an alarming increase in sexual assault and rape cases since Prime Minister Abiy Ahmed launched a military operation against leaders in Tigray, sending in national troops and fighters from the country's Amhara region.”</i></p> <p><i>“Many say they were raped by Amhara forces who told them they were intent on ethnically cleansing Tigray, a doctor working at the sprawling refugee camp in Hamdayet told CNN.”</i></p> <p><i>“‘The women that have been raped say that the things that they say to them when they were raping them is that they need to change their identity—to either Amharize them or at least leave their Tigrinya status . . . and that they've come there to cleanse them . . . to cleanse the blood line,’ Dr. Tedros Tefera said.”</i></p>	207
P	<p>Lucy Kassa, “‘A Tigrayan Womb Should Never Give Birth’: Rape in Tigray,” Al-Jazeera (Apr. 21, 2021), available at https://www.aljazeera.com/news/2021/4/21/a-tigrayan-womb-should-never-give-birth-rape-in-ethiopia-tigray.</p> <p><i>“‘I begged them to stop,’ Akberet told Al Jazeera. ‘I asked them, crying, why they were doing that to me. What wrong have I done to you?’ ‘You did nothing bad to us,’ she said they told her. ‘Our problem is with your womb. Your womb gives birth to Woyane [derogative term used to refer to the TPLF]. A Tigrayan womb should never give birth.’”</i></p> <p><i>“Hundreds of women have reported horrific accounts of rape and gang rape since the start of the conflict in Tigray nearly six months ago. Medics have reported removing nails, rocks and pieces of plastic from inside the bodies of rape victims, while the United Nations said last week women and girls in the mountainous region’s remote areas are being subjected to sexual violence ‘with a level of cruelty beyond comprehension.’”</i></p>	213
Q	Michelle Nichols, “Sexual Violence Being Used as a Weapon of War in Ethiopia’s Tigray, U.N. Says,” Reuters (Apr. 15, 2021),	227

	<p>available at https://www.reuters.com/world/africa/sexual-violence-being-used-weapon-war-ethiopias-tigray-un-says-2021-04-15/.</p> <p><i>“Sexual violence is being used as a weapon of war in Ethiopia's Tigray, the U.N. aid chief told the Security Council on Thursday . . . The U.N. official, Mark Lowcock, said the humanitarian crisis in Tigray had deteriorated over the past month with challenges to aid access and people dying of hunger. He said the world body had not seen any proof that soldiers from neighboring Eritrea—accused of massacres and killings in Tigray—have withdrawn.”</i></p> <p><i>“To be very clear: the conflict is not over and things are not improving,” Lowcock said, according to his notes for the private briefing, which was requested by the United States.”</i></p>	
<p>R</p>	<p>Katharine Houreld, “Health Official Alleges ‘Sexual Slavery’ in Tigray,” Reuters, April 15, 2021, available at https://www.reuters.com/world/special-report-health-official-alleges-sexual-slavery-tigray-women-blame-2021-04-15/.</p> <p><i>“The young mother was trying to get home with food for her two children when she says soldiers pulled her off a minibus in Ethiopia’s Tigray region, claiming it was overloaded. It was the beginning of an 11-day ordeal in February, during which she says she was repeatedly raped by 23 soldiers who forced nails, a rock and other items into her vagina, and threatened her with a knife.”</i></p> <p><i>“The woman, 27, is among hundreds who have reported that they were subjected to horrific sexual violence by Ethiopian and allied Eritrean soldiers after fighting broke out in November in the mountainous northern region of Ethiopia, doctors said.”</i></p>	<p>234</p>
<p>S</p>	<p>Cara Anna, “‘Leave No Tigrayan’: In Ethiopia, an Ethnicity is Erased,” Associated Press, April 7, 2021, available at https://apnews.com/article/ethiopia-tigray-minority-ethnic-cleansing-sudan-world-news-842741eebf9bf0984946619c0fc15023.</p> <p><i>“Now, for the first time, [Tigrayan refugees in Sudan] also bring proof of an official attempt at what is being called ethnic cleansing in the form of a new identity card that eliminates all traces of Tigray, as confirmed to The Associated Press by nine refugees from different communities. Written in a language not their own, issued by authorities from another ethnic group, the ID cards are the latest evidence of a systematic drive by the Ethiopian government and its allies to destroy the Tigrayan people.”</i></p>	<p>243</p>

	<p><i>“The Amhara now control some government offices in western Tigray and decide who belongs — and even whether Tigrayans exist at all. Some were ordered to accept the Amhara identity or leave, and others were told to leave anyway, the refugees said.”</i></p> <p><i>“At the hospital [in Humera, Tigray], Tigrayans had to pay for care, unlike the Amhara. Anyone who came was allowed to speak Amharic only. Tigrayan staffers weren’t paid, and every night there was gunfire.”</i></p>	
T	<p>Cara Anna, “EU Envoy: Ethiopian Leadership Vowed to ‘Wipe Out’ Tigrayans,” Associated Press, June 18, 2021, available at https://apnews.com/article/europe-ethiopia-africa-ffd3dc3faf15d0501fd87cafe274e65a.</p> <p><i>“Ethiopia’s leaders in closed-door talks with a European Union special envoy earlier this year said ‘they are going to wipe out the Tigrayans for 100 years,’ the envoy said this week, warning that such an aim ‘looks for us like ethnic cleansing.’”</i></p>	258
U	<p>Amnesty International, “The Massacre in Axum,” 2021, available at https://www.amnestyusa.org/wp-content/uploads/2021/02/The-Massacre-in-Axum-1.pdf.</p> <p><i>“Between 19 and 29 November 2020, Eritrean troops operating in the Ethiopian city of Axum, Tigray, committed a series of human rights and humanitarian law violations, including killing hundreds of civilians. Over an approximately 24-hour period on 28-29 November, Eritrean soldiers deliberately shot civilians on the street and carried out systematic house-to-house searches, extrajudicially executing men and boys. The massacre was carried out in retaliation for an earlier attack by a small number of local militiamen, joined by local residents armed with sticks and stones.”</i></p> <p><i>“In the immediate aftermath of the massacre, Eritrean troops shot at those who sought to remove bodies from the streets, but later allowed residents to collect the bodies and bury them. Men from the community led the collective effort, pulling carts piled with the bodies of relatives, friends, neighbours and strangers, which they brought to churches across the city for burial, many in mass graves.”</i></p> <p><i>“The massacre was the culmination of a wave of violations carried out since 19 November, when Eritrean and Ethiopian forces entered Axum together, after indiscriminately shelling the city and firing at those who tried to flee. Witnesses say that Eritrean forces, in taking</i></p>	272

	<p><i>over the town, carried out extrajudicial executions and engaged in widespread looting.”</i></p>	
V	<p>Amnesty International, “Ethiopia: Tepid International Response to Tigray Conflict Fuels Horrific Violations over Past Six Months,” May 4, 2021, available at https://www.amnesty.org/en/latest/news/2021/05/ethiopia-tepid-international-response-to-tigray-conflict-fuels-horrific-violations-over-past-six-months/.</p> <p><i>“Since the fighting broke out on 4 November 2020, thousands of civilians have been killed, hundreds of thousands of people have been internally displaced within Tigray, and 63,000 refugees have fled to Sudan. Amnesty International and other organizations have documented a string of serious human rights violations that include war crimes and likely crimes against humanity. There are also numerous credible reports of women and girls being subjected to sexual violence, including gang rape by Ethiopian and Eritrean soldiers.”</i></p> <p><i>“Among the atrocities the organization documented was the mass killing of hundreds of civilians in Mai-Kadra in western Tigray on 9-10 November 2020, allegedly by forces loyal to the Tigray People’s Liberation Front (TPLF). Subsequently, Amnesty has received reports of reprisal attacks targeting ethnic Tigrayan residents of Mai-Kadra, including extrajudicial executions, looting of property, and mass detention.”</i></p> <p><i>“Amnesty International found that Eritrean troops killed hundreds of civilians in Axum – in what likely amounted to a crime against humanity – on 28-29 November, and indiscriminately shot at civilians in Adwa, killing three of them and wounding 19 others, on 12 April 2021. Working in collaboration with CNN, Amnesty International also confirmed that Ethiopian National Defense Force troops carried out extrajudicial executions in Mahibere Dego, near Axum, on 15 January 2021.”</i></p>	298
W	<p>Simon Marks & Abdi Latif Dahir, “As War Goes on in Ethiopia, Ethnic Harassment is on the Rise,” New York Times, Dec. 12, 2020, available at https://www.nytimes.com/2020/12/12/world/africa/Ethiopia-Tigray-ethnic.html.</p> <p><i>“[M]any ethnic Tigrayans who live in the capital and other parts of Ethiopia say they have been treated like criminal suspects and</i></p>	303

	<p><i>subjected to various forms of discrimination, harassment and abuse by government officials.”</i></p> <p><i>“They report being detained without charges, put under house arrest, and barred from traveling outside the country. Tigrayans say they have had their businesses shut down, homes ransacked and money extorted by security officials.”</i></p> <p><i>“Several Tigrayans who live outside Ethiopia said they hadn’t heard for weeks from family members who were taken away suddenly to police stations and prisons. Some Tigrayan members of the Ethiopian military forces are being held in detention centers around the country, their families said.”</i></p> <p><i>“The purge is also taking place in state-owned companies like Ethio Telecom, the country’s major internet and telephone provider. In the days after the conflict began in November, officers arrived at a branch of Ethio Telecom in Addis Ababa and detained a maintenance manager and a senior director, both of Tigrayan descent, according to an employee who spoke on the condition of anonymity for fear of reprisals.”</i></p> <p><i>“The conflict is also affecting ethnic Tigrayans who want to leave Ethiopia. Civil aviation authorities have started asking Ethiopian passengers leaving the country to show not just their passports, but their identity cards, which state their ethnic affiliation — according to a letter from the Ethiopian Human Rights Commission seen by The Times.”</i></p>	
X	<p>Declan Walsh, “Eritrean Troops Continue to Commit Atrocities in Tigray, U.N. Says,” New York Times, April 15, 2021, available at https://www.nytimes.com/2021/04/15/world/africa/ethiopia-eritrea-tigray.html.</p> <p><i>“Eritrean troops continue to commit atrocities in the northern Ethiopian region of Tigray, despite assurances by Ethiopia’s prime minister, Abiy Ahmed, that they were leaving, a senior United Nations official said Thursday.”</i></p>	309
Y	<p>“Ethiopia’s Tigray War: A Deadly, Dangerous Stalemate,” International Crisis Group, April 2, 2021, available at https://d2071andvip0wj.cloudfront.net/b171-ethiopia-tigray-war_0.pdf.</p> <p><i>“All sides in the conflict in Ethiopia’s northernmost region appear to be girding for a protracted battle . . . All sides are fixated on</i></p>	312

	<p><i>securing a military victory. None appears capable of achieving one in the near term . . . The parties' positioning means that the conflict could well last for months, or even years, an outcome that would be even more disastrous for Tigray and the rest of the country."</i></p>	
Z	<p>Nima Elbagir, et al., "Tigrayans Told 'We'll See if America will Save You Now,' as Hundreds Rounded up by Ethiopian and Eritrean Soldiers," CNN, May 27, 2021, available at https://www.cnn.com/2021/05/26/africa/ethiopia-tigray-detained-by-soldiers-intl/index.html.</p> <p><i>"[E]yewitnesses told CNN that hundreds of young men were rounded up from displaced peoples' camps in Shire, a town in Tigray, late Monday evening."</i></p> <p><i>"Witnesses speaking to CNN on condition of anonymity described how Ethiopian and Eritrean soldiers invaded at least two IDP centers where they beat and harassed Tigrayans displaced by a conflict that is believed to have killed thousands of civilians since November 2020. The soldiers then took hundreds of people away, the witnesses said."</i></p> <p><i>"As the soldiers broke into an abandoned school housing the refugees, witnesses said they shouted, 'we'll see if America will save you now!'"</i></p> <p><i>"One woman said two of her sons—aged 19 and 24—were dragged from their home at around 9:30 p.m. that night. 'They didn't say why they were taking them, they just rounded them up, beat them and took them away,' she told CNN, adding that she was too afraid of what would be done to her sons to ask any questions."</i></p> <p><i>"One man described hours of beatings by Eritrean and Ethiopian soldiers. 'Many of us are young but there are people there who are much older who won't be able to withstand the beatings much longer,' he said."</i></p>	329
AA	<p>Elliot Smith, "Ethiopia's 'Simmering Civil War' Threatens to Erode Economic Recovery Prospects," CNBC, Mar. 12, 2021, available at https://www.cnbc.com/2021/03/12/ethiopias-simmering-civil-war-threatens-to-erode-economic-recovery-prospects.html.</p> <p><i>"According to a recent UN update, more than 2.2 million people have been displaced and allegations of human rights abuses by security forces have drawn international condemnation. The</i></p>	335

	<i>European Union, meanwhile, has suspended \$109 million in aid to the country, and the U.S. has withheld \$130 million in budgetary support until humanitarian access to the Tigray region is granted.”</i>	
BB	<p>Katharine Houreld, et al., “How Ethnic Killings Exploded from an Ethiopian Town,” Reuters, June 7, 2021, available at https://www.reuters.com/investigates/special-report/ethiopia-conflict-expulsions/.</p> <p><i>“Berhane, 74, says he was among more than 50 Tigrayan civilians rounded up and trucked by Amhara forces to the Tekeze River that bisects Tigray. The forces ordered the men to climb down into what appeared to be a freshly dug ditch, Berhane said. Then the gunmen fired. Berhane was hit in both legs and in the back; he said he lay among the bodies, listening to the men reload and shoot at anyone who moved.”</i></p>	343
CC	<p>Giulia Paravicini, et al., “Ethiopia’s Crackdown on Ethnic Tigrayans Snares Thousands,” Reuters, May 7, 2021, available at https://www.reuters.com/investigates/special-report/ethiopia-conflict-tigrayans/.</p> <p><i>“Across the country, Tigrayans have been arrested, harassed, sacked or suspended from their jobs, or had their bank accounts temporarily frozen, according to bank records, letters from employers and interviews with government officials, rights groups and lawyers.”</i></p> <p><i>“Reuters spoke to more than two dozen Tigrayans who said their careers and personal lives have been upended because of their ethnicity. They included families of Tigrayan soldiers who’ve been rounded up and put in detention camps; Tigrayan diplomats dismissed or suspended from their postings; academics barred by their universities from lecturing; Tigrayan civilians who say they were arbitrarily detained, and Tigrayan peacekeepers who sought asylum in South Sudan, fearing arrest if they returned home. Most spoke on condition of anonymity, citing concerns over their safety.”</i></p> <p><i>“The allegations come in the wake of reports of major rights abuses in Tigray – including mass killings of civilians and gang rapes of Tigrayan women.”</i></p>	368
DD	<p>Cara Anna, “‘Clean Out Our Insides’: Ethiopia Detains Tigrayans Amid War,” Associated Press, April 29, 2021, available at https://apnews.com/article/africa-ethiopia-race-and-ethnicity-health-coronavirus-5f22a5aea128cbd659fbf4f810aac973.</p>	382

	<p><i>“Ethiopia has swept up thousands of ethnic Tigrayans into detention centers across the country on accusations that they are traitors, often holding them for months and without charges, the AP has found.”</i></p> <p><i>“Conditions vary, but some detainees are given just one meal a day and crowded dozens to a room in sweltering metal shelters, at a time when COVID-19 infections are rapidly rising in Ethiopia. Families worry that needed medications are withheld. Detainees and families the AP tracked down did not directly witness beatings or other such physical abuse, but almost all asked not to be identified out of fear for their lives.”</i></p> <p><i>“The [government-created Ethiopian Human Rights Commission] spoke earlier this year with 21 detainees at a federal police center in the capital, with some describing ‘lengthy pre-trial detention periods and being subjected to insults, threats, beatings and to physical injuries from shots fired at the time of their capture.’”</i></p> <p><i>“For detainees, it is unclear what happens next. Two people told the AP that a campaign to “re-educate” them has begun, including lectures promoting Abiy’s political party.”</i></p>	
<p>EE</p>	<p>Cara Anna, “Refugee Doctor Chronicles Tigray’s Pain as he Treats It,” May 4, 2021, available at https://apnews.com/article/middle-east-africa-3b52f9f79c6d0f99d6e35901f126368b.</p> <p><i>“On a recent day, Tewodros examined the fresh welts on the back of a young man who had just walked in from Tigray. The man said he and his friends had been forced to lie in the hot sand and be beaten by soldiers from nearby Eritrea collaborating with Ethiopian forces. He heard one soldier call a superior and ask, ‘Should we kill them or let them go?’”</i></p> <p><i>“[Tewodros] believes that the killings are just the first step against the Tigrayans, with starvation the next. Already he has seen a number of severely malnourished people arrive.”</i></p>	<p>415</p>
<p>FF</p>	<p>Maggie Fick, “Ethiopian Orthodox Church Head says Genocide is Taking Place in Tigray,” Reuters, May 9, 2021, available at https://www.reuters.com/world/ethiopian-orthodox-church-head-says-genocide-is-taking-place-tigray-2021-05-09/.</p> <p><i>“The head of Ethiopia’s Orthodox Church has said that atrocities amounting to genocide are being committed in Tigray, in his first</i></p>	<p>421</p>

	<i>comments on the conflict in the region that broke out in November and has killed thousands.”</i>	
GG	<p>Barbara Arvanitidis, et al., “Massacre in the Mountains,” CNN, March 22, 2021, available at https://www.cnn.com/2021/02/26/africa/ethiopia-tigray-dengelat-massacre-intl/index.html.</p> <p><i>“A group of Eritrean soldiers opened fire on Maryam Dengelat church while hundreds of congregants were celebrating mass, eyewitnesses say. People tried to flee on foot, scrambling up cliff paths to neighboring villages. The troops followed, spraying the mountainside with bullets.”</i></p> <p><i>“The soldiers went door to door, dragging people from their homes. Mothers were forced to tie up their sons. A pregnant woman was shot, her husband killed. Some of the survivors hid under the bodies of the dead.”</i></p> <p><i>“The corpses, some dressed in white church robes drenched in blood, were scattered in arid fields, scrubby farmlands and a dry riverbed. Others had been shot on their doorsteps with their hands bound with belts. Among the dead were priests, old men, women, entire families and a group of more than 20 Sunday school children, some as young as 14, according to eyewitnesses, parents and their teacher.”</i></p>	426
HH	<p>“People Left with Few Healthcare Options in Tigray as Facilities Looted, Destroyed,” Medecins Sans Frontieres, Mar. 15, 2021, available at https://www.msf.org/health-facilities-targeted-tigray-region-ethiopia.</p> <p><i>“Health facilities across Ethiopia’s Tigray region have been looted, vandalised and destroyed in a deliberate and widespread attack on healthcare, according to teams from Médecins Sans Frontières (MSF). Of 106 health facilities visited by MSF teams between mid-December 2020 and early March 2021, nearly 70% had been looted, and more than 30% had been damaged; just 13% were functioning normally.”</i></p> <p><i>“While some looting may have been opportunistic, health facilities in most areas appear to have been deliberately vandalised to make them non-functional. In many health centres, such as in Debre Abay and May Kuhli in North-West Tigray, teams found destroyed equipment, smashed doors and windows, and medicine and patient files scattered across floors.”</i></p>	440

	<p><i>“Before the conflict began in November 2020, Tigray had one of the best health systems in Ethiopia, with health posts in villages, health centres and hospitals in towns, and a functioning referral system with ambulances transporting sick patients to hospital. This health system has now almost completely collapsed.”</i></p>	
II	<p>Nima Elbagir, et al., “Eritrean Troops Disguised as Ethiopian Military are Blocking Critical Aid in Tigray,” CNN, May 13, 2021, available at https://www.cnn.com/2021/05/12/africa/tigray-axum-aid-blockade-cmd-intl/index.html.</p> <p><i>“Eritrean troops are operating with total impunity in Ethiopia's war-torn northern Tigray region, killing, raping and blocking humanitarian aid to starving populations more than a month after the country's Nobel Peace Prize winning leader pledged to the international community that they would leave.”</i></p> <p><i>“A CNN team traveling through Tigray's central zone witnessed Eritrean soldiers, some disguising themselves in old Ethiopian military uniforms, manning checkpoints, obstructing and occupying critical aid routes, roaming the halls of one of the region's few operating hospitals and threatening medical staff.”</i></p>	445
JJ	<p>Declan Walsh, “Famine Hits 350,000 in Ethiopia, Worst-Hit Country in a Decade,” New York Times, June 10, 2021, available at https://www.nytimes.com/2021/06/10/world/africa/ethiopia-famine-tigray.html</p> <p><i>“Famine has afflicted at least 350,000 people in northern Ethiopia’s conflict-ravaged Tigray region, a starvation calamity bigger at the moment than anywhere else in the world.”</i></p> <p><i>Mark Lowcock, the top humanitarian emergency official at the United Nations, said the data “paints a picture of a very, very extreme situation . . . This is going to get a lot worse,” said Mr. Lowcock.</i></p> <p><i>“This severe crisis results from the cascading effects of conflict, including population displacements, movement restrictions, limited humanitarian access, loss of harvest and livelihood assets, and dysfunctional or nonexistent markets,” a summary of the data said.”</i></p>	458
KK	<p>Katharine Houreld & Giulia Paravicini, “UN Official Accuses Eritrean Forces of Deliberately Starving Tigray,” Reuters, June 14,</p>	461

	2021, available at https://www.reuters.com/article/ozatp-us-ethiopia-conflict-famine-idAFKCN2DQ0HN-OZATP .	
	<i>“In some of his strongest public comments to date on the crisis, the UN’s top humanitarian official, Mark Lowcock, accused Eritrean forces of ‘trying to deal with the Tigrayan population by starving them.’ In an interview with Reuters on Thursday, Lowcock said Eritrean soldiers and local fighters are deliberately blocking supplies to the more than 1 million people in areas outside government control. ‘Food is definitely being used as a weapon of war.’”</i>	
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