HUMAN RIGHTS FIRST — ETHIOPIA

Human Rights Briefing for External and Media Use

A Human Rights Assessment of Tigray's Proclamation No. 366/2026

"Safeguarding the Existence and Security of the People of Tigray"
Proclamation No. 366/2026

Summary Briefing

This briefing summarizes an independent 60-page legal assessment of Proclamation No. 366/2026 into 8 pages. It is prepared for external stakeholders — national human rights institutions, federal and regional authorities, diplomatic missions, regional and international bodies, and the media. It may be cited and quoted with attribution to Human Rights First — Ethiopia.

Independent · Objective · Impartial

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Full Report: HUMAN RIGHTS COMPLIANCE ASSESSMENT – Human Rights First – Ethiopia

The Proclamation at a glance

INSTRUMENT Proclamation No. 366/2026	**ENACTING AUTHORITY** Legislative Body Identified in the Proclamation
ENTRY INTO FORCE 1 June 2026 (Article 83(1))	**STRUCTURE** 83 Articles in 4 Sections
CAPITAL OFFENCES At least 17 articles authorize death	**RETROACTIVE REACH** To 3 November 2020 (Article 83(2))
BENCHMARKS APPLIED FDRE Constitution; ICCPR; African Charter; Maputo Protocol	**OVERALL FINDING** Multiple serious incompatibilities

THE PURPOSE OF THIS BRIEFING

In June 2026 the Tigray National Regional State enacted a sweeping security law — Proclamation No. 366/2026. This assessment does not constitute, and should not be interpreted as, recognition or rejection of the enacting authority's constitutional legitimacy. Any discussion of legislative competence or constitutional authority is confined to a legal framework and does not imply political endorsement. Human Rights First — Ethiopia has assessed it, article by article, against the Ethiopian Constitution and the human rights treaties binding on Ethiopia. This briefing sets out what the law does, where it conflicts with those binding standards, and what should change.

The purpose of the assessment is neither to endorse nor to oppose the political and security concerns that the Proclamation invokes. The assessment asks a narrower, rule-of-law question — whether the specific legal mechanisms the Proclamation adopts conform to the human rights guarantees that bind every authority exercising public power in Ethiopia.

Ethiopia is bound, as a whole, by its Constitution and by the international instruments it has ratified — including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights, the African Charter on Human and Peoples' Rights, and the Maputo Protocol on the rights of women. These obligations attach to regional as well as to federal authorities. No security rationale, however genuinely felt, displaces the guarantees that are, in the language of the ICCPR, non-derogable — those that may never be suspended, even in a declared state of emergency.[1]

> The Proclamation states that its objective is to protect the people of Tigray. *But this assessment does not evaluate the political motivations underlying the legislation, it lies in the provisions: retroactive punishment, an expansive death penalty, vague offences, and the erosion of fair-trial guarantees.*

What follows is a summary. Each finding below is set out in full, with citations to the relevant provisions, constitutional articles, treaty articles, and comparative case law, in the underlying assessment, which is available on request.

[1]International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 4(2) (identifying the rights from which no derogation is permitted, including arts 6, 7, 15 and 18); Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No 1/1995, arts 9, 13(2) and 93.

CONTEXT: HOW THIS LAW CAME ABOUT

Proclamation No. 366/2026 did not arise in a vacuum. Northern Ethiopia experienced armed conflict from November 2020, with severe consequences for the civilian population of Tigray. The Cessation of Hostilities Agreement concluded at Pretoria on 2 November 2022 brought the large-scale fighting to an end, but the region continues to face acute security and reconstruction challenges, and the constitutional relationship between the federal government and the regional authorities remains contested. It is against this backdrop that the regional legislature enacted a comprehensive security law.[2]

The Proclamation is unusually broad for a sub-national instrument. It creates a self-standing criminal code of 83 articles; establishes command structures, a regional army, a financial institution, and a media authority; and defines and punishes not only ordinary offences but also core international crimes — genocide and war crimes — traditionally the province of federal and international law. Understanding this breadth is essential to understanding both the ambition of the law and the human rights questions it raises.

This briefing does not take sides in the underlying political dispute. HRF-Ethiopia's mandate is to measure law and practice against binding human rights standards. That is the task this assessment performs — no more, and no less.

BY THE NUMBERS

83 articles in the Proclamation	**17+** articles authorizing the death penalty	**25 yrs** maximum term for speech offences
2020 year to which punishment reaches back	**4** sections, spanning regulation to war crimes	**0** declarations of emergency, despite emergency-like powers

Figures are drawn from the text of the Proclamation and are explained in the full assessment.

SEVEN HEADLINE FINDINGS

The assessment identifies seven principal areas of concern. Each is summarized here and analyzed in depth in the full report.

1. Retroactive criminal punishment

Article 83(2) applies a series of serious offences — including newly defined crimes carrying the death penalty — backwards in time, to 3 November 2020. Punishing people under laws that did not exist when they acted is prohibited absolutely by Article 22 of the Ethiopian Constitution and Article 15 of the ICCPR. This is a guarantee from which no derogation is ever permitted, even in a declared emergency. This is the single gravest defect in the Proclamation, and it cannot be cured except by removing the retroactivity clause.[3]

2. An expansive death penalty

At least seventeen articles authorize capital punishment, and several reach conduct that involves no loss of life at all — including damage to infrastructure and property offences. At least one provision (Article 49(8)) makes the death sentence mandatory where death results, removing the court's power to weigh the circumstances. International law confines the death penalty, in states that retain it, to the "most serious

[2]Agreement for Lasting Peace through a Permanent Cessation of Hostilities (Pretoria, 2 November 2022), concluded between the Government of the Federal Democratic Republic of Ethiopia and the Tigray People's Liberation Front.

[3]Proclamation 366/2026, art 83(2); FDRE Constitution, art 22; ICCPR, arts 15 and 4(2).

crimes" — those involving intentional killing — and prohibits mandatory death sentences. The Proclamation exceeds both limits.[4]

3. Vague and overbroad definitions

The Proclamation's foundational terms are drawn so broadly that people cannot know in advance what is criminal. "Enemy" (Article 2(13)) extends to those causing "psychological," "economic," or "national" harm; a "crime against the existence, security and sovereignty" (Article 2(18)) reaches conduct affecting the "socio-economic life," "history," or "heritage" of the people. Without limiting criteria, these definitions invite arbitrary enforcement against journalists, scholars, critics, and ordinary economic actors, and offend the principle of legality.[5]

4. Offences that criminalize free speech and the press

Articles 17, 18, 21, and 22 criminalize "dishonoring the struggle," "belittling" the people or their symbols, and spreading "false rumors," with penalties reaching twenty-five years' imprisonment and the revocation of media licenses. Disagreement, criticism, and disrespect for symbols are forms of expression protected by Article 29 of the Constitution and Article 19 of the ICCPR. Only expression that amounts to incitement to imminent violence may be criminalized, and then only where strictly necessary. These offences reach far beyond that line and will chill legitimate journalism and debate.[6]

5. The erosion of fair-trial guarantees

A series of provisions, operating together, hollows out the right to a fair trial: categorical denial of bail — even for offences punishable only by a fine (Article 65); trial in a defendant's absence on the strength of a single newspaper notice (Article 68); conviction on anonymous and untested witness statements (Article 70); arrest and search without a prior judicial warrant, on executive command (Articles 76–77); a financial reward for informants tied to securing a conviction (Article 78); and reversed burdens of proof (Articles 31(5) and 49(9)). Each might, alone, be defensible in some narrow form. Together they transfer the effective determination of guilt from the courts to the prosecuting and executive authorities — a particular danger where the ultimate penalty is death.[7]

6. Concentration of power in the executive

The Proclamation repeatedly hands to the executive functions that belong to the legislature and the courts: the definition of crimes and the creation of army courts by regulation (Article 6(7)); the licensing and revocation of media (Article 6(4)); and the designation of "terrorist" organizations (Article 52(8)). It also asserts jurisdiction over any person of any nationality, inside or outside Tigray (Article 4(1)) — a claim that exceeds both the recognized bases of criminal jurisdiction and the regional competence set by Article 55(5) of the Constitution.[8]

7. A de facto emergency without a declaration

Taken together, these enforcement powers reproduce the substance of a state of emergency — suspended liberty guarantees, expanded arrest and search, restricted release — but as permanent, ordinary criminal law, and without any of the safeguards that make emergency powers lawful: a formal declaration, strict time limits, and legislative and international oversight under Article 93 of the Constitution and Article 4 of the

[4]Proclamation 366/2026, arts 29, 30, 49(8), 51, 54, 60 (among others); ICCPR, art 6(2); UN Human Rights Committee, 'General Comment No 36: Article 6' (2019) UN Doc CCPR/C/GC/36, paras 35 and 37.

[5]Proclamation 366/2026, arts 2(13) and 2(18); on legality (nullum crimen sine lege certa), FDRE Constitution, art 22; ICCPR, art 15.

[6]Proclamation 366/2026, arts 17, 18, 21 and 22; FDRE Constitution, art 29; ICCPR, art 19; UN Human Rights Committee, 'General Comment No 34' (2011) UN Doc CCPR/C/GC/34, paras 38 and 48–49.

[7]Proclamation 366/2026, arts 31(5), 49(9), 65, 68, 70, 76–78; FDRE Constitution, arts 19 and 20; ICCPR, arts 9 and 14.

[8]Proclamation 366/2026, arts 4(1), 6(4), 6(7) and 52(8); FDRE Constitution, arts 55(5) and 78; ICCPR, art 14(1).

ICCPR. And even a valid emergency declaration could not authorize the retroactive punishment or the other non-derogable breaches identified above.[9]

THE STANDARDS WE APPLIED

Every finding in the full assessment is tested against a defined set of binding benchmarks. These are not external preferences imposed on Ethiopia; they are the country's own constitutional commitments and the treaties it has freely ratified.

- **The Ethiopian Constitution.** The Constitution is the supreme law (Article 9); it makes ratified treaties part of the law of the land (Article 9(4)); it requires that fundamental rights be interpreted in conformity with international human rights instruments (Article 13(2)); and it guarantees legality, liberty, fair trial, and freedom of expression (Articles 17–29).[10]
- **The ICCPR.** Ratified by Ethiopia in 1993, it guarantees the right to life, liberty, and a fair trial, freedom of expression and conscience, and the prohibition of retroactive punishment — and identifies the core of these that may never be suspended.[11]
- **The African Charter and the Maputo Protocol.** The regional human rights framework guarantees dignity, liberty, fair trial, and expression, and — through the Maputo Protocol — the specific rights of women, including in situations of armed conflict.[12]
- **Authoritative interpretation and comparative case law.** The assessment draws on the General Comments of the UN Human Rights Committee and on decisions of the African and other regional and national courts, including authorities from within the region on the death penalty and on freedom of expression.[13]

The method is consistent throughout: state the provision, state the benchmark, and reach a reasoned conclusion — distinguishing always between the text of the law and how it may be applied in practice.

IN FAIRNESS: WHAT THE PROCLAMATION GETS RIGHT

An impartial assessment records the provisions that are compatible or commendable, as well as those that are not. Several features of the Proclamation align with international standards and are to be welcomed:

- **Right to counsel.** Article 69(4) guarantees access to a lawyer at the preliminary investigation stage — an important safeguard against coerced confessions.
- **Suspension pending appeal.** Article 66(2) suspends the gravest convictions while an appeal is pending, reducing the risk of irreversible error.
- **Commutation of death sentences.** Article 72(2) preserves the power to commute a death sentence, consistent with the right to seek pardon or commutation under Article 6(4) of the ICCPR.
- **Witness protection.** The concern to protect witnesses, especially survivors of sexual violence, is a legitimate and indeed obligatory aim; the difficulty lies in the balance struck, not in the objective.

These provisions are genuine, and they show that the drafters were alert to rights considerations. They do not, however, cure the structural defects identified above. A law can contain real safeguards and still, on balance, fall short of the binding standard — and this one does.

[9]FDRE Constitution, art 93; ICCPR, art 4; UN Human Rights Committee, 'General Comment No 29: States of Emergency' (2001) UN Doc CCPR/C/21/Rev.1/Add.11.
[10]FDRE Constitution, arts 9, 13(2), 17, 19, 20, 22, 26, 28, 29 and 93.
[11]ICCPR, ratified by Ethiopia on 11 June 1993; see esp arts 4, 6, 7, 9, 14, 15, 18 and 19.
[12]African Charter on Human and Peoples' Rights (1981), arts 4, 6, 7 and 9; Protocol to the African Charter on the Rights of Women in Africa (Maputo Protocol, 2003), arts 4 and 11.
[13]See, among others, UN Human Rights Committee General Comments Nos 29, 32, 34 and 36; Konaté v Burkina Faso (African Court, 2014); and the mandatory-death-penalty line of authority (Kigula, Uganda; Kafantayeni, Malawi; Muruatetu, Kenya).

COMPATIBILITY SNAPSHOT

The full assessment rates every key provision against the applicable benchmarks. The snapshot below summarizes the highest-priority ratings. "High" denotes a serious incompatibility; "Medium" a significant concern; "Compatible" a provision that meets the standard.

Provision / theme	Rating	Principal standard engaged
Retroactivity (Art 83(2))	High	FDRE art 22; ICCPR art 15 (non-derogable)
Death penalty proliferation & mandatory death	High	ICCPR art 6(2), (1)
Vague 'enemy' / 'existence' definitions	High	Legality; ICCPR arts 15, 19
Speech & press offences (Arts 17, 18, 21, 22)	High	FDRE art 29; ICCPR art 19
Bail denial; in absentia; anonymous evidence	High	FDRE arts 19–20; ICCPR arts 9, 14
Warrantless arrest/search (Arts 76–77)	High	FDRE arts 17, 26; ICCPR arts 9, 17
Executive control of crimes, courts, media	High	Separation of powers; ICCPR art 14(1)
Universal personal jurisdiction (Art 4(1))	High	Federal competence; FDRE art 55(5)
Reversed burdens of proof	High	FDRE art 20(3); ICCPR art 14(2)
Disproportionate economic sentencing	Medium	Proportionality; ICCPR art 7
Regional genocide / war-crimes definitions	Medium	Genocide Convention; Rome Statute
Petroleum offences (corrected Art 58)	Compatible	Proportionate custodial scheme; no death
Right to counsel at investigation (Art 69(4))	Compatible	Compatible — welcome (FDRE art 20(5))
Commutation of death sentences (Art 72(2))	Compatible	Compatible — welcome (ICCPR art 6(4))

Key: High = serious incompatibility · Medium = significant concern · Compatible = meets the standard

WHAT SHOULD CHANGE

Though the defects identified are serious, incompatibilities could be resolved through legislative amendment, should the competent authorities choose to revise the Proclamation. The assessment's priority recommendations are the following.

Priority legislative amendments

- **Repeal the retroactivity clause.** Delete Article 83(2). Conduct predating entry into force may be prosecuted, if at all, only under the law in force at the time.
- **Restrict the death penalty.** Confine capital eligibility to crimes involving intentional killing, and remove the mandatory death sentence so that any capital sentence is discretionary and subject to full appellate review.
- **Cure the vague definitions.** Redraft "enemy" and "crime against existence" with an exhaustive, intent-based list, expressly excluding expression, scholarship, and non-violent economic activity.
- **Decriminalize protected speech.** Repeal the "dishonor," "belittling," and "false rumors" offences; retain only a narrowly drawn provision addressing incitement to imminent violence, and remove license revocation as a criminal sanction.
- **Restore fair-trial guarantees.** Replace categorical bail denial with individualized assessment; require genuine notice and a right to retrial for trials in absentia; prohibit conviction resting solely or

decisively on anonymous or untested evidence; require prior judicial warrants; and remove reversed burdens and conviction-contingent informant rewards.

- **Restore the separation of powers.** Return the definition of crimes and the creation of courts to primary legislation, media regulation to an independent body, and terrorist designation to a legislative council and court, each with reasons and judicial review.

Actions for external bodies

- **Ethiopian Human Rights Commission.** Review the Proclamation for conformity with the Constitution and Ethiopia's treaty obligations, monitor its application, and report publicly.[14]
- **Federal oversight bodies.** The House of Federation and Council of Constitutional Inquiry should examine the questions of federal competence, retroactivity, and constitutional supremacy that the Proclamation raises.
- **Regional and international mechanisms.** The African Commission on Human and Peoples' Rights and relevant UN mechanisms are invited to engage with the regional and federal authorities on the findings summarized here.
- **Media and civil society.** This briefing may be cited to inform public understanding of the Proclamation's human rights implications, with attribution to HRF-Ethiopia.

QUESTIONS AND ANSWERS

Is HRF-Ethiopia opposed to the Proclamation?

No. HRF-Ethiopia neither endorses nor opposes the law as a political matter. The assessment evaluates whether the law's specific mechanisms conform to binding human rights standards, and finds that several do not. It also identifies provisions that are compatible or commendable.

Does the security situation justify these measures?

A genuine security interest is legitimate and can be pursued through lawful means. But certain guarantees — above all the ban on retroactive punishment — may never be suspended, even in a declared emergency. And the Proclamation adopts emergency-like powers without declaring an emergency or accepting its safeguards.

Can a regional state enact a criminal code of this kind?

That is one of the questions the assessment raises. A regional law that asserts jurisdiction over foreign nationals abroad and defines core international crimes engages matters of predominantly federal competence under Article 55(5) of the Constitution, and is properly examined by the federal constitutional bodies.

What is the single most serious concern?

The retroactive application of serious offences — including capital crimes — to conduct dating back to 3 November 2020. Punishing people under laws that did not exist when they acted is prohibited absolutely, and this defect can be cured only by removing the retroactivity clause.

Are the problems fixable?

Yes. The assessment identifies targeted amendments that would bring the Proclamation into conformity with binding standards while preserving its stated legitimate protective purpose.

KEY MESSAGES

Five points capture the assessment, and may be quoted directly:

[14] Ethiopian Human Rights Commission Establishment Proclamation No 210/2000 (as amended by Proclamation No 1224/2020).

- **Unconstitutionality concern of the proclamation.** The Proclamation raises compatibility issues under Articles 55(5) and 9(3) of the FDRE Constitution, which fall within the purview of federal constitutional review bodies.
- **Retroactive punishment is the gravest defect.** Applying serious offences back to 2020 breaches a guarantee that may never be suspended, and can be cured only by repeal of the clause.
- **The death penalty is drawn far too widely.** Seventeen-plus capital articles, some for non-lethal conduct, and at least one mandatory death sentence, exceed the limits binding on Ethiopia.
- **Fair-trial and free-expression guarantees are eroded.** Vague offences, speech crimes, and stripped-down procedure together shift the determination of guilt away from independent courts.
- **The defects are serious but curable.** Targeted amendments can restore conformity while preserving the law's claimed protective purpose.

CONCLUSION

Proclamation No. 366/2026 claims a legitimate purpose. But as enacted it contains multiple serious incompatibilities with the Ethiopian Constitution and with the human rights treaties binding on Ethiopia — of which the retroactive punishment clause and the proliferation of the death penalty are the gravest. These defects are curable through the amendments summarized above, which would preserve the law's protective purpose while restoring its conformity with the rule of law. Human Rights First — Ethiopia offers this assessment in a constructive spirit and welcomes engagement from all concerned authorities.

> *A security law can protect a people without suspending their rights. The two are not in conflict — and where a law treats them as if they were, it is the law, not the rights that must give way.*

NOTES FOR EDITORS AND USERS OF THIS BRIEFING

- **About HRF-Ethiopia.** Human Rights First — Ethiopia is an independent, registered civil society organization engaged in human rights documentation, legal analysis, and institutional capacity-building.
- **Status of this document.** This is a summary briefing of a full 60-page legal assessment. The full assessment, with complete citations to the Proclamation, constitutional and treaty provisions, and comparative case law, is available on request.
- **Independence and method.** The assessment is independent, objective, and impartial. It takes no position on the underlying political dispute; it evaluates only the compatibility of the enacted text with binding human rights standards, and distinguishes throughout between the text of the law and its anticipated application.
- **Use and attribution.** This briefing may be quoted and cited with attribution to "Human Rights First — Ethiopia, Human Rights Assessment of Proclamation No. 366/2026 (2026)."
- **Selected sources.** The full assessment cites, among others, the FDRE Constitution; the ICCPR and ICESCR; the African Charter and the Maputo Protocol; the Genocide Convention and Rome Statute; the General Comments of the UN Human Rights Committee; and comparative authorities including Konaté v Burkina Faso and the mandatory-death-penalty decisions of the Ugandan, Malawian, and Kenyan courts.

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