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Sincerely,
Kaitlyn Rice

Vienna, August 2020

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LIST OF ABBREVIATIONS

ACHPR	African Charter on Human and Peoples' Rights
ATP	Anti-Terrorism Proclamation
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CSO	Civil Society Organization
CSO law	Charities and Societies Proclamation
EARO	East Africa Regional Office
EBA	Ethiopian Broadcast Authority
EHRC	Ethiopian Human Rights Commission
EPRDF	Ethiopian People's Revolutionary Democratic Front
ECHR	European Convention on Human Rights
GERD	Grand Ethiopian Renaissance Dam
the Guiding Principles	Guiding Principles on Business and Human Rights
the Proclamation	Hate Speech and Disinformation Prevention and Suppression Proclamation No. 1185/2020
ICCPR	International Covenant on Civil and Political Rights
ICT	Information and Communications Technology
NGO	Non-Governmental Organization
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organisation for Security and Co-operation in Europe
OLF	Oromo Liberation Front
OMN	Oromo Media Network
RFA	Rights Framed Approach
SNNPR	Southern Nations, Nationalities and People's Region
the Special Rapporteur	Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
TPLF	Tigray People's Liberation Front
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organisation
the UN Strategy	United Nations Strategy and Plan of Action on Hate Speech

Chapter 1
Introduction to Research

Ethiopia's diverse and rich history has not necessarily been recognized for its democratic rule in the past, but, since the election of Prime Minister Dr. Abiy Ahmed Ali in April 2018, the State has set itself forth on a path in pursuit of democracy. One major way it has promoted democracy is by enhancing its respect for the freedom of expression. As Dr. Abiy has implemented numerous democratic reforms, which this paper will elaborate on at a later point, outside reactions have been overwhelmingly positive, most notable of all being the selection of Dr. Abiy as the recipient of the 2019 Nobel Peace Prize. However, inside Ethiopia's borders, society is struggling to fully enjoy their new democratic reality. Fear from past repressive leaders lingers, suppressing the voices of those such as civil society actors advocating for good in their community. This leaves gaps for those who live without fear to fill, and, as this paper will show, those gaps are far too often being filled by voices promulgating hate and division. By contextualizing the present, and by analyzing two online social media posts, this thesis will help determine where the limits of the freedom of expression are, so vital to a democratic society, in an environment like Ethiopia.

1.1: The value of researching Freedom of Expression in Ethiopia

In addition to being a cornerstone of democracy (a point that will be directly addressed in Chapter 2), the freedom of expression is also widely considered a fundamental freedom, particularly because it is interconnected to other rights. In the Ethiopian context, the violation of the freedom of expression has led to hundreds of human rights violations over the years, including deaths and injuries, loss of property, closure and disruption of businesses, and displacement. These rights span the human rights spectrum from civil and politic rights to economic, social and cultural rights. The United Nations (UN) High Commissioner for Human Rights, Michelle Bachelet, has identified economic, cultural and social rights as a primary focus for the UN Office of the High Commissioner for Human Right's (OHCHR) activities to consider in their work. In a 2019 address at the Harvard

Kennedy School of Government, Bachelet states, "…I would argue that we cannot effectively deliver on any of those issues ["climate change, vast movement of people, rising tensions and conflicts of sustainable development"] unless we uphold and promote the full range of economic, social, cultural, civil and political rights."[1] In her speech, the High Commissioner argues for the end of "working in silos – as women's advocates, refugee advocates, indigenous advocates", and instead calls "to build new partnerships – with businesses, with trade unions, with religious groups, with educators and others – to expand the constituency for human rights."[2] It is in this spirit that this research is conducted. By taking an interdisciplinary approach to the research, the findings and recommendations break out of individual silos that risk appealing only to one actor.

In addition to the High Commissioner's address, the UN Strategy and Plan of Action on Hate Speech (herein after, the UN Strategy) lists several Key Commitments for the UN to take with relation to hate speech. These include, but are not limited to, the need to monitor and analyze hate speech, and address root causes, drivers and actors of hate speech.[3] Research like this thesis helps take actions like those suggested in the UN's Strategy and can contribute to the work of documentation, analysis and increasing awareness and understanding of phenomena that impact the enjoyment of human rights.

There are more tangible reasons this research is important now, too. Digital communication is rapidly expanding across Ethiopia, so the research will identify ways it is already being used and/or misused. Though the use of mobile technology is still relatively low in Ethiopia, rapid growth in usage warrants a closer look at who is using it and how they are engaging with it. Digital technology also affects those who do not have direct access to it,

[1] M. Bachelet, 'Human Rights – and why they matter', [speech], 18 October 2019, Transcript available at https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25171&LangID=E.
[2] ibid.
[3] United Nations, 'UN Strategy and Plan of Action on Hate Speech', May 2019, Available from https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20Plan%20of%20Action%20on%20Hate%20Speech%2018%20June%20SYNOPSIS.pdf (accessed 22 April 2020).

as the violence that has occurred in Ethiopia in relation to social media posts shows; this paper will analyze the cause and effect relationship. Through the writing, new ways of and the importance of increasing digital literacy across Ethiopia will surface. The aim of promoting digital literacy is to mitigate the negative effects freedom of expression can have on the enjoyment of human rights.

"The problem is not with our knowing, but with our doing."[4] We have the information. We have access to it. Technology gives us new power to do something about it. The Internet is a tool unlike anything before, providing opportunities for both out-spoken activism and passive absorption of information and trending topics. But it is what we make of it. What is missing in the literature around the right to freedom of expression is an in-depth, interdisciplinary exploration of the intersections between the human rights as prescribed by international law, the cultural and historical contexts that determine peoples' abilities to enjoy those rights, and the modern platforms on which the right is being exercised (or not). The Internet is an inherent part of this 21st Century exploration of the "Right to Freedom of Expression" discussion, which is a discussion that has occurred repeatedly since Socrates drank hemlock in 399BC because he would rather die than be sentenced to a life of "minding his own business and avoiding saying anything controversial."[5] The Internet must be included for the modern discussion, but the question about how to enjoy the right to freedom of expression is still one of human nature.

The need for exploring these intersections is true even in places like Ethiopia where Internet penetration is, compared to other parts of the world, relatively low. While explorations of the relationship between online hate speech and real world violence have been conducted before, this paper contributes new material to the conversation because of its focus on Ethiopia. Most previous research has largely centered in western communities

[4] J. Bridle, *New Dark Age: Technologies and the end of the future*, United Kingdom, Verso, 2018, p. 244.
[5] N. Warburton, *Free Speech: A very short introduction,* New York, Oxford University Press, 2009, p. 99.

such as Germany[6], Finland[7], New Zealand[8], the United States[9] and the United Kingdom.[10] Ethiopia's history has led to a curious present, fraught with exciting political shifts but also with concerning human rights violations. Because of its past, a lingering fear still controls many people's behavior, which hinders their ability to proactively engage with the democratic process. In order to address this, the paper will examine the psychological effects of fear, and it will discuss ways in which the Government can overcome it. The paper also considers the role of social media in exacerbating fear, and what strategies can mitigate that fear. In a country where Internet usage is increasing at exponential rates, and a young population is learning how to manage ethnic division in an increasingly open society, social media offers a platform on which ideas and values can be openly exchanged. The moment in which Ethiopians found themselves after Dr. Abiy Ahmed was appointed to Prime Minister in April 2018 has created a unique, often charged environment that impacts the ways in which social media are used today. This paper considers the recent changes Abiy has made to legislature along with the historical realities Ethiopians are emerging from. The result is a meeting of diverse experiences, values and goals, and social media is an increasingly popular stage on which this meeting convenes.

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[6] K. Müller, and C. Schwarz, 'Fanning the Flames of Hate: Social media and hate crime', 7 December 2017, Available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3082972 (accessed 29 June 2020).

[7] T. Savimäki, M. Kaakinen, P. Räsänen et al, "Disquieted by Online Hate: Negative experiences of Finnish adolescents and young adults", *European Journal on Criminal Policy and Research*, vol. 26, 2018, p. 23-37, Available from https://link.springer.com/article/10.1007%2Fs10610-018-9393-2 (accessed 29 June 2020).

[8] E. Pacheco, and N. Melhuish, 'Online Hate Speech: A survey on personal experiences and exposure among adult New Zealanders', Netsafe, 2018, Available from https://pdfs.semanticscholar.org/7527/eaf151337a3f0c4b3e3ff64946049ac6b3f9.pdf?_ga=2.69437200.1885276060.1593436546-1200518766.1593436546 (accessed 29 June 2020).

[9] M. Costello, J. Hawdon, T. Ratliff et al, 'Who Views Online Extremism? Individual attributes leading to exposure', *Computers in Human Behavior*, vol. 63, 2016, p. 311-320, Available from https://doi.org/10.1016/j.chb.2016.05.033 (accessed 29 June 2020).

[10] A. Oksanen, J. Hawdon, and P. Räsänen, 'Online extremism and online hate exposure among adolescents and young adults in four nations', *Nordicom-Information*, vol. 37, 2015, p. 29-37, Available from https://pdfs.semanticscholar.org/6915/dcbb079234cdd83170571fe340d9a8471ef8.pdf?_ga=2.66830382.1885276060.1593436546-1200518766.1593436546 (accessed 29 June 2020).

1.2: Research question

To find focus within this complex topic, the following question will guide the research: What are the government obligations to balance freedom of expression and protection against online hate speech in the current context of political transition in Ethiopia?

1.3: Methodology

An interdisciplinary approach will be followed to provide a holistic answer to the research question. The research will use data gathered from expert interviews, as well as primary and secondary sources. It will also utilize analysis of social media posts, specifically found from Facebook, which will be done using the Rabat threshold. The Rabat threshold provides a systematic template through which analysis can be conducted, and it will be described in more detail in Chapter 2. Having conducted research while working for the UN Office of the High Commissioner for Human Rights - East Africa Regional Office (UN OHCHR-EARO) in Addis Ababa, Ethiopia, the author will use primary data sources collected with a team of colleagues. These colleagues are the same that were interviewed to provide expert inputs to this research. They will be referred to as Expert 1, Expert 2, and Expert 3. It is important to note that translations used were those conducted by native speakers. This thesis was inspired by the work in the UN OHCHR-EARO, and expands upon original research by connecting primary data to the larger societal context in which expression, particularly online, is taking place.

To understand the drivers behind instances of online hate speech, several disciplines will be drawn upon, including international human rights standards around freedom of expression, history, psychology, political science, and digital trends. Rich in history, Ethiopia exists today as a product of its past. Secondary sources about Ethiopia – particularly those that detail its history of ethnic and religious identities – will be referenced in order to shape the context these rights are functioning within. It is also important to understand how diverse

this nation of over 112,000,000 people[11] is: over 90 ethnic groups and over 80 languages are spoken throughout the country.[12] A deeply religious country, no paper about Ethiopia would be complete without helping the reader understand the influence religion plays. So as not to simply re-document Ethiopian history, which is already well-documented, ethnic and religious histories will be considered primarily through the lens of how freedom of expression has played a role in shaping social movements.

To take the conversation into the current state of affairs, a psychological lens will be used. After various forms of repression at the hands of the State for approximately 40 years, deep psychological effects are important to consider. It helps explain the motivations behind certain messages, and why people respond to them the ways they do. The psychology section in Chapter 3 will draw on secondary sources that discuss the way the brain processes emotion and makes sense of the world. It will also utilize research conducted on recovery from trauma. This is relevant because, as context will make clear, freedom of expression was not a right that could be exercised; those who did openly challenge the government faced imprisonment, ill treatment and possibly torture, and those who did not openly challenge the government repressed their feelings out of fear for punishment. With a clearer understanding of the psychology behind this behaviour and the methods it takes to overcome traumatic experiences, better recommendations can be made to the State and any other actors engaged in the promotion of freedom of expression.

Examples of hate speech, primarily from online, social media platforms, and the analysis of these statements will be used to determine if there is a linkage between hate speech and the rise in violence Ethiopia is experiencing. The examples used will come from within a specific time frame: when Prime Minister Abiy took office in April 2018 until Parliament's passing of the Hate Speech and Disinformation Prevention and Suppression Proclamation

[11] The World Bank, 'Ethiopia Data', 2019, Available from https://data.worldbank.org/country/Ethiopia (accessed 20 February 2020).
[12] Minority Rights Group International, 'Ethiopia: Minorities and indigenous peoples', January 2018, Available from https://minorityrights.org/country/ethiopia/ (accessed 20 April 2020).

No. 1185/2020 in February 2020. As hate speech and conflict are on-going phenomena, this set time frame is important so the reader understands that a more recent incident is not being left out of the research on purpose. A challenge to using hate speech from Ethiopia is that statements are often made in Amharic or Oromo languages, so a translated version will be used. The UN OHCHR-EARO has a collection of hate speech instances that were analyzed and translated by native speakers. To conduct the analysis of the speech instances, the Rabat threshold was applied. The Rabat threshold will be applied to two instances of expression on Facebook, one of which will utilize translations and findings done by a native Amharic speaker, and the other is of an English post and will be analyzed by the author, a native English speaker.

The rights framed approach is a suggested avenue for this type of holistic research to be applied to. The rights framed approach (RFA) is "a *tool*, used to serve an NGO's policy", and it is "driven by the ideological underpinnings of individual NGOs."[13] By incorporating the language of rights, the RFA offers a way for NGOs to "utilise the power of the idea of universal rights to motivate others, but only when it is considered to be strategically advantageous to specific campaign contexts."[14] By advocating for a RFA as opposed to the more traditional rights-based approach, priority is placed on the agency and mission of an individual non-governmental organisation (NGO) or other activist actor(s) aiming to promote human dignity through a specific movement. As this research will demonstrate, contextualization of an issue is key in determining methods for how to overcome it. Contextualizing the issue at hand – in this case, online hate speech – is key to finding a sustainable solution. The RFA enables actors working on systemic change to apply a similar method, because it allows the actor to utilize rights that fit into the mission of that particular movement. Actors can then employ messages that fit to the community they are working in, rather than trying to get their community to understand and/or value human

[13] H. Miller, 'From 'Rights-Based' to 'Rights-Framed' Approaches: A social constructionist view of human rights practice', *The International Journal of Human Rights*, vol. 14, no. 6, 2010, p. 923, Available from http://dx.doi.org/10.1080/13642987.2010.512136 (accessed 3 August 2020).
[14] ibid.

rights specific language. A RFA should, in theory, change: "RFAs should exist in the plural."[15] That is, the design of a campaign will vary depending on the needs of the community it is being implemented in. For example, answering the question of *what causes online hate speech* requires an in-depth look at the historical and psychological realities of the community that hate speech is occurring in. The RFA then allows actors involved in social change movements (in this case, a social movement to combat online hate speech) to respond to the root historical and psychological themes. Because these themes are likely to differ from community to community, a different RFA may be required in order for the campaign to be successful in eradicating online hate speech.

Finally, a legal approach will be used in order to analyze the State's responses to hate speech. In particular, the legal lens will help analyze Ethiopia's Hate Speech and Disinformation Prevention and Suppression Proclamation No. 1185/2020 ("the Proclamation"), which Parliament passed in February 2020. The initial draft of the Proclamation was met with criticism from international experts on the Freedom of Expression, but the final Proclamation was passed with minimal attention to those criticisms. This paper will summarize the criticisms, and then it will discuss ways in which the government of Ethiopia can still operate within the boundaries of international human rights law when applying the Proclamation.

Altogether, this interdisciplinary approach should enable the reader to approach the issue of hate speech and its effects in a holistic manner. The paper aims to consider the complexities that breed hateful language, the impact it can have on human rights, and the responsible reactions of the State who is meant to protect human rights.

[15] Miller, p. 925.

1.4: Challenges

Conducting research about hate speech online in Ethiopia is not done without a number of challenges. The most prominent of which was that of language, being that many social media posts that could potentially amount to hate speech were written in Amharic or Oromo. Because of this, translation and Rabat threshold evaluations conducted by native speakers were relied upon for this research. Because it was primarily one professional conducting the analysis using the Rabat threshold, that does help keep the evaluation consistent. One Facebook post written in English will be evaluated by the author using the same Rabat threshold chart as that which was used for the Amharic Facebook post.

Another challenge in conducting the research was in defining an appropriate time frame and staying within that scope, even while the reality on the ground and the enjoyment of the right to freedom of expression changes rapidly at the time of writing the thesis. The choice to begin when Abiy took office in April 2018 was made partly because the freedom of expression in Ethiopia is well documented from before his rise to power. Examples include research on the enjoyment of the right to freedom of expression in times of emergency[16], the jurisprudential realities for the right to freedom of expression[17], and reports submitted to international bodies, including a report from ARTICLE 19 for the universal periodic review of Ethiopia in 2014.[18] Because Abiy made drastic policy changes after coming into power, the decision to analyze the right to freedom of expression during his first two years in office is meant to add academic research to a conversation that, at present, largely consists of reports from large international organizations and non-governmental organizations (NGOs). The decision to cap the research with the passing of the Hate Speech and Disinformation

[16] E.F.Tiruneh, Freedom of Expression under a state of emergency: The case of Ethiopia. Master Thesis, Austrian Academy of Sciences, 2018, Available from https://www.researchgate.net/publication/335260230_Freedom_of_Expression_under_a_State_of_Emergency_The_Case_of_Ethiopia, (accessed 6 April 2020).

[17] G. Timothewos, 'Freedom of Expression in Ethiopia: The jurisprudential dearth', *Mizan Law Review*, vol. 4, no. 2, 2010, p. 201-231.

[18] ARTICLE 19, 'Ethiopia: ARTICLE 19 submission to the UN Universal Periodic Review of Ethiopia', 16 September 2013, Available from https://www.article19.org/resources/ethiopia-article-19-submission-un-universal-periodic-review-ethiopia/ (accessed 6 April 2020).

Prevention and Suppression Proclamation in February 2020 is merely due to scope and capacity for this thesis. At one point during this writing, Ethiopia experienced an Internet shut down due to violence and unrest in the city. It is clear that the conversation about the right to freedom of expression should be continued, and recommendations will be made in order to suggest directions for that continuation.

1.5: Paper Outline

In order to accomplish its aims, the paper will be broken into sections that begin with a foundation on which it can grow. Meaning, a general section on what the freedom of expression is, a historical contextualization of freedom of expression in Ethiopia, and the definition of hate speech will be shared first. These will help the reader understand the conversations and contexts from which the more specific questions around hate speech in Ethiopia arise and are operating in.

With the foundation laid, the paper will then begin to narrow its scope into the Ethiopian context. It will use specific examples of speech and consider their impacts on the enjoyment of human rights. The Rabat Threshold will help determine if and to what extent certain examples of speech qualify as hate speech. Then a closer look at what the Ethiopian government's response to this speech will highlight the State's role in protecting the freedom of expression. This will include analysis of certain actions Ethiopia has taken, including Internet shut downs and the passing of the Hate Speech and Disinformation Prevention and Suppression Proclamation. The analysis aims to determine the ways in which the State has either fulfilled or violated their obligations to protect the freedom of expression under international law.

Finally, the paper will conclude with summary observations and recommendations for future research.

Chapter 2

Laying the foundation, understanding the Freedom of Expression

2.1: How and where Freedom of Expression is defined

The right to freedom of expression is enshrined in almost every major international and continental human rights document that exists. It can be found in the Universal Declaration of Human Rights (UDHR), article 19; the International Covenant on Civil and Political Rights (ICCPR), article 19; the African Charter on Human and Peoples' Rights, article 9; the European Convention for the Protection of Human Rights and Fundamental Freedoms, article 10; the American Convention on Human Rights, article 13; the ASEAN Human Rights Declaration, article 23; and is even embedded in the African Commission on Human and Peoples' Rights' Repealing Criminal Defamation Law, Resolution 169.[19] Of these that Ethiopia can be a signing party to – the UDHR, the ICCPR, and the African Charter on Human and Peoples' Rights and its Commission's Resolution 169 – Ethiopia has signed all four documents.[20] As a signatory party to these international agreements, they are "an integral part of the land" as stated in the 1995 Ethiopian Constitution, article 9(4).[21] Ideally this means that Ethiopia will respect and protect the right to the freedom of expression; as this is what they have agreed to do by signing the international agreements and by including it in their constitution. Practicing respect and protection for this intersecting right can be challenging, and one reason for that is because of how the language defining the right is interpreted.

The International Covenant on Civil and Political Rights (ICCPR), a binding treaty ratifying states are obliged to implement in national legislation, is one of the primary

[19] UNESCO, 'International standards on Freedom of Expression', Available from https://en.unesco.org/sites/default/files/international_standards_on_freedom_of_expression_eng.pdf (accessed 16 February 2020).
[20] OHCHR, 'Claiming Human Rights – in Ethiopia,' 28 January 2010, Available from http://www.claiminghumanrights.org/ethiopia.html (accessed 16 February 2020).
[21] Government of Ethiopia, *Constitution of the Federal Democratic Republic of Ethiopia*, 1995.

sources for the definition of the right to freedom of opinion and expression. Article 19 states:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as provided by law and are necessary:
    a. For respect of the rights or reputations of others;
    b. For the protection of national security or of public order (ordre public), or of public health or morals.[22]

Article 20 continues to provide additional obligations around the rights granted in Article 19:

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.[23]

Beyond the ICCPR, wording of the right to freedom of expression varies slightly. The African Charter on Human and Peoples' Rights (ACHPR), for example, simply states in Article 9 that "1. Every individual shall have the right to receive information." and "2. Every individual shall have the right to express and disseminate his opinions within the

[22] *International Covenant on Civil and Political Rights* (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, Article 19.
[23] ibid., Article 20.

law."[24] Article 10 of the European Convention on Human Rights (ECHR) provides a more in depth definition more closely mirroring that of the ICCPR:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.[25]

Outside of these wording differences, each document generally overlaps in agreement on: "everyone shall have the right to freedom of expression" and "everyone shall have the right to hold opinions without interference."[26] Herein lies an important distinction, that the right to hold opinions is an unlimited right; a person can freely hold whatever opinion they wish without interference or consequence. An individual can hold the most offensive thoughts, as long as they stay within the confines of that individual's brain. Once those thoughts leave the brain and are expressed to a wider audience, certain limitations can then be applied because the ousted opinion has now been expressed to a potential audience. The context that certain speech occurs in, who says it, when it was said, and what it is about or

[24] African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) Article 9.
[25] European Convention on Human Rights (adopted 4 November 1950, entered into force 3 September 1953) Article 10.
[26] Government of Ethiopia, *Constitution of the Federal Democratic Republic of Ethiopia*, 1995.

who it targets are all factors that can be evaluated when determining whether speech is either protected by or violates the right to freedom of expression. Evaluating speech is an exercise in contextualization, which is why protecting the right to freedom of expression can be and often is a complicated and contestable exercise.

What is not complicated however is the nearly global consensus that the right to freedom of expression is a cornerstone of democracy. Amnesty International says this right "is central to living in an open and fair society; one in which people can access justice and enjoy their human rights."[27] The Organisation for Security and Co-operation in Europe's (OSCE) Representative on Freedom of the Media's mandate says, "The OSCE participating States consider freedom of expression a fundamental and internationally recognized human right and a basic component of a democratic society."[28] The UN Special Rapporteur on the Freedom of Opinion and Expression says the "democratic process cannot survive without the watchdog role of a free and independent press."[29] Human Rights Watch claims free speech "is like a bellwether" in that, depending on how states manage it, it is often an indicator for how the state will deal with the human rights of individuals from "minority, disfavoured, or even obnoxious views".[30] These are just a few of the examples from international organizations that advocate for and support states in implementing freedom of expression. These statements also offer insights into how this right is connected to a democratic society that respects human rights.

Despite this consensus, the freedom of expression remains a highly contested right no matter which part of the globe it is being discussed in. This is because, as was mentioned briefly above, limitations are contextual to the time, place, and group of people a specific

[27] Amnesty International, 'What We Do', [web page], Accessible at https://www.amnesty.org/en/what-we-do/freedom-of-expression/ (accessed 6 July 2020).
[28] Organisation for Security and Co-operation in Europe, 'Mandate of the OSCE Representative on Freedom of the Media', [web page], Accessible at https://www.osce.org/fom/106280 (accessed 21 April 2020).
[29] D. Kaye, 'Visit to Ethiopia 2-9 December 2019 - End of Mission Statement', 9 December 2019, Available from https://ethiopia.un.org/en/27708-end-mission-statement-special-rapporteur-freedom-expression-ethiopia (accessed 9 December 2019).
[30] Human Rights Watch, 'Free Speech', [web page], Accessible at https://www.hrw.org/topic/free-speech (accessed 21 April 2020).

instance of expression may affect. There is no one universal way to ensure or limit the freedom of expression. International descriptions of limitations include: "It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) for respect of the right or reputations of others; (b) for the protection of national security or of public order, or of public health or morals."[31] The African Charter on Human and Peoples' Rights says, "Every individual shall have the right to express and disseminate his opinions within the law."[32] To define specific instances when expression may disrespect the "right or reputation of others" and/or to determine when expression of opinion is or is not "within the law" is a disputable matter. States have attempted to resolve disputes in a number of different ways, including through the court system, by drafting and implementing legislation, by shutting down the Internet, and even taxing social media usage.[33]

International Organizations do their best to advise states on how best to balance the right to freely express one's self within reasonable limitations. A joint statement, the "Joint Declaration on Freedom of Expression and responses to conflict situations" made by the UN Special Rapporteur on Freedom of Opinion and Expression (herein referred to as the "Special Rapporteur"), the OSCE Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression, and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information outlines appropriate state responses in times that may call for limiting the freedom of expression. First is a reminder to states of their duty to respect freedom of expression and that they have a "positive obligation to take

[31] *International Covenant on Civil and Political Rights*, Article 19.
[32] African Charter on Human and Peoples' Rights, Article 9.
[33] International Center for Not-for-Profit Law, 'Civic Freedom Digest: Trends in the Digital Age', October 2019, Available from https://mk0rofifiqa2w3u89nud.kinstacdn.com/wp-content/uploads/10.2019-CFM-Trend-Digital-vf.2.pdf?_ga=2.159925757.1327852199.1582371099-47098711.1582371099 (accessed 21 April 2020).

effective measures to protect freedom of expression against attacks by third parties."[34] The statement then goes on to list both appropriate and inappropriate responses states can take when responding to the freedom of expression. States should "not respond to crisis situations by adopting additional restrictions," administrative measures to curb freedom of expression should "be applied by an independent body," and states should "ensure that all groups in society have access to opportunities to make their voices heard."[35] The joint statement is drafted in such a way that any state from any part of the globe could reasonably apply the recommendations that have been listed within the statement.

Yet, despite these recommendations published online so any state could access them, there are many examples of overly restrictive measures states take to curb the freedom of expression. ARTICLE 19, an NGO that advocates "for a world where all people everywhere can freely express themselves and actively engage in public life without fear of discrimination"[36], follows freedom of expression-related trends worldwide and produces reports that analyze situations of the right. For example, Article 19's analysis of Myanmar's current draft of an anti hate-speech law finds that drafters "rely heavily on censorship and criminal penalties as a means of combating hate speech."[37] In France, a bill proposed to counter online hatred "entrenches private censorship of a wide range of illegal content at the expense of the courts," and "the sanctions meted out to eradicate online 'hatred' are disproportionate."[38] In Tunisia, concerns over amendments to the country's electoral laws were raised for their chance to limit free and open debate during elections, which is an

[34] 'Joint Declaration on Freedom of Expression and responses to conflict situations', 4 May 2015, Available from https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15921 (accessed 21 April 2020).
[35] ibid.
[36] ARTICLE 19, 'About Us', [web page], Available from https://www.article19.org/about-us/ (accessed 21 April 2020).
[37] ARTICLE 19, 'Myanmar Government's Approach to Hate Speech Fundamentally Flawed', [report], 4 February 2020, Available from https://www.article19.org/resources/myanmar-governments-approach-to-hate-speech-fundamentally-flawed/ (accessed 21 April 2020).
[38] ARTICLE 19, 'France: Analysis of draft Hate Speech Bill', [report], 3 July 2019, Available from https://www.article19.org/resources/france-analysis-of-draft-hate-speech-bill/ (accessed 21 April 2020).

integral part of the democratic election process.[39] Ethiopia's newly passed anti-hate speech proclamation has also garnered attention from ARTICLE 19, who has concerns about the bill. A more detailed analysis of Ethiopia's proclamation will occur in Chapter 5 of the paper. These real-world examples evoke questions around responsibility and how to effectively protect the right to freedom of expression.

2.2: Who is responsible for protecting, and what should be protected?

Given the room for interpretation that States could make, it is important to remember that international standards around how to protect and whose responsibility it is to protect the freedom of expression have been discussed and agreed upon. Central among these is the Human Rights Committee's General Comment No. 34, published in September 2011. In the General Comment, the Committee states that the "Freedom of expression is a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights."[40] The Committee clearly states that the "obligation to respect freedoms of opinion and expression is binding on every State party as a whole" and that all levels, be it national, regional or local, of government "are in a position to engage the responsibility of the State party."[41] Ethiopia has managed to enshrine the right to freedom of expression in its domestic law, at least according to the Constitution, which aligns Ethiopia with the Committee's recommendation in paragraph 8. Here they require States to "ensure that the rights contained in article 19 of the Covenant are given effect to in the domestic law of the State".[42] How Ethiopia's respect for article 19 of the Covenant is experienced by rights-holders on the ground has changed drastically over time, especially since Dr. Abiy was elected as Prime Minister in 2018. The role of

[39] ARTICLE 19, 'Tunisia: Latest amendments to electoral law are unconstitutional and violate the right to freedom of expression', [report], 27 June 2019, Available from https://www.article19.org/resources/tunisia-latest-amendments-to-electoral-law-represent-are-unconstitutional-and-violate-the-right-to-freedom-of-expression/ (accessed 21 April 2020).
[40] United Nations Human Rights Committee, *General Comment No. 34: Article 19: Freedoms of opinion and expression (Article 3)*, 12 September 2011, UN Doc, CCPR/C/GC/34, Available from https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf (accessed 20 March 2020).
[41] ibid., Article 7.
[42] ibid., Article 8.

freedom of expression, the government and rights holders will be discussed in more detail in Chapter 3.

As written, article 19 of the ICCPR is intended to grant "Everyone" the right to the freedom of expression, but the international community does agree on the need to find balance "between the freedom of expression imperative and the interests of minorities who often need special protections in order to attain the same level of freedom as the majority group."[43] General Comment 34 clarifies that article 19, paragraph 2 of the ICCPR "includes the expression and receipt of communications of every form of idea and opinion capable of transmission to others, subject to the provisions in article 19, paragraph 3, and article 20." Protection "includes political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse." The Committee continues to clarify that paragraph 2 "embraces even expression that may be regarded as deeply offensive," though should expression offend outside the limits provided for in the provisions of article 19, paragraph 3 and article 20 then they may be restricted.[44] Expression is protected in its many forms, according to General Comment 34, including "spoken, written and sign language and such non-verbal expression as images and objects of art. Means of expression include books, newspapers, pamphlets, posters, banners, dress and legal submissions. They include all forms of audio-visual as well as electronic and internet-based modes of expression."[45] This last sentence is especially important for the debate around online hate speech, as it confirms that the international community is well aware of the use of the Internet as an arena for disseminating speech. With its mention here in the General Comment, the Committee opens up the very important conversation of the protection of expression online.

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[43] M.A. Civic, 'The Right to Freedom of Expression as principal component of the preservation of personal dignity: An argument for international protection within all nations and across all borders', *Penn Law: Legal Scholarship Repository,* vol. 4, 1997, p. 132, Available from https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1039&context=jlasc (accessed 5 May 2020).

[44] United Nations Human Rights Committee, *General Comment No. 34: Article 19: Freedoms of opinion and expression (para. 11).*

[45] ibid., *(para 12).*

A number of key documents have been released by the international community to further the on-going debate about what it means to be able to freely express one's self online and who is responsible for maintaining an arena in which free speech can be practiced responsibly. Among them are the Guiding Principles on Business and Human Rights (the Guiding Principles) and reports from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (hereinafter referred to as the Special Rapporteur). The Guiding Principles, published by the OHCHR, and endorsed by the UN, provide a framework for how the private sector can apply human rights standards and how they can "comply with all applicable laws and to respect human rights"[46] in all levels of their work. The Guiding Principles are important for this conversation because much online expression takes place on privately held social media sites. In addition to the Guiding Principles, the Special Rapporteur's 2018 report highlights the relationship between human rights law as it applies to the "regulation of user-generated online content."[47] In his report, the Special Rapporteur identifies three types of actors: these are the States, the information and communications technology (ICT) sector companies, and the Internet users. With a nod to the human rights that this topic touches upon, "including rights to privacy, religious freedom and belief, opinion and expression, assembly and association, and public participation, among others"[48], the report first clarifies which State obligations are in play.

Firstly, States should, in order to adhere to international human rights law, "promote, *inter alia,* media diversity and independence and access to information"; States are urged to "promote universal Internet access"; and States "also have a duty to ensure that private

[46] United Nations Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights*, 2011, HR/PUB/11/04, Available from https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf (accessed 7 May 2020).
[47] United Nations Human Rights Committee, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, 6 April 2018, UN doc, A/HRC/38/35, Available from https://undocs.org/en/A/HRC/38/35 (accessed 7 May 2020).
[48] ibid., *(para. 5*).

entities do not interfere with the freedoms of opinion and expression."[49] In order for a State to rightfully interfere with expression, they must ensure, per article 19 of the ICCPR, that their reasons fall within legality, necessity and proportionality, and legitimacy.[50] The report's inclusion of State obligations serves as a reminder of what international human rights law requires in order for the State to sufficiently respect the right to freedom of expression. The Guiding Principles clearly places the responsibility on States to "protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies"[51]. The Guiding Principles acknowledge that the State is the primary duty-bearer for upholding international human rights law. The Guiding Principles go on to say that the closer the State is to being responsible for the company, the more power they have to require human rights compliance.[52] This leaves those companies that are further away from State control with less concrete responsibility to respect and apply human rights practices and policies. The Special Rapporteur's 2018 report dives into this complication further, stating that while "each company is committed in principle to comply with the local law where it does business"[53], complications arise "when relevant State law is vague, subject to varying interpretations or inconsistent with human rights law."[54] This complication will be explored further in Chapter 5 of the thesis when Ethiopia's newest anti-hate speech bill is analyzed.

This leads to the next actor, ICT companies, and, more specifically, Internet companies, who also have responsibilities for protecting the right to freedom of expression. The Special Rapporteur here refers to the Guiding Principles, which, despite their being a non-binding document, the Special Rapporteur argues that the role of Internet companies has become a

[49] United Nations Human Rights Committee, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, (para. 6)*.
[50] ibid., (*para. 7*).
[51] United Nations Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights*.
[52] ibid., (*para. 7)*.
[53] United Nations Human Rights Committee, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, *(para. 22)*.
[54] ibid., (*para. 23*).

"central platform for discussion and debate", and that Internet companies "collect and retain the personal data of billions of individuals"[55], that companies should apply human rights principles in their operations, though few do.[56] The Guiding Principles state that business enterprises should respect human rights, meaning they should "avoid infringing on the human rights of others" and they should "address adverse human rights impacts with which they are involved."[57] According to the Guiding Principles, a business may not simply "undertake other commitments or activities to support and promote human rights" in order to "offset a failure to respect human rights throughout their operations."[58] That is to say, a company's corporate responsibility lies in taking steps to implement tangible human rights measures into the company's work, not serve merely as a positive Public Relations office. Mindful of the variation business enterprises have with regards to their potential for both impact and capacity to responsibly manage and respect human rights, the Guiding Principles go on to clarify the ways in which business enterprises should commit to being responsible protectors of human rights.

The rapid growth of Internet usage is no secret. As people increasingly access the largely privately managed online sphere strengthens the need for considering the role of private actors as human rights protectors. As of April 2020 there are 4.57 billion active Internet users and 3.81 billion active social media users.[59] The African continent is where much of that growth is taking place. A 2019 report from the Council on Foreign Relations states that in June 2019, "more people in Africa accessed the internet than did in Latin America, North America, or the Middle East. There were 525 million internet users in Africa, 447 million in Latin American and the Caribbean, 328 million in North America, and 174 million in the Middle East. About 40 percent of all Africans were online last month, but usage varies

[55] United Nations Human Rights Committee, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, *(para. 9)*.
[56] ibid., (*para. 10*).
[57] United Nations Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights*, (*para 11*).
[58] ibid.
[59] J. Clement, 'Global Digital Population as of April 2020', Statista, 24 April 2020, Available from https://www.statista.com/statistics/617136/digital-population-worldwide/ (accessed 22 May 2020).

from country to country."[60] 83% of Kenya's population was, for example, connected, while 60% of Nigeria's population accessed the Internet.[61] As of 2017, the World Bank cites Ethiopia's Internet usage at 18.6% of its population. More importantly is the rate of growth with which Ethiopians are accessing the Internet, best demonstrated in graph form:

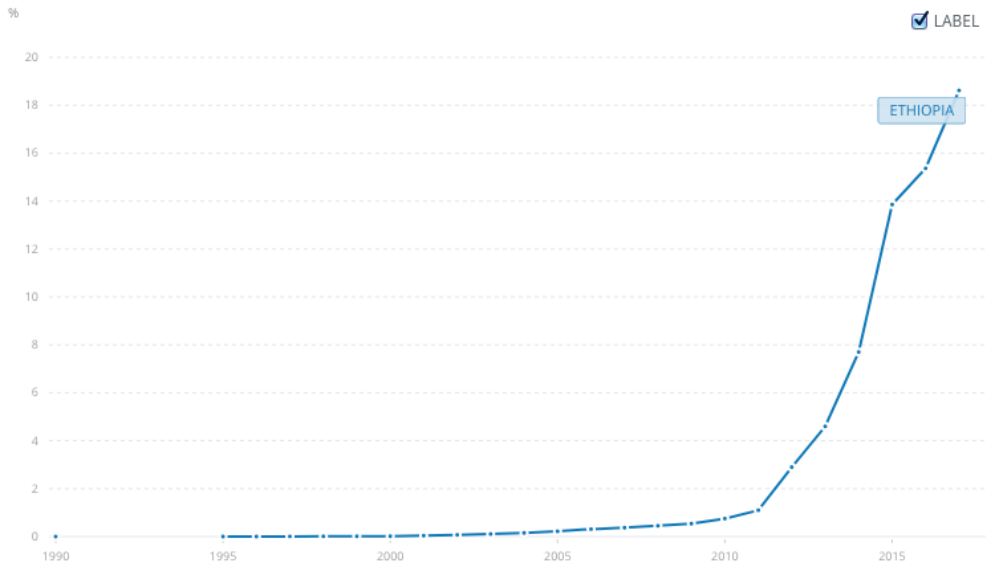

Figure 1: Graph depicting percentage of population using Internet in Ethiopia[62]

With no sign of Internet access slowing in Ethiopia, privately-owned Internet service providers and social media sites need to be considered when thinking about who is responsible for protecting human rights.

The third actor under consideration is the individual, the rights holder who is using the Internet. The Guiding Principles speak directly to the individual's right to remedy, taking into consideration the State's responsibility to "protect against business-related human

[60] J. Campbell, 'Last month, over half-a-billion Africans accessed the Internet', Council on Foreign Relations, 25 July 2019, Available from https://www.cfr.org/blog/last-month-over-half-billion-africans-accessed-internet (accessed 22 May 2020).
[61] ibid.
[62] International Telecommunication Union, 'Individuals using the Internet (% of population) – Ethiopia', [web page], 2019, Available from https://data.worldbank.org/indicator/IT.NET.USER.ZS?end=2017&locations=ET&most_recent_value_desc=false&start=1990&view=chart (accessed 22 May 2020).

rights abuse" by taking "appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means" so that "those affected have access to effective remedy.[63] States are responsible for providing individuals with accessible and effective judicial and non-judicial mechanisms for remedy. The Guiding Principles encourage business enterprises to provide non-State-based mechanisms for those who may have been harmed to engage in. These should be "non-judicial", "adjudicative, dialogue-based or other culturally appropriate and rights-compatible processes."[64] In order to adequately respect the rights of individuals though, companies themselves must take these processes seriously and actively engage individuals in the remedy process. Providing the space for dialogue, for example, is not enough on its own. The outcome from those discussions should be considered in the construction of the company's future. This connects to a comment in the Special Rapporteur's report about public input and engagement. Here, he notes "participants in consultations consistently raised concerns that companies failed to engage *adequately* with users and civil society, particularly in the global South." (Emphasis added.)[65] So while a user may have the right to participate in a company-sponsored consultation, their inputs may not always be taken seriously, which can leave the user feeling helpless and like their rights are not fully respected. The Special Rapporteur does, however, highlight a way in which an individual might be able to take full control of their social media experience. This is for the user to exercise their full "user autonomy" and "shape their online environments" by using the tools that companies, in this case social media companies, have developed.[66] The tools available for the user to utilize include "muting and blocking of other users or specific kinds of content", and to "create closed or

[63] United Nations Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights*, (*para. 25*).
[64] United Nations Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights*, (*para. 28*).
[65] United Nations Human Rights Committee, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, *(para. 54*).
[66] United Nations Human Rights Committee, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, (*para. 60*).

private groups, moderated by users themselves."[67] Here the Special Rapporteur encourages the use of these groups, as they are spaces that protect opinion, expand space for vulnerable communities and allow the testing of controversial or unpopular ideas.[68] In short, the Guiding Principles offer suggestions for ways in which the company may engage rights holders and provide remedies for individuals who feel they have been harmed, and the Special Rapporteur's report offers tips that empower the individual as they engage with their online social media platform.

The challenge that framework documents and reports such as the Guiding Principles and the Special Rapporteur's report face is that the real world, beyond neatly worded documents, is a network of problems that require nuanced solutions and the willing participation of the above-stated actors. Violations that occur within the complex layers of the online sphere have proven to be extremely difficult to remedy. The lines that the Guiding Principles and the Special Rapporteur have drawn up become blurred as the content, authors and audiences blend. Among the challenges is that protecting freedom of expression online requires determining what qualifies as "hate speech". Yet, in the absence of one universally agreed upon definition of "hate speech", this is an extremely difficult task. It is an exercise in contextualizing, but how the review should be conducted is an on-going debate. There have, however, been some basic guidelines and tools for determining what qualifies as a violation of the right to freedom of expression.

2.3: Violations of the Freedom of Expression

Determining which expression(s) violates the right to freedom of expression is largely an exercise of contextualization. Speech does not happen in a vacuum. Who expresses something, how they express it, what they express, and to whom they express it to are all factors that should be considered when determining whether an expression violates the right. "In most controversial cases of ideas expressed in speech or writing *the context* of the

[67] ibid.
[68] ibid.

expression determines its meaning."[69] (Emphasis added.) In order to help contextualize an expression and determine whether it is a violation and, therefore, "hate speech", some general principles and thresholds can be used, including John Stuart Mill's "Harm Principle" and the Rabat Threshold. So as to not exhaust the Harm Principle, which has been explored in depth many times over[70,71,72], only a brief introduction to the Harm Principle will be included and combined with contemporary discussions on violations below. The Rabat threshold accompanies the discussion as a pragmatic tool that is used to qualify an expression as "hateful".

Most philosophers and scholars who speak about free speech, from the ill-fated Socrates, to frequently cited Mill, to contemporary proponents of international human rights law like the current Special Rapporteur, David Kaye, argue that to truly enjoy the right to freedom of expression speakers shall be able to communicate a large and diverse array of information. As was stated before when defining the right itself, the Human Rights Committee has clearly agreed that "even expression that may be regarded as deeply offensive"[73] does not alone qualify as a violation. A philosophical lens would take us down the road as the right to freedom of expression as being one about discovering Truth. Mill was such a strong believer that expression, even of incorrect statements, leads to truth, that he described silencing others as "evil":

> "But the peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion

[69] Warburton, p. 5.
[70] D. Brink, 'Mill's moral and political philosophy', *The Stanford Encyclopedia of Philosophy*, Winter 2018, Available from https://plato.stanford.edu/archives/win2018/entries/mill-moral-political/ (accessed 18 May 2020).
[71] N. Holtug, 'The Harm Principle', *Ethical Theory and Moral Practice*, vol. 5, no. 4, 2002, p. 357-389, Available from Jstor (accessed on 18 May 2020)
[72] D. Donald, "The liberal critique of the harm principle', *Criminal Justice Ethics*, vol. 17, no. 2, p. 3-18, Available from DOI: 10.1080/0731129X.1998.9992054 (accessed 18 May 2020).
[73] United Nations Human Rights Committee, *General Comment No. 34: Article 19: Freedoms of opinion and expression (para. 11*).

> is right, they are deprived of the opportunity of exchanging error for truth; if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error."[74]

Put simply: even falsities lead to truth and are therefore valuable. If an opinion is silenced, even if it is wrong, then the silencer robs the audience of the chance to engage with the message. In the case of a "wrong" message, the audience then loses the chance to reinforce "truth".

Just as the exploration of "truth" has spanned centuries, so too does the abuse of the right to freedom of expression, at times leading to crimes against humanity. The most famous may be the strategic use of propaganda by the Third Reich during World War II. Propaganda was used "to bring the masses' attention to certain facts, processes, necessities" as a means "for the persuasion and indoctrination of all Germans."[75] The Third Reich of the early 20th Century, Rwanda's Hutu-led "ethnic cleansing campaign"[76] in 1994, and the modern-day example of propaganda being used to hide ethnic cleansing in Myanmar[77]: each event provides a clear example of a violation of the right to freedom of expression. Expression, in these examples it can be categorized as propaganda, was/is used as a tool to bring harm against a specific, targeted group(s) of people. In international human rights law, instances of expression that target and incite violence against specific groups violate the right to freedom of expression.

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[74] J.S. Mill, *On Liberty*, London, Longman, Roberts & Green, 1869, p. 31.
[75] D. Welch, *The Third Reich: Politics and Propaganda*, London, Routledge, 2002, p. 11-12.
[76] D. Yanagizawa-Drott, 'Propaganda and Conflict: Evidence from the Rwandan Genocide', *The Quarterly Journal of Economics*, 2014, p. 6, Available from https://dash.harvard.edu/bitstream/handle/1/13457754/RwandaDYD.pdf?sequence=1 (accessed 18 May 2020).
[77] S. Mahtani, 'The world decries Myanmar's Rohingya abuses. Myanmar's reply: Denial, defiance and propaganda', The Washington Post, 9 October 2018, Available from https://www.washingtonpost.com/world/asia_pacific/the-world-decries-myanmars-rohingya-abuses-myanmars-reply-denial-defiance-and-propaganda/2018/10/09/49d11916-c1b9-11e8-9451-e878f96be19b_story.html (accessed 18 May 2020).

Limits to the right to freedom of expression generally center around the idea that an individual can express freely as long as they do not harm another in the process, including in the way that they prevent another from enjoying their human rights. This harkens back to article 29 of the UDHR, specifically paragraph 2: "everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society."[78] Philosophers might approach it from Mill's argument, commonly referred to as the "Harm Principle": "The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others."[79] International human rights law requires a look back at articles 19 and 20 of the ICCPR. Article 19, paragraph 3 also limits the application of the right. General Comment No. 34 clarifies that article 19(3) comes with "special duties and responsibilities" and that there are "two limitative areas of restrictions on the right…which may relate either to respect of the rights or reputations of others or to the protection of national security or of public order (*ordre public)* or of public health or morals."[80] The State may not, however, put the right itself in jeopardy.[81] Paragraph 3 also states that "the restrictions must be 'provided by law'; they may only be imposed for one of the grounds set out in subparagraphs (a) and (b) of paragraph 3; and they must conform to the strict tests of necessity and proportionality."[82] The Committee goes on to state, "Paragraph 3 may never be invoked as a justification for the muzzling of any advocacy or multi-party democracy, democratic tenets and human rights."[83] Article 20, paragraph 2 of the ICCPR states: "Any advocacy of national, racial or religious hatred that

[78] United Nations General Assembly, *Universal Declaration of Human Rights*, (*Article 29, para. 2*), 10 December 1948, Available from https://www.un.org/en/universal-declaration-human-rights/ (accessed 16 February 2020).
[79] Mill, p. 17.
[80] United Nations Human Rights Committee, *General Comment No. 34: Article 19: Freedoms of opinion and expression (para. 21).*
[81] ibid.
[82] United Nations Human Rights Committee, *General Comment No. 34: Article 19: Freedoms of opinion and expression (para. 22).*
[83] United Nations Human Rights Committee, *Mukong v. Cameroon*, Communication No. 458/91, views of 21 July 1994, para. 23.

constitutes incitement to discrimination, hostility or violence shall be prohibited by law."[84] This positive obligation requires States to create legislation, but it does not guide States in how to do this.

Neither does the ICCPR explicitly define what a State's legislation should protect against. As the ICCPR is an international document, specificity would not enable it to function on a global scale. This requires that the rights listed in the ICCPR should be understood in conjunction with other guiding documents. One such example is General Comment 35, which states, "article 4 of the Convention [Convention on the Elimination of All Forms of Racial Discrimination, or CERD] has functioned as the principle vehicle for combating hate speech"[85]. Article 4 of the CERD provides States with the positive obligation to "adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination"[86] Determining what constitutes as "hate speech", "discrimination", and/or "incitement" must be done by the State itself, and this is where fulfilling their duty to respect and protect the right to freedom of expression proves challenging for States.

2.4: Defining "Hate Speech"

Hate speech is difficult to protect rights-holders from when there is no universally agreed-upon definition of what "hate speech" is. Whether the challenge truly is a legal one, or if it is a scapegoat for governments to evade responsibility, the void left behind by the missing definition can remain empty or be filled by arguments that do not protect the rights holder. Several definitions exist to help guide the process of determining whether something is "hate speech" or not. The United Nations, in a 2019 document called the UN Strategy and Plan of Action on Hate Speech defines hate speech as "any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with

[84] *International Covenant on Civil and Political Rights*, Article. 20(2).
[85] United Nations Committee on the Elimination of Racial Discrimination, *General Comment No. 35, Combating racist hate speech, (article 3, para. 8)*, 26 September 2013, CERD/C/GC/35, Available from https://undocs.org/CERD/C/GC/35 (accessed 16 May 2020).
[86] *International Convention on the Elimination of All Forms of Racial Discrimination*, (adopted 21 December 1965, entered into force 4 January 1969), Article 4.

reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent or other identity factor."[87] The document goes on to emphasize the role that "*incitement* to discrimination, hostility and violence"[88] (emphasis added) should play when a State is determining whether expression qualifies as hate speech. The NGO ARTICLE 19 expresses it as an equation: the use of "intense and irrational emotion of opprobrium, enmity and detestation towards an individual or group" (the feeling of hate) plus "any expression of hate towards an individual or group defined by a protected characteristic" (the expression of that hate, or speech) equals "any expression imparting opinions or ideas – bringing an internal opinion or idea to an external audience. It can take many forms: written, non-verbal, visual, artistic, etc., and may be disseminated through any media, including Internet, print, radio, or television."[89] This third part of the equation, the sum of the two first parts, is how the NGO defines hate speech. Amnesty International elaborates on the need for hate speech to actively advocate for hate, and that there needs to be "*intention* that constitutes incitement to hostility, discrimination or violence"[90] (emphasis added). These three definitions offer a small sampling of existing definitions of hate speech, and the general types of language that they include: expression of hatred of a targeted group and an incitement to take action against that group.

It may be that a universal definition may not be possible to agree upon; too much weighs on the context of the situation the expression occurs in. It is clear though that anyone, rights holder or alleged violator, who includes "hate speech" in their argument will need to be able to define some key indicators as to why they believe the expression does or does not qualify as "hateful". For this to be done, the analysis must prove that the balance between

[87] United Nations, 'UN Strategy and Plan of Action on Hate Speech'.
[88] ibid.
[89] ARTICLE 19, ''Hate Speech' Explained, a Toolkit', 2015, p. 9, Available from https://www.article19.org/resources/hate-speech-explained-a-toolkit/ (accessed 27 March 2020).
[90] Amnesty International, 'Written contribution to the thematic discussion on racist hate speech and freedom of opinion and expression organized by the United Nations Committee on Elimination of Racial Discrimination', 2012, p. 2, Available from https://www.amnesty.org/download/Documents/24000/ior420022012en.pdf (accessed 19 May 2020).

the expression and the enjoyment of rights of others has been tipped negatively towards preventing rights holders from enjoying their rights. To bring back the philosophical lens, drawing limits on where the balance is out of alignment is an exercise in placing a "competing value has priority over this freedom [the right to freedom of expression]."[91] The tools that exist to determine whether another right, that is, another "competing value", help maintain alignment in the enjoyment of human rights for all.

2.5: The Rabat threshold, an analysis tool

The Rabat threshold is one way in which States may more precisely and responsibly uphold their commitments to protect human rights. It offers a systematic framework on which a specific instance of hate speech can be evaluated. Though still an exercise of contextualization, Rabat does help streamline the process of evaluating expression on a more objective framework. The Rabat Plan was developed out of a severity threshold that ARTICLE 19 designed "to assist in determining in which situations the danger of violence, hostility or discrimination is sufficiently present to justify prohibitions on the expression."[92] It is especially important for States to have a tool like Rabat, which empowers them to objectively evaluate expression and proportionately respond in the case of violations. There are six parts of Rabat that help maintain objective evaluation: context of the expression, the speaker, intent, content of the expression, extent and magnitude of the expression, and the likelihood of harm occurring, including its imminence.[93] These criteria enable the evaluator(s) to review expression in a systematic and more objective way. Each of the six criteria has certain components that should be considered when expression is being reviewed.

> **Context**: Analysis of the context should place the speech act within the social and political environment prevalent at the time the speech was made and disseminated. Is there pre-existing or historically occurring conflict within the society the

[91] Warburton, p. 14.
[92] ARTICLE 19, ''Hate Speech' Explained, a Toolkit', p. 78.
[93] ibid., p. 78-81.

expression reaches, including examples of "recent incidents of violence against the targeted group"[94]?

Speaker: The position or status of the speaker within the society their expression reaches should be considered. What is the relationship of the speaker's and/or the speaker's organization with the audience they are reaching? Do they have authority or influence over the audience?

Intent: Article 20 of the ICCPR anticipates intent, and so too should the reviewer using the Rabat Threshold. Negligence and recklessness are not sufficient for an act to be an offence under article 20 of the ICCPR, as this article provides for "advocacy" and "incitement" rather than the mere distribution or circulation of material. In this regard, it requires the activation of a triangular relationship between the object and subject of the speech act as well as the audience.

Content and Form: The content of the speech constitutes one of the key foci of the court's deliberations and is a critical element of incitement. Content analysis may include the degree to which the speech was provocative and direct, as well as the form, style, nature of arguments deployed in the speech or the balance struck between arguments deployed.

Extent and Magnitude of the Expression: Extent includes such elements as the reach of the speech act, its public nature, its magnitude and size of its audience. Other elements to consider include whether the speech is public, what means of dissemination are used, for example by a single leaflet or broadcast in the mainstream media or via the Internet, the frequency, the quantity and the extent of the communications, whether the audience had the means to act on the incitement, and/or whether the statement (or work) is circulated in a restricted environment or widely accessible to the general public.

[94] ibid., p. 78.

Likelihood of harm occurring, including its imminence: Incitement, by definition, is an inchoate crime. The action advocated through incitement speech does not have to be committed for said speech to amount to a crime. Nevertheless, some degree of risk of harm must be identified. It means that the courts will have to determine that there was a reasonable probability that the speech would succeed in inciting actual action against the target group, recognizing that such causation should be rather direct.[95]

These criteria, when used properly, create a helpful framework for evaluating speech, and we will see how it is used later in the paper when we look at specific examples of speech from Ethiopia.

Perhaps most telling of the Rabat threshold's power comes from the United Nations High Commissioner for Human Rights herself, Michelle Bachelet:

> "*The Rabat Plan of Action – which considers the distinction between freedom of expression and incitement to hatred – also contains threshold tests and recommendations, which are extremely relevant to social media and many other aspects of the digital universe. I believe this precision, expertise, trans-national scope and solid legal grounding are key elements we will need to count on as we walk more deeply into the digital landscape."*[96]

The paper's later analysis of Ethiopian speech online will highlight the truth in Ms. Bachelet's statement.

The confluence of philosophical principles like Mill's "Harm Principle" with International Human Rights laws that create positive State obligations merge in political arenas for the better or for the worse of the State's rights holders. In order to help guide the application of philosophy to/with law, practical tools like the Rabat threshold help States uphold their

[95] ARTICLE 19, ''Hate Speech' Explained, a Toolkit', p. 78-81.
[96] M. Bachelet, 'Human Rights in a New Era', [speech], 14 November 2018, Transcript available at https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23874&LangID=E.

duty to respect and protect the right to freedom of expression. Ms. Bachelet alluded to the latest element that has been thrown into, even begun to dominate, the list of considerations—the digital universe. As the digital arena enables ease of communication and complicates determining which actor should be held accountable, it is more important than ever that human rights defenders and States have access to tools that enable them to respect and protect human rights.

Chapter 3

When history and psychology converge in the digital sphere

3.1: Historical background of Ethiopia

In order to understand current political and societal events in Ethiopia today, their history must be considered. The long history of Ethiopia is a varied tale of shifting powers, and it tells the story of the relationship between the land and its people. These stories shape a national identity known presently for its pride, resiliency and complexity. Despite its varied nature, and despite the immense diversity within Ethiopia, a few major themes can be identified throughout history books. One recurring theme throughout is one of how relationships have shaped people's enjoyment of human rights: the relationship between the land and its people; the relationship between ethnic groups; the relationship between rights holders and their government; and the relationship between Ethiopians as a whole and the outside world. These different types of relationships lay the foundation for other themes to emerge. Relationships also help determine how tensions, which lead to human rights abuses such as violent conflict and displacement, arise. Finally, and most important for this research, relationships lay the foundation from which the freedom of expression has been both exercised and stifled throughout history, including from the "Land to the Tiller" student demonstration in 1965 to the modern day use of social media.

The various relationships that shape people's enjoyment of human rights have been detailed extensively in other research. In Bahru Zewde's *A History of Modern Ethiopia, 1855-1991*,

Ethiopia's political and social realities are detailed from the time of "Tewodros as modernizer", who was the first ruler to lead Ethiopia with any sort of vision of a unified state[97], through the time of Italian occupation, past the Battle of Adwa and its lasting effects of a "national psychology"[98], and finally to the rise and fall of Ras Tafari, who is more commonly known as Haile Selassie. More detailed histories on specific aspects of Ethiopia are also relevant for the research, including "The effects of land grabs on peasant households: The case of the floriculture sector in Oromia, Ethiopia" by Abebe Gizachew Abate. Written in 2020, Abate chronicles the history of land grabs by the state, a practice that took many forms throughout Ethiopia's history.[99] Throughout these histories, the exercise of the freedom of expression has been a common thread, as is detailed below.

Agriculture has played a consistently large role throughout the years, contributing not only to Ethiopia's economy, but also playing a central role in one of the country's largest revolutions. In the 1960's, "agriculture engaged more than 80% of the population, and accounted for about 60% of the gross domestic product".[100] More recently, even as the country's economic sectors diversify, agriculture makes up a third of Ethiopia's GDP, having contributed 31.19% in 2018.[101] When considering the large role agriculture has played in the lives of Ethiopian's, no matter their ethnic background, some clarity around why conflict occurs can be found. Regulation such as direct taxation, land privatization and subsequent tenancy polices[102] drove division between the worker, the landlord and the state. After about three decades of these policies and their suppressing effects, a subtle revolt began to take place, particularly within universities. Beginning in the 1950's, the freedom of expression was exercised in college papers and within student councils. Examples

[97] B. Zewde, *A History of Modern Ethiopia, 1855-1991*, Addis Ababa, Ohio University Press, 2001, p. 31.
[98] Zewde, p. 84.
[99] A. Abate, 'The effects of land grabs on peasant households: The case of the floriculture sector in Oromia, Ethiopia', *African Affairs*, vol. 119, no. 474, 2020, p. 90-114.
[100] ibid., p. 91.
[101] H. Plecher, 'Share of economic sectors in the GDP in Ethiopia 2018', Statista, 8 January 2020, Available from https://www.statista.com/statistics/455149/share-of-economic-sectors-in-the-gdp-in-ethiopia/ (accessed 8 June 2020).
[102] Zewde, p. 192.

include “The Debating Society” of 1961 and poetry contests, which served as avenues for students to both voice their discontent and to connect students with society at large.[103] In 1965, a student demonstration flying the banner “Land to the Tiller” was among the first to radically expose the inequalities that rights holders were experiencing at the hands of the State.[104] It was the exposure, using the right to free expression, of the unscrupulous relationship between land and the people who work it versus land and the people who regulate it that led to the end of the Haile Selaisse Empire.

Religion, like agriculture, also plays an enormous role in the lives of Ethiopians. Diverse religious identities have long been practiced in Ethiopia, and they continue to shape individual’s identities well into today. Historically, it has been rare for human rights abuses to be attributed to religious origins, and there is some logic to this. Even when rulers like Menelik “did little to integrate the heterogeneous entity [Islam] into one nation”[105], the next ruler, Iyyasu, attempted to “redress the injustices of the past, of making the Muslims feel at home in their own country.”[106] This attempt at reconciliation enabled the continuation of glossing over religion’s role in conflict.

Today, the diverse landscape of religious identities remains the same, but it is becoming more likely that religion is cited as the source of conflict. 43.5% of Ethiopians follow Orthodox Christianity, 34.1% are Muslim, 19.4% are Protestant, 1.5% follow traditional beliefs, 0.9% are Roman Catholic, and the remaining 1% are other.[107] Professor and scholar, Terje Østebø, who, in his 2019 contribution to the Addis Standard newspaper, argues that religious tensions have been overlooked in favour of class and ethnic-based story lines, is drawing attention to the significance of religion-induced conflict.[108] In

[103] ibid., p. 223.
[104] Zewde, p. 195.
[105] ibid,, p. 124.
[106] ibid.
[107] A. Mehretu and D. Crummey, ‘Ethiopia’, Encyclopædia Britannica, 13 December 2019, Available from https://www.britannica.com/place/Ethiopia/Religion (accessed 22 April 2020).
[108] T. Østebø, ‘The role and relevance of religion in Ethiopia’s current conflicts’, Addis Standard, 6 November 2019, Available at http://addisstandard.com/special-edition-the-role-and-relevance-of-religion-in-ethiopias-current-conflicts/ (accessed 8 June 2020).

modern Ethiopia, where freedom of expression is more openly accessible than ever, Østebø's argument may prove accurate: that religious tension has been there all along, it was just never expressed clearly as such. A recent rise in vandalism of churches and mosques is a cause for concern to all. One major incident occurred in Mota town, 350 kilometres north of Addis Ababa. There, in December 2019, four mosques were burned and Muslim-owned businesses were destroyed. News cites Prime Minister Abiy as calling the attacks "attempts by extremists to break down our rich history of religious tolerance and coexistence."[109] The supposed prompt to the violence was a different fire that broke out in an Orthodox church a few days prior. Local news source, Addis Standard, also cites an uptick in attacks on religious symbols and groups of people. The article states, "targeting of Orthodox churches as a symbol of the old establishment", indicating that the increase in violence may not be religiously motivated, but rather an attack on history and culture.[110] This intertwining of religion, culture and heritage make it difficult to determine exactly what the source of rights violations may be. This paper's analysis of online expression can assist in determining what the source of human rights violations are, and how online expression can help either exacerbate or protect against future violations, as well as how remedies can be offered through online expression.

Where religion may escape the blame for conflict in Ethiopia, ethnicity is more likely to take the fall instead. Ethnicity has, particularly since the student protests at the end of Haile Selaisse's regime, served as the primary lens through which human rights violations are viewed. More than 90 ethnic groups exist in Ethiopia, each with their own distinct language, dress, and tradition.[111] However, the ruling class has, particularly through the promotion of the Amharic language, seemingly associated what it means to be "Ethiopian"

[109] 'Ethiopian Muslims protest after several mosques burned', Al Jazeera, 24 December 2019, Available from https://www.aljazeera.com/news/2019/12/ethiopian-muslims-protest-mosques-burned-191224141944689.html (accessed 19 April 2020).

[110] 'Keeping Ethiopia's transition on the rails', International Crisis Group, 16 December 2019, Available from https://www.crisisgroup.org/africa/horn-africa/ethiopia/283-keeping-ethiopias-transition-rails (accessed 21 February 2020).

[111] 'Ethiopia', [web page], January 2018, Available from https://minorityrights.org/country/ethiopia/ (accessed 20 April 2020).

with one ethnic group in particular, Amhara. During Haile Selaisse's rule, "patterns of state distribution of resources and services were skewed in favor of the provinces where Amhara were predominant".[112] It was the exercise of the right to expression that "the first indications that the position of nationalities within Ethiopia was beginning to be regarded as complex and problematic"[113]; this was through the publication of "a series of self reflections on what it meant to be Ethiopian"[114]. Among them included a poem by Ibsa Gutema entitled, *Ityopyawi Man New?* ("Who is an Ethiopian?"), and university newspaper articles questioned identity in increasingly non-conformist manners.[115] One famous example is an article written by Walleligne Mekonnen in November 1969, in the magazine, *Struggle*. Mekonnen poses that "to be an Ethiopian, you will have to wear an Amhara mask."[116] Poems and newspaper articles, revolution and reform; these words and actions still have yet to answer the questions of what it means to be Ethiopian. The question continues today, and the added platform of social media is allowing more voices to contribute new, diverse answers to the question.

3.2: Ethiopia as an ethnically based federation

Leadership directly preceding Abiy certainly did not make answering the question of what it means to be Ethiopian any easier. After the fall of the soviet Dergue regime in 1991, the Ethiopian People's Revolutionary Democratic Front (EPRDF) took power and set about creating a nation built on ethnic federalism. Ethnic federalism was intended to enable

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[112] A.P. Micheau, 'The 1991 Transitional Charter of Ethiopia: A New Application of the Self-Determination Principle', *Case Western Journal of International Law,* vol. 28, no. 2, 1996, p. 373, Available from https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=1562&context=jil (accessed 26 May 2020).

[113] S. Vaughan, Ethnicity and power in Ethiopia, Doctoral Dissertation, The University of Edinburgh, 2003, p. 134, Available from https://web.archive.org/web/20110813043308/http://www.ihasa.org/documents/special-reports/ethnicity-in-ethiopia.pdf (accessed 8 June 2020).

[114] ibid.

[115] ibid.

[116] W. Mekonnen, 'On the question of nationalities in Ethiopia', Struggle, 17 November 1969, Available from http://gadaa.com/oduu/4613/2010/06/27/on-the-question-of-nationalities-in-ethiopia/ (accessed 11 June 2020).

"ethno-national self-determination, and a new cultural and language policy."[117] Like favoritism to Amharas during Haile Selaisse's role, "Ethiopia's central power holders keep a tight leash on sub-national entities. While the centre cannot control all political processes in the far reaches of the country, its capacity to dictate policy, via allocating fiscal resources and nominating all key regional personnel (whose careers depend on federal approval), remains unchallenged."[118] So while the new governing powers labeled themselves a democracy and put structures in place to look like one, the outcomes of their actions eventually led to more distrust.

One key example of an outcome that led to distrust was "the absence or very marginal role of free media and civil society associations"[119]. This "absence" did not really take its damaging shape until after the 2005 elections. In fact, "The approach to media policy that the EPRDF adopted when it first came to power allowed private newspapers to flourish. The press quickly became a forum for elite *negotiation* and debates on the constitution."[120] Between 1992 and 1997, "more than 200 newspapers and 87 magazines were started", many of which were "deeply critical of the EPRDF's ambitious political project".[121] By the 2005 elections, the EPRDF had not realized the goals they had laid out for Ethiopia. Instability among the regions and questions around the governing body's legitimacy raised questions about whether centralist authoritarianism was truly a thing of the past.

When the 2005 elections threatened questions around the EPRDF's creation of a democratic state, the government's response was determinedly non-democratic. The origins of modern state censorship were planted when "15 journalists were among the more than 100 opposition party leaders and civil society leaders" arrested and "charged under the penal code with crimes of 'treason' or as 'conspirators' of the opposition who were accused

[117] T. Hagmann and J. Abbink, 'Twenty years of revolutionary democratic Ethiopia', 1991 to 2011, *Journal of East African Studies*, vol. 5, no. 4, 2011, p. 583.
[118] Hagmann & Abbink, p. 584.
[119] ibid.
[120] N. Stremlau, 'Media, participation, and constitution-making in Ethiopia', *Journal of African Law,* vol. 58, no. 2, 2014, p. 232.
[121] ibid., p. 240.

of 'attempted genocide', 'armed rebellion' and 'outrage against the constitution'."[122] Rather than engage in debates through the media, the state would shut down any opposition. They closed newspapers that opposed the government, they shut down SMS services on mobile phones for more than a year, and they blocked oppositional blogs.[123] Censorship of media was just one step the State took, detailed here for its relevance to the freedom of expression. However, other human rights violations are also documented. According to an Amnesty International report, post-election violence resulted in at least 90 state-caused killings, and over 10,000 arrests were made of peaceful protestors.[124]

By the next set of national elections in 2010, the EPRDF's record of abusing the right to freedom of expression showed no signs of relenting. In 2009, the government passed the Charities and Societies Proclamation (the "CSO law"), which closely controlled and regulated civil society organizations (CSOs) that could be seen as working on human rights; it also restricted CSOs from conducting human rights activities if more than 10% of the CSO's income came from outside of Ethiopia.[125] As described by Human Rights Watch four years after the passing of this Proclamation, "The CSO law is one of the most draconian laws regulating nongovernmental activity in the world."[126] Additional legislation passed in July 2009, the Anti-Terrorism Proclamation (ATP), further restricted freedom of expression. Under it, any "acts of terrorism", a vaguely defined term, criminalized anything that could be defined as a terrorist act, including "damage to property and disruption of public services".[127] The ATP was used to "prosecute peaceful protesters, journalists,

[122] Hagmann & Abbink, p. 247.
[123] ibid.
[124] Amnesty International, 'Amnesty International Report 2006 – Ethiopia', 23 May 2006, Available from https://www.refworld.org/docid/447ff7a62f.html (accessed 12 June 2020).
[125] Amnesty International, 'Amnesty International Report 2010 – Ethiopia', 28 May 2010, Available from https://www.refworld.org/docid/4c03a82c28.html (accessed 15 June 2020).
[126] Human Rights Watch Report 2014.
[127] ibid.

bloggers, human rights defenders, and opposition leaders."[128] One blogger was detained and reported being tortured by interrogators[129]; he was one of many, as reports of "beatings, prolonged stress positions and exposure to cold, and harsh detention conditions to elicit confessions, gather information, and to compel detainees to testify against each other" were provided by numerous former detainees at Maekelawi Prison Center in a 2013 Human Rights Watch report.[130] Torture, ill treatment and other threatening action from the Ethiopian government was well documented, resulting in self-censorship as a means to staying out of custody, free from torture, and alive.

Couple the CSO law and the ATP with clear examples of media suppression such as prison sentences granted to two newspaper editors,[131] and the legacy that an oppressive leadership would lead to begins to settle into frame. State harassment, prosecution, torture, ill-treatment and even enforced disappearances against journalists and dissenters was reported by Amnesty International in every annual report from 2011 to 2017,[132] as well as by Human Rights Watch in each one of their 2011 to 2018 annual reports.[133] Perhaps the words of Ethiopian journalist in exile, Betre Yacob, put it best in the 2015 Human Rights Watch video, "Media Decimated in Ethiopia":

> Journalists are getting arrested for expressing their opinion, for doing their job. Several laws are working against the journalists. For example we can

[128] Amnesty International, 'Ethiopia: End use of Counter-Terrorism Law to persecute dissenters and opposition members', 2 June 2016, Available from https://www.refworld.org/docid/575139504.html (accessed 27 July 2020).
[129] ibid.
[130] Human Rights Watch. ''They Want a Confession': Torture and ill-treatment in Ethiopia's Maekelawi Police Station', 17 October 2013, Available from https://www.hrw.org/report/2013/10/17/they-want-confession/torture-and-ill-treatment-ethiopias-maekelawi-police-station (accessed 27 July 2020).
[131] ibid.
[132] See RefWorld's database of Amnesty International Annual Reports, https://www.refworld.org/publisher,AMNESTY,ANNUALREPORT,ETH,,,0.html (accessed 15 June 2020).
[133] See RefWorld's database of Human Rights Watch Annual Reports, https://www.refworld.org/publisher,HRW,ANNUALREPORT,ETH,,,0.html (accessed 15 June 2020).

> mention the Anti-Terrorist law, which is totally used to detain independent voices in Ethiopia.[134]

The detrimental effects of these laws, described as "draconian" by more than one source, including Expert 1,[135,136, 137] are layered. Firstly, without the right to freedom of expression, a democratic state cannot exist, for the prerequisite of participation[138] is prevented. Secondly, their implementation clearly violated varied rights of Ethiopians. Thirdly, and perhaps the most detrimental, were the severe consequences rights holders faced should they be deemed violators of the CSO or ATP law. With consequences as severe as imprisonment and torture, fear was instilled into the population. This fear dictated behavior, including self-censorship. Today, despite the reforms Abiy has made, including the repeal of both the CSO and ATP laws, lingering fear holds people back from truly enjoying the right to freedom of expression.

3.3: Complexity of identity construction

Severe repercussions – torture, ill-treatment, forced disappearances, extra-judicial killings, and other actions – for dissent were well-documented state responses from both the socialist Dergue regime and its successor, the EPRDF. As Hagmann & Abbink put it, though the EPRDF may have tried, it did not break with the authoritarian legacy of its predecessors, raising the question as to the enduring influence of an authoritarian political culture or collective habitus that has transcended subsequent Ethiopian regimes since the Imperial period.[139] After Dr. Abiy Ahmed was elected to Prime Minister in 2018, his

[134] 'Media Decimated in Ethiopia' [online video], 2015, https://www.youtube.com/watch?time_continue=101&v=TPo3E8h-PaM&feature=emb_title, (accessed 15 June 2020).
[135] Interview with Expert 1, Digital, 19 May 2020.
[136] Reporters Without Borders, 'Reporters Without Borders Ethiopia', 2020, Available from https://rsf.org/en/Ethiopia (accessed 20 April 2020).
[137] Freedom House, 'Ethiopia: Civil Society Proclamation advances essential freedoms', 8 February 2019, Available from https://freedomhouse.org/article/ethiopia-civil-society-proclamation-advances-essential-freedoms (accessed on 22 July 2020).
[138] D.E. Neubauer, 'Some conditions of democracy', *The American Political Science Review,* vol. 61, no. 4, 1967, p. 1002, Available from Jstor (accessed 15 June 2020).
[139] T. Hagmann and J. Abbink, p. 585.

biggest obstacle might not be the reshaping of Ethiopia's legislative landscape, but rather reshaping its inhabitant's psychologies and relationships with the State.

After nearly thirty years of threats to and actions against bodily and psychological well-being, the new EPRDF under Abiy set about employing transitional justice measures to restore the faith of its people in the new leadership. Among his efforts, Abiy "released political prisoners, appointed women to more than half of his cabinet posts, persuaded a noted dissident to head the country's election board, and staged an historic rapprochement with neighbouring Eritrea after decades of conflict."[140] However, tensions have continued, largely between ethnic groups, which have led to loss of life, personal injuries, displacement, and destruction of property. "Under dictatorship ethnic hatred does not vanish. It simply gets driven underground."[141] In order to ensure hate does not get driven underground, the government must ensure that all voices, not just the bravest or most outspoken, feel safe enough to speak out. People need to believe that they can take actions now that they would not have taken before, and that they do not need to fear what might happen afterwards. For, what the Dergue and the pre-Abiy EPRDF did was instill fear in people, and fear does not leave the mind quickly.

Reality is not constructed alone, but rather it exists based on inputs from one's environment. If those inputs are violent or causational such as 'I will go to jail if I say that', then those inputs become the reality for the individual experiencing them. While Abiy's legislative reforms may have happened rapidly, the reform of the brain and the way it perceives the world requires more input for it to adapt to new realities. As psychologist and neuroscientist Lisa Feldman Barrett writes, "perception and categorization has been constructed over time, so people need time and a reason to deconstruct their

[140] 'Abiy Ahmed's reforms in Ethiopia lift the lid on ethnic tensions', BBC, 29 June 2019, Available from https://www.bbc.com/news/world-africa-48803815 (accessed on 2 June 2020).
[141] ibid.

associations."[142] Barrett is not the only one to describe the brain's perception and categorization processes this way. Neuroscientist Anil Seth also speaks to the brain's reality as it processes inputs and constructs them into meaning for the individual:

> Now, imagine being a brain. You're locked inside a bony skull, trying to figure out what's out there in the world. All you've got to go on are streams of electric impulses, which are only indirectly related to things in the world, whatever they may be. So perception, figuring out what's there, has to be a process of *informed guesswork* in which the brain combines these sensory signals with its *prior expectations or beliefs about the way the world is* to form its best guess of what caused those signals. The brain doesn't hear sound or see lights. What we perceive is its best guess of what's out there in the world.[143] (Emphasis added)

In pre-Abiy Ethiopia, legal measures such as the CSO and ATP laws set individual's expectations and beliefs, effectively informing the guesswork the brain conducted about the world it interpreted. For example, if one openly disagrees with the government, then the laws in effect at that time meant the dissident could face torture or death; therefore, the brain will determine that it is safest to remain silent. Through vague provisions, the CSO law opened "the door to arbitrary criminal prosecutions."[144] It also directly impacted the effectiveness of human rights organisations in Ethiopia, "both in terms of its practical obstacles it creates for human rights defenders [i.e., no more than 10% of funding for NGO's could come from outside donors], and in exacerbating the climate of fear in which

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[142] L.F. Barrett, *How Emotions are Made: The Secret Life of the Brain*, New York, Houghton Mifflin Harcourt, 2017, p. 108.

[143] 'Your brain hallucinates your conscious reality' [online video], 2017, https://www.youtube.com/watch?v=lyu7v7nWzfo, (accessed 14 July 2020).

[144] Y.B. Mulat, C. Hopkins, L.N. Noble, 'Sounding the Horn: Ethiopia's Civil Society Law threatens human rights defenders', [Report] Northwestern University School of Law, November 2009, p. 6, Available from https://www.law.northwestern.edu/legalclinic/humanrights/documents/EthiopiaCSOPaper-Nov2009.pdf (accessed 27 July 2020).

they operate."[145] Though the CSO law and the ATP were both repealed by Abiy, their effects, hard-wired into the brain, require time and progressive steps from the current government to enable citizens to enjoy all freedoms, including the freedom of expression, free from fear. If it can be understood that brain activity, as Anil says, depends "on the same mechanisms of predictive perception, all stem form this basic drive to stay alive"[146], then the lasting effects of laws and their related penalties are easier to understand. Psychological effects of trauma are well documented: post-traumatic stress disorder (PTSD), complex post-traumatic stress disorder (CPTSD), depression and phobias are all possible outcomes of trauma.[147] As either direct victims of torture and violence when prosecuted using the CSO Law or ATP, or as indirect sufferers of fear and self-censorship that resulted from fear of these laws, the predictive process of the brains of those who lived under the repressive laws require time and new inputs to reshape.

Approaches to recovery from trauma are varied and can help the government find strategies to reshape the population's relationship with the government. J.L. Herman's three-stage model offers one pathway for the State to help rehabilitate a population. The model's three stages are to establish safety, reconstruct the narrative, and reconnect one's self to a recognized future.[148] In Abiy's case, implementing this model on a societal level is especially difficult. For, his legislative reforms must not only make up for repressive legislation, but also ongoing inter-ethnic and religious conflicts across the nation of more than 100 million people complicate the process. In addition, increased access to the Internet amplifies messages that, true or not, challenge feelings of safety and control in one's

[145] Amnesty International, 'Ethiopia: The 2009 Charities and Societies Proclamation as a serious obstacle to the promotion and protection of human rights in Ethiopia', 11 June 2012, Available from https://www.refworld.org/pdfid/4fd7092f2.pdf (accessed 27 July 2020).
[146] 'Your brain hallucinates your conscious reality', [online video], 2017.
[147] D. Meyer-Parlapanis, and T. Elbert, 'Psychology of torture and its consequences', *International Encyclopedia of the Social and Behavioral Sciences*, vol. 2, 2015,p. 436-437, Available from https://doi.org/10.1016/B978-0-08-097086-8.21020-9 (accessed 27 July 2020).
[148] J.L. Herman, *Trauma and Recovery,* New York City, Basic Books, 1992, p.160.

environment. These messages and their effects will become clearer in the Chapter 4 analysis.

Another possible, complimentary approach to overcoming traumatic histories and building a unified future could be through the promotion of arts, culture and national projects that appeal to all Ethiopians. In her book, "Political Emotions: Why Love Matters for Justice", Martha Nussbaum makes the case for cultivating society-wide goals, a role the government can fulfill. In an interview to discuss the book, Nussbaum contemplates: "Because the minute the king wasn't there to just insist that you did whatever he wanted you to do, then people had to think, what is the motivation? How will people come to care about it? If the conception of society's goals has the idea of a common good that asks people to go beyond their narrow self-interests, then how are we going to do that?"[149] In the case of Ethiopia, Abiy has opened up the possibility for people to think for themselves; now his government needs to help guide people in a collective direction. Some ideas are proposed in the book, and they follow, she says, the philosophers "such as John Stuart Mill, who thought that the project [of engineering public emotion] was both necessary and doable compatibly with liberalism."[150] It is through promotion of the arts, literature, and an appreciation for critical dialogue that Nussbaum believes engineering public emotion can be accomplished.

The challenge to this in Ethiopia is, however, profound. In a country where so much diversity exists, and has been the source of discontent for decades, the choice of which – or rather, *whose* – arts and culture to promote is not a simple one. The Government would need to be strategic in which projects they choose to promote if unity is to be achieved instead of it being seen as favoritism between ethnic, religious or some other identity group. Abiy has had some success with this through economic reform and city beautification

[149] Interview with Martha Nussbaum, 'Research Matters: Martha Nussbaum on *Political Emotions: Why love matters for justice*', Chicago, 2013, Transcript available from https://www-law-uchicago-edu.uaccess.univie.ac.at/news/research-matters-martha-nussbaum-political-emotions-why-love-matters-justice (accessed 4 August 2020).
[150] ibid.

efforts. The opening of Unity Park has, for example, received positive reviews, calling it "the first step in Ethiopia's rise to a glorious brave new future of peace, unity, opportunity and prosperity."[151] Abiy has described his "Homegrown Economic Reform" agenda as "our bridge to prosperity", an idea outside donors seem to support given their $9 billion dollars in donation.[152] The Sheger Project, an "integrated and holistic initiative to clean up the city, generate jobs, and build service and green economies" is meant to beautify Addis and provide citizens with green space.[153] Outside of Addis Ababa, the recent filling of the Grand Ethiopian Renaissance Dam (GERD) elicited waves of celebration, partly organized online by promoting the use of the hashtags #itsmydam and #fillthedam.[154] By promoting projects that appeal to all ethnicities and religious, thereby constructing a national identity filled with pride – and even, as Nussbaum may say, love – for their country and government, Abiy may have success in reshaping the psychologies of a population who have suffered at the hands of government for decades.

One area where affecting psychology of the population is more difficult to do, but just as important to be mindful of when drafting policy and strategy, is the online sphere. It is important to include because Internet use is rising rapidly, and what is said online can spread widely, even to those who do not have Internet access. The next section will detail this. The ideas and values espoused by individuals who type a Facebook status update from the safety of their homes can be linked to violence offline, where individuals may not have a physical shelter to protect themselves. As Expert 2 put it, "there are people saying crazy

[151] A. Mariam, 'Unity Park Addis Ababa: The story of all of us in the city upon the hill', ECADF, 5 February 2020, Available from https://ecadforum.com/2020/02/05/unity-park-addis-ababa-the-story-of-all-of-us-in-the-city-upon-the-hill/ (accessed 4 August 2020).

[152] 'Ethiopia: Donor support for economic reforms reached $9bn', Asharq Al-Awsat, 14 December 2019, Available from https://english.aawsat.com/home/article/2035251/ethiopia-donor-support-economic-reforms-reached-9bn (accessed 4 August 2020).

[153] 'PM Abiy visits 'Beautifying Sheger' project', Ethiopian News Agency, 1 January 2020, Available from https://www.ena.et/en/?p=11572 (accessed 4 August 2020).

[154] 'Ethiopians around the world to celebrate GERD on Sunday', Borkena, 1 August 2020, Available from https://borkena.com/2020/08/01/ethiopians-around-the-world-to-celebrate-gerd-on-sunday/ (accessed 4 August 2020).

things online, but then you see them in person and they are not that aggressive."[155] Online behavior creates a modern hurdle for the Government to overcome, so understanding why people behave the ways they do online is important so it can be countered.

3.4: Online and social media use in Ethiopia

Expression takes many forms, and the online arena is well known as a platform for the exchange of ideas and opinions. This is true even in Ethiopia, where Internet penetration rates are still relatively low. Though the percentage of Ethiopia's population that uses the Internet and social media sites such as Facebook, Twitter and Youtube may be small today, they are growing rapidly from year to year. Figure 1 from Chapter 2 displays Ethiopia's dramatic growth in Internet usage in the last decade, landing at approximately 18.6% of its population using the Internet in 2017.[156] While these numbers may be small in comparison to other countries, digital growth indicators continue to follow upward trends. Mobile phone connections increased by 18%, Internet users increased by 2.6%, and active social media users grew by 4%, all between January 2019 and January 2020.[157] Ethiopia's population and most of its Internet users are young, with a median age of just 19.5.[158] The most popular social media platforms are, in order of most popular to least popular are Facebook (53.99%), Pinterest (19.11%), YouTube (17.73%), Twitter (7.04%), Instagram (1.23%), and reddit (0.29%). The trend of Facebook being the most-used social media platform has remained steady since the beginning of data collection on this subject in 2009. However, one interesting trend worth exploration may be that of the recent decline in Facebook use seen in 2019: the average usage declined by over 30%.[159] Despite this, as the data shows, it remains the most frequented social media site by over 30%.

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[155] Interview with Expert 2, Digital, 22 May 2020.
[156] International Telecommunication Union.
[157] S. Kemp, 'Digital 2020: Ethiopia', *Hootsuite & We Are Social*, [online powerpoint], 17 February 2020, slide 17, Available from https://datareportal.com/reports/digital-2020-ethiopia (accessed 22 June 2020).
[158] ibid, slide 18.
[159] GlobalStats, 'Social media stats in Ethiopia - May 2020', May 2020, Available from https://gs.statcounter.com/social-media-stats/all/ethiopia/2019 (accessed 22 June 2020).

As more users gain access to the Internet and, subsequently, Facebook, it is important to consider who is actively shaping conversations. Ethiopian users on Facebook are primarily young males, which is particularly relevant when considering who is at the forefront of the ethnic clashes on the ground. Who distills content and who reacts to it will be explored more closely in Chapter 4. According to data gathered from advertisers on Facebook, 68.3% of Ethiopian users are males and 31.7% are female.[160] Over 86% of Facebook users access the site *only* via a mobile phone,[161] which, again, is relevant when analyzing the ways in which online content transforms into real-world violence. The analysis in Chapter 4 will clarify the extent to which male individuals are the primary drivers behind sharing of information online and transforming it into real world violence.

Some (primarily members of social media and technology enterprises[162,163]) tout the potential for social media and mobile phones to effect positive change in societies. According to philosophical arguments like that of Mill's, this should be true: more information and conversation around a topic should, in theory, lead to the discovery of truth. Some analysis has, however, found that increased mobile phone usage leads to increased violence. Links between mobile phone usage and conflict have been drawn in Algeria, the Democratic Republic of the Congo, Kenya, Nigeria, Uganda and Zimbabwe.[164] One study in particular found that "the availability of mobile phones significantly increased

[160] Kemp, slide 28.
[161] ibid., slide 29.
[162] M. Zuckerberg, 'Standing for voice and free expression', [speech], 17 October 2019, Transcript available at https://www.washingtonpost.com/technology/2019/10/17/zuckerberg-standing-voice-free-expression/.
[163] Interview with Jack Dorsey, 'Jack Dorsey on Twitter's role in free speech and filter bubbles', San Francisco, 15 October 2018, Transcript available from https://www.wired.com/story/jack-dorsey-twitters-role-free-speech-filter-bubbles/ (accessed 31 July 2020).
[164] J. Pierskalla, and F. Hollenbach, 'Technology and collective action: The effect of cell phone coverage on political violence in Africa', *American Political Science Review*, vol. 107, no. 2, 2013, p. 213, Available from http://pscourses.ucsd.edu/ps200b/Pierskalla%20&%20Hollenbach%20Technology%20and%20Collective%20Action%20--%20Effect%20of%20Cell%20Phone%20Coverage%20on%20Political%20VIolence%20in%20South%20Africa.pdf (accessed 27 July 2020).

the probability of an ethnic group engaging in violent conflict with its government."[165] Because mobile phones enable opposition groups in "overcoming internal collective action problems", they allow for easier "distribution of information to tacit supporters in the wider population, and, on an operational level, allows for real-time coordination of insurgent activity."[166] Information is distributed across greater distances and even to those without access to mobile phones, as information and/or "cell phones can be shared collectively between group members or villagers."[167] When considered in the Ethiopian context, these findings help explain how and why such rapid and violent responses occur to posts on social media despite the relatively low Internet penetration rate.

It is important to note that the question of social media platforms in spreading information and, therefore, leading to truth, is still under development. Depending on the case study analyzed, different conclusions can be drawn. For example, a study conducted in Iraq demonstrates that more cell phone coverage led to decreased political violence.[168] Others, like those studies conducted in African countries mentioned above, find the opposite: increased cell access led to increased violence. From the philosophical perspective, more rapid and more widespread access to information and ideas should lead those participating in the conversation closer to truth. This philosophy is, it would seem, what guides international human rights law and those advocating for it, including independent actors such as the Special Rapporteur. However, as new technologies democratize the spreading of information and values, increased methods of dissemination and actors with diverse aims must be carefully considered in the formation of recommendations and responses.

Ethiopia's Internet is provided for by the government, and has, as such, been monitored and controlled closely by State authorities. The Government of Ethiopia has been, including in

[165] C.S. Bailard, 'Ethnic conflict goes mobile', *Journal of Peace Research*, vol. 52, no. 3, 2015, p. 323, Available from Peace Science Digest (accessed 27 July 2020).
[166] J. Pierskalla, and F. Hollenbach, p. 210.
[167] ibid.
[168] J.N. Shapiro, and N.B. Weidmann, 'Is the phone mightier than the sword? Cell phones and insurgent violence in Iraq', *International Organization*, vol. 69, no. 2, 2015, p. 247-274, Available from http://journals.cambridge.org/abstract_S0020818314000423 (accessed 27 July 2020).

the time of Abiy, quick to shut down the Internet at times of civil unrest. As Special Rapporteur David Kaye notes in his December 2019 End of Mission Report: "The Government has shut down the Internet a reported eight times this year."[169] Compared to actions taken by the pre-Abiy EPRDF against individuals, such as a six-and-a-half-year prison sentence for Yonatan Tesfaye after he was convicted of encouraging terrorism in Facebook posts in 2017,[170] an Internet shut down is much less invasive. However, as the Special Rapporteur notes in his 2020 report to the Human Rights Council, "the Government still routinely asserts control over Internet access. The blocking of websites and apps, and general disconnections have continued well after the election of Aiby Ahmed as the Prime Minister. Shutdowns are reported to have accompanied anti-government protests, national exams and ethnic conflicts."[171] These covert shutdowns lack a legal basis, and they are not "necessary to achieve the aims specified in article 19(3) of the Covenant".[172] The Special Rapporteur's concerns may represent that of the international human rights community, but Ethiopian leadership continues to hold fast in their methods.

Prime Minister Abiy maintained a steady position of defense for shutdowns, stating in an August 2019 press conference that Internet shutdowns will still be conducted in the interest of public safety and national security. "Internet is not water, Internet is not air. Internet is very important. However, if we use it as a revolution tool to incite others to kill and burn, it will be shut down not only for a week, but longer than that."[173] Because EthioTelecom, which operates all phone and Internet services throughout the country, remains in the State's ownership, the government can regulate it directly, immediately, and without providing reason for its actions. No national law currently exists that provides a clear

[169] D. Kaye, 'Visit to Ethiopia 2-9 December 2019 - End of Mission Statement'.
[170] Amnesty International, 'Amnesty International Report 2016/2017 – Ethiopia', 22 February 2017, Available from https://www.refworld.org/docid/58b033ffa.html (accessed 15 June 2020).
[171] Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, 2020, para. 50, Available from https://undocs.org/en/A/HRC/44/49/Add.1 (accessed 22 June 2020).
[172] ibid., para. 51.
[173] A. Shaban, 'Twitter backlash after Ethiopia PM's internet 'not water or air' threat', Africa News, 3 August 2019, Available from https://www.africanews.com/2019/08/03/twitter-backlash-after-ethiopia-pm-s-internet-not-water-or-air-threat/ (accessed 22 June 2020).

outline of if or when an Internet shut down would be legally acceptable. The current state of legislation around the matter will be discussed in more detail in Chapter 5, and recommendations for future Internet-related actions that could be taken will be made in the Conclusion.

3.5: Human behavior online

What happens when the psychological processes which create emotion and reality is taken to the online sphere? Specific to the objectives of this paper, the psychology of social media users is important to consider. When expression moves online, the psychological processes happening within the confines of the skull are altered. Barrett writes about the perceptions and constructions of emotions: we are architects of our experiences, "through continual prediction, you experience a world of your own creation that is held in check *by the sensory world*."[174] (Emphasis added) The challenge is that when messages start to be communicated online, the sensory world – that is, the physical world that our senses react to - is much more limited. On an online platform such as Facebook, the cues that are received in a face-to-face conversation, video call, or voice call are largely reduced to the reading of text or interpreting what is happening in a photo: gestures, tone of voice, and other sensory experiences are removed. This then leaves readers to attribute meaning to the text on their own in a process known as attribution bias. "Attribution bias is what makes us think we know what motivations must be driving someone else's behavior – or what kind of person they are deep down – when we actually have no basis for knowing those things. Errors based on attribution bias are perilously common."[175] By reducing sensory inputs, social media allows users to predict and attribute meaning. Past experiences, as was discussed above, play a large role in people's ability to construct emotions and realities. So, in the online sphere, the meaning of a Facebook post will depend more on who is reading it and

[174] Barrett, p. 65.
[175] E. Pothast, 'The (deep) dream of motivated reasoning produces monsters', *Medium*, [web blog], 6 June 2019, https://medium.com/form-and-resonance/the-deep-dream-of-motivated-reasoning-produces-monsters-a4b9148f5215, (accessed 13 July 2020).

what past experiences have taught them to expect and predict than it will depend on who published the post and what their true meaning was behind it.

These factors – the country's history with authoritative regimes, the lasting psychological impact of repressive rule, and increasing use of the Internet as a channel for expression – converge, creating the challenging reality that the Ethiopian government must now manage. To do so successfully, balance must be struck between respect for human rights, including the freedom of expression, and their responsibility to protect their population. Considering the history, particularly of ethnic division, low digital literacy rates, and lingering fear that holds all but the boldest voices back, striking this balance is no easy task. However, one balance may be found with a clearer understanding of one of the primary challenges currently facing the government – how to responsibly address hate speech online.

Chapter 4
Hate Speech online in Ethiopia, examples and analysis

4.1 Specifics and trends found in social media in Ethiopia

Increasing social media activity in Ethiopia is important to track, as social media engagement plays increasing roles in the enjoyment of human rights. By understanding who is using social media and how it is being used—be it posting, sharing, or liking—human rights protectors can equip themselves with the knowledge of how to address links between social media activity and real-world human rights violations. This section will discuss specific incidents during which human rights were violated in Ethiopia, and analyze whether social media activity during or close to the event can or cannot be linked to those violations. First, a more specific look at the social media landscape in Ethiopia is required.

As was previously mentioned, digital media usage has followed rapid upward trends in the country. Having climbed from nearly 0% to just under 20% of Internet usage in the last ten years, more and more Ethiopians are exposed to open forms of communication and have

more access to sharing their own views and opinions. That is, when the government is not shutting down the Internet like they did eight times in 2019.[176] Despite the shutdowns, social media's audiences, largely males (68.3% male compared to 31.7% female[177]), participate actively on social media. For the purpose of this study, social media activity from Ethiopian activists and politicians with more than 100,000 followers on Facebook was examined. Facebook was selected because it is, as was mentioned in Chapter 3.4, the most widely used social media platform in Ethiopia. When conducting the initial research into online hate speech in Ethiopia, a list of 40 prominent activists recommended by local Ethiopians familiar with the situation was collected. For the purpose of this thesis, 16 of those activists or politicians with over 100,000 Facebook followers were analyzed in order to determine whether any trends in social media usage could be identified.

The first noticeable trend of these 16 prominent figures is that the number of followers on *each* individual account has, between January 2020 and July 2020, grown on average by 51,602 followers. Three of those pages increased by over 100,000 followers in the six-month period. While it is impossible to know whether new followers are supporters or opponents of these figures, these numbers follow the overall, more general trend of growing Internet usage in the country. Furthermore, increasing audiences mean that messages spread much quicker, including offline. Rapid transmission of posts that do not have to be verified to be public on Facebook can have tangible effects on the ground, as the study referenced in Chapter 3 demonstrated.[178] The following analysis of posts from activists will help demonstrate what those effects can be.

The next trend in the list of 16 names is that only one woman, Senayit Mebratu, is present. In fact, when considering the larger list of 40 prominent activists, only two women are found on the list. In addition to Senayit Mebratu, Gege Kiya is another influential voice on

[176] Human Rights Watch, 'Ethiopia: Communications shutdown takes heavy toll', 9 March 2020, Available from https://www.hrw.org/news/2020/03/09/ethiopia-communications-shutdown-takes-heavy-toll (accessed 7 July 2020).
[177] S. Kemp, slide 28.
[178] J. Pierskalla, F. Hollenbach, p. 213.

social media, though her presence is primarily on Youtube. With over 37,000 subscribers and over 20 million views on Youtube, Gege Kiya is one of the most widely viewed activists in the country.[179] Her top twenty most-viewed videos, four of which were posted in the last six months, average 265,000 views. Covering everything from "Easy day to night make up"[180] to videos that advocate for violence against members of the Amhara ethnic group[181], Gege Kiya, Oromo herself, has significant power for influence which is worthy of further discussion in a paper with a wider scope than this one. The lack of female voices on the more widely accessed platform of Facebook leaves a gap representing the voices, experiences and perspectives of half of the country's population. It also means that women largely do not end up seeing themselves represented in conversations about Ethiopia, be it in advocacy or participatory roles.

Perhaps the most noteworthy trend is that of clear and distinguishable group identities being perpetuated by these accounts. These identities can largely be categorized along ethnic, religious and politically oriented lines, with those lines blurring at times. Experts 2 and 3 both cite ethnic and religious drivers for tension, with Expert 1 echoing those two reasons and adding politics to the list.[182] Jawar Mohammed, the activist with the most Facebook followers (1,953,533 as of 7 July 2020) from the list of 16 activists, blurs the lines between political and ethnic lines. As an Oromo activist and media owner, it is one of his posts that the thesis will examine more closely for an in-depth analysis. Other activists such as Yaya Bashir are known for being more exclusively ethnically driven. One example of an ethnically motivated post was shared on Facebook to his more than 300,000 followers. On the 21st of December 2019, Yaya responded to the burning of two mosques in Mota, Amhara, which led to a university protest in Dire Dawa, Oromia. In his speech, Yaya

[179] 'Gege Kiya Youtube statistics', Social Blade, 25 June 2020, Available from https://socialblade.com/youtube/channel/UCU3kDb0t2AoOEXAPCy5IhwQ (accessed 8 July 2020).
[180] 'Easy day to night make up- gege Kiya' [online video], 17 November 2018, https://www.youtube.com/watch?v=PtvM1tHbO1M, (accessed 8 July 2020).
[181] Analysis originally conducted by Expert 2 on Gege Kiya video located on Twitter feed. The video was posted to Twitter on 24 November 2019, and can be found at https://twitter.com/YeKisto_Bay/status/1198413817371414534 from user @dengeysateater.
[182] Interviews with Expert 1, Expert 2 and Expert 3.

not only targets the specific Amhara ethnic group using the derogatory word, "neftegna", but he accompanies the text with images of a man lying on the floor and a pile of belts. When analyzed by a local familiar with the language, this instance of speech was categorized as hate speech after an analysis conducted using the Rabat threshold: "The speech is likely to flare up the hate and antagonism between the activists and students coming from the two major ethnic groups. The speech also calls Amharas by a derogatory term so it is likely to dehumanize them and get negative reaction. It is also likely that pro Oromo activists, students will take such speeches seriously and make retaliations to the accused, Amharas."[183] The following in-depth analysis of speech will demonstrate ways speech like this leads to real world human rights violations.

4.2 Analysis Methodology

One of the primary challenges for analyzing material found on social media is finding a methodology that enables a strategic way of navigating the thousands of posts. As mentioned in the introduction, this thesis builds off of the work conducted while the author was working for the Office of the High Commissioner for Human Rights. Important limitations included language and volume of posts. As such, the work of analyzing Facebook posts was given to one staff member whose native language is Amharic. The staff member analyzed a total of 14,802 Facebook posts that took place from the original list of 40 prominent activists and politicians. In order to analyze all social media posts, including on platforms other than Facebook, the author created a common worksheet for all analyzers to work from. The worksheet can be found as Appendix item I.; it was designed to streamline and unify the process of applying the Rabat threshold to each instance of speech. From this, the analyzer responsible for reviewing Facebook posts found that 48 posts amounted to hate speech based on the Rabat threshold. In order to quantify the findings, analyzers were asked to rank the speech on a scale of 1 (lowest level of hate

[183] Quote from Expert 1 taken from primary research conducted while thesis author worked in OHCHR-EARO.

speech) and 10 (highest level of hate speech). The average result from the Facebook analysis of the 48 posts was a 6.3.

At the same time that speech was being analyzed by speakers of the local languages, a list of 15 events that took place around the country was collected. Each of these events involved at least one human right violation: the violations that were tracked in the study were those that were explicitly mentioned in news reports about the events themselves. The alleged violations reported were related to right to life, personal security, arbitrary arrest, freedom of movement, deprivation and destruction of property, and the freedom of expression and religion. Events examined were those that occurred between the election of Abiy Ahmed's appointment to the role of Prime Minister in April 2018 and the passing of the Hate Speech and Disinformation Prevention and Suppression Proclamation in February 2020. In addition to tracking reported human rights violations, the events were also categorized under certain primary themes: ethnic violence, religious violence, or political violence.

For an overview of the events analyzed for this research, a table can be found in Annex II, which organizes the fifteen events. It lists each event, the date of occurrence, its primary theme and the reported human rights violations. It should be noted that if a number is not recorded it is because specific evidence of a violation was not reported; it does not necessarily mean that no violation occurred. Expert 1 describes the three most frequently recurring themes found in online hate speech:

> "Politics, ethnic and religious issues take the biggest portion of hate speech online in Ethiopia. By politics I mean the support and opposition to the government and opposition parties is untamed, uncivilized and based on negative tactics mostly where all sides play dirty by trying to attack and cause harm through the use of hate speech. The same is true [when] looking at the speeches made by officials, opposition figures. Ethnic politics is deeply entrenched in Ethiopian politics, in particular the Amhara-Oromo historical adversary and the Tigray (dominant in previous regime) vs. other

> dominant ethnic groups [including] Oromo, Amhara, etc. The so-called division between major and minor ethnic groups all have dropped some spices of flavor for the serious and negative altercations between the elites and youths of these ethnic groups that is mostly observed online. By religion I mean Christianity vs. Islam that has resulted in serious attacks of religious institutions in different parts of the country where there is a majority of one religious groups [that] is often proceeded or followed up by serious and multiple exchanges of hate speeches that expands the frustration and wounds of people."[184]

Research backs this statement up, and contextualization helps analyzers understand it. The most frequent theme used to describe the source of the violence was ethnicity-fuelled conflict, which was the primary theme in ten of the fifteen events. Religion was reported as the motive for four of the events (interestingly the three most recent events, raising questions about new trends either in motivations for violence and/or in the reporting of violence), and politics was the primary theme in one event. Important to remember though is that, while a primary theme may be used to report the incident, or center discussions on particular objectives, there are often several themes at play. Even, for example, in the case of the one politically motivated violence that occurred when advocating for a referendum in the Southern Nations, Nationalities, and People's Region (SNNPR), there were also elements of ethnic targeting.

With a clearer understanding of the historical background and context in which these incidents occur, it is easier to grasp both why events against ethnic, political and religious groups unfold, and also why they get framed in certain, often simplified ways in news coverage. As the historical background has shown, there has always been a reciprocal relationship between ethnic groups and political identities. When Haile Selaisse was shaping the identity of Ethiopia, for example, he did so by spreading the Amharic language throughout the country. The post-Dergue division of the nation up into nine ethnically

[184] Interview with Expert 1.

based regions provided another opportunity for increased representation, but the practice of selective resource allocation contributed to its eventual failure. Societal divisions did not disappear with Abiy's move into the Prime Minister role, but the ability to express discontent to a wide audience has thanks to platforms such as Facebook. Past generations could use freedom of expression to write newspaper articles, stage demonstrations, and write poetry. Today, social media offers an additional avenue, an open forum for the public to expose event's reality as the multi-dimensional issues they truly are.

With the fifteen events and the 48 Facebook posts that included elements of hate speech, the next step was to systematically determine if and how the Facebook posts could be linked to any of the fifteen events. In order to do this, each event was placed on a spreadsheet and the full list of 48 Facebook posts was compared to each event. If found to be related to the event, the speech was evaluated on different criteria: on a scale of 1 (lowest) to 3 (highest), how significant is the connection between the speech and the event; did the speech happen before, during or after the event; and is the speech somehow causative, aggravating or perpetuating to the event? These questions were selected for their ability to help establish links between speech and the events. The result was that, of the fifteen events analyzed, five could be linked to at least one Facebook post, which supports Expert inputs stating that cause and effect are not a given when looking at online hate speech and real world human rights violations. The value in conducting an analysis like this though still holds strong, not only because of increasing Internet access and use of Facebook, but also because of legal steps the State has taken that will be discussed in more detail in Chapter 5.

4.3 Analysis Challenges

Having already discussed the primary challenge of finding the best methodology for analysis, a number of additional challenges will be briefly discussed here. Language presents the largest barrier, and is therefore the reason for why the author relied on native speaker's interpretations of news and social media posts in varying Ethiopian languages.

That does not leave English sources without their challenges though, which is discussed in more detail below. Finding accurate data can also be a challenge, which is why multiple news sources were utilized when possible. Finally, identifying if and when bias exists, particularly to one ethnic, political or religious identity, was also a challenge. When in English, careful attention to detail helped. When in another language, relying on the interpretation was necessary.

Analyzing English language news sources from Ethiopia presents its own comprehension challenges. News in English is not difficult to find: Addis Standard, Borkena, ESAT, Ethiopian Reporter, Addis Fortune and Ezega are all examples of sources actively reporting in English. However, the challenge is that the news industry operated under the same restrictive governments as individuals have for decades. As was discussed in Chapter 3.2, the EPRDF government used the anti terrorism law to jail and silence any anti-government voices, especially those of journalists. Because of this, the Ethiopian news industry still requires capacity building in order to overcome any lingering fear that may hold back reporting efforts. This was witnessed first hand by the author while facilitating a capacity building workshop with media professionals in Addis Ababa in January 2020 where the main focus was on basic human rights. This topic was new to nearly everyone in the room, even though most professionals there had been working in the industry since before Abiy came to power. With more capacity building exercises and comfort writing about diverse topics, the news industry will develop. However, bias and underdeveloped reports still linger today, which is why understanding the historical development of the news industry is valuable.

4.4 Analysis Findings

Of the fifteen events, five of them could be linked directly to one of the 48 Facebook posts. Important to remember is that the Facebook posts used were those that had some element of hate speech, so it could be that more posts of the initial 14,802 could be linked to the fifteen events, but they did not qualify as hate speech after the initial analysis. There were varying

degrees of linkages between each post and the corresponding news report, as the analysis below will detail. It was also found that some Facebook posts could be linked to multiple news reports, which was largely due to thematic similarities.

A more in-depth analysis will be conducted on two events, Incident 9 and Incident 11, and their corresponding social media posts. These events were selected because they have direct links between social media posts and real world human rights violations, and they represent events that stem from primary thematic areas, politics and ethnicity.

4.4.1: Incident 9 Analysis: The SNNPR Sidama referendum and corresponding Facebook posts

Incident 9 is a primarily politically themed incident with strong ethnic motivations that took place during calls for a referendum in the Southern Nations, Nationalities and People's Region (SNNPR). The specific violence that took place occurred between the 18th and 22nd of July 2019. Sidama's call for a referendum is a constitutional right, which aims to recognize "all the 'nations, nationalities and peoples' inhabiting the country."[185] Article 39 of the constitution is one way in which the drafters sought to do this, though their motivation for including it is widely debated. Article 39 grants the following right: "Every Nation, Nationality and People in Ethiopia has an unconditional right to self-determination, including the right to secession."[186] This article is one example in which ethnicity and politics intertwine, leading some scholars to "assume that its [articles 39's] inclusion in the 1994 Constitution came about as a compromise between the EPRDF and other regional representatives."[187] While scholars may debate the reason for its inclusion, the fact remains that article 39 has a relatively low threshold for any nation, nationality and people to

[185] J. Erk, ''Nations, Nationalities, and Peoples': The ethnopolitics of ethnofederalism in Ethiopia', *Ethnopolitics: The Ethnopolitics of Ethnofederalism in Ethiopia*, vol. 16, no. 3, 2017, p. 220, Available from https://doi-org.uaccess.univie.ac.at/10.1080/17449057.2016.1254409 (accessed 2 June 2020).

[186] Government of Ethiopia, *Constitution of the Federal Democratic Republic of Ethiopia*, 1995. Article 39, para. 1.

[187] S. Hameso, 'The TPLF Ethiopia: Where next?', Oromia Online, 2001, cited in M. J. McCracken, 'Abusing Self-Determination and Democracy: How the TPLF is Looting Ethiopia', *Case Western Reserve Journal of International Law*, vol. 36, no. 1, 2004, p. 184, Available from scholarlycommons.law.case.edu (accessed 26 May 2020).

request self-determination, including succession, should they wish to do so. To do this, the Constitution requires that the requester must (a) approve the demand by a two-thirds majority, (b) the Federal Government must organize a referendum to take place within three years from the time it received the specific decision approved in part (a), (c) receive a majority vote in the referendum, (d) the Federal Government must transfer powers to the successful nation, nationality and people who seceded, and (e) divide assets effected in a manner prescribed by law.[188]

It was during the process of trying to exercise their right to secession as granted by article 39 that the Sidama peoples took action in July 2019. When the constitution was originally drafted, it created nine original states: Afar, Amhara, Benishangul-Gumaz, Gambela Peoples, Harari Peoples, Oromia, Somali, Southern Nations Nationalities and Peoples, and Tigray. The Sidama peoples were included in the Southern Nations Nationalities and People's region (SNNPR), but they are Ethiopia's fifth largest ethnic group, making up about 4% (nearly four and a half million people) of the total population.[189] In a pursuit to gain more recognition at the federal level and to be able to have their own regional government "that could pass policies to suit their economic and cultural needs"[190], the Sidama peoples initiated the process to create a new regional state. That is, they enacted article 39(a) in July 2018, which meant that the next legal step was for the government to organize a referendum within one year. However, "after a complex period of transition following Mr. Abiy's first year of leadership, as well as a wave of ethnic tensions and an alleged regional coup, the government did not organise the vote in time."[191] The government's delay resulted in a delayed vote, which led to the violence in the SNNPR.

The violence triggered after the government's failure to organize the referendum within the one-year time frame resulted in reported loss of life, injury, property damage, and

[188] Government of Ethiopia, *Constitution of the Federal Democratic Republic of Ethiopia*, 1995. Article 39, para. 4.
[189] 'Ethiopia referendum: Dozens killed in Sidama clashes', BBC Africa Live, 22 July 2019, Available from https://www.bbc.com/news/world-africa-49070762 (accessed 12 July 2020).
[190] ibid.
[191] ibid.

displacements. Accounts of how much loss of life vary. A November 2019 report from Amnesty International states, "No official death toll has been published from the clashes in July when protests broke out following the postponement of the plebiscite, but Sidama activist groups put the figure at almost 170."[192] The BBC news report published immediately after the clashes on the 22nd of July cites that "at least 25 people have died in clashes between Ethiopian security forces and activists in southern Ethiopia", a figure they say came from hospital officials.[193] Other news sources cite anywhere from eleven[194] to seventeen[195] deaths in the region. Addis Standard reported the loss of more than 35 lives, fourteen of which occurred after "police randomly opened fire at a group of civilians who were marching toward a police station. They also report the burning of at least three churches and personal homes, displacing more than 400 people.[196] Despite the challenge of collecting official records on the loss of life, the fact remains that the right to life was clearly violated because of the failure of the State to fulfill its constitutional obligation of organizing a referendum in time, and their failure to protect citizens on the ground during unrest. Furthermore, reports of personal injury and property damage[197], and cut offs of the Internet and telephone services[198] add to the types of violations that occurred in the region.

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[192] Amnesty International, 'Ethiopia: Authorities must prevent violence and protect rights during Sidama referendum', 19 November 2019, Available from https://www.amnesty.org/en/latest/news/2019/11/ethiopia-authorities-must-prevent-violence-and-protect-rights-during-sidama-referendum/ (accessed 6 July 2020).

[193] 'Ethiopia referendum: Dozens killed in Sidama clashes', BBC Africa Live, 22 July 2019, Available from https://www.bbc.com/news/world-africa-49070762 (accessed 12 July 2020).

[194] 'Dozens arrested after clashes between security, Sidama statehood activists; Police, activists report casualties', Addis Standard, 19 July 2019, Available from http://addisstandard.com/news-dozens-arrested-after-clashes-between-security-sidama-statehood-activists-police-activists-report-causalities/ (accessed 12 July 2020).

[195] G. Obulutsa, 'Ethiopia federal forces take over security in protest-hit region: Fana', Reuters, 23 July 2019, Available from https://www.reuters.com/article/us-ethiopia-politics/ethiopia-federal-forces-take-over-security-in-protest-hit-region-fana-idUSKCN1UI29Z (accessed 12 July 2020).

[196] 'Death toll rises to "More than 35" in Sidama zone, hundreds displaced after losing properties', Addis Standard, 22 July 2019, Available from http://addisstandard.com/news-death-toll-rises-to-more-than-35-in-sidama-zone-hundreds-displaced-after-losing-properties/ (accessed 12 July 2020).

[197] 'Dozens arrested after clashes between security, Sidama statehood activists; Police, activists report casualties'.

[198] 'Ethiopian security forces clashed with Sidama youth in Hawassa", Borkena, 18 July 2019, Available from https://borkena.com/2019/07/18/ethiopian-security-forces-clashed-with-sidama-youth-in-hawassa/ (accessed 12 July 2020).

Of the 48 Facebook posts that were determined to contain some element of hate speech after using the Rabat threshold, there were two posts that could be linked directly to events in Sidama. The same author, Zemedkun Bekele, posted them both; one post was published on the 23rd of July, just one day after the violence ended, and the second post was posted on the 31st of July. At the time of the initial investigation, Zemedkun Bekele had 457,749 Facebook followers; on the 7th of July 2020, that number rose by over 130,000 for a total of 593,847. Known for sharing his political and religious views, Zemedkun's posts each average thousands of reactions ("reactions" being likes or other response options users can choose from), and over 1,000 comments and shares. For example, his most recent twenty Facebook posts averaged 7,745 reactions each, just over 1,071 comments each, and nearly 1,359 shares each.[199] The two posts from July 2019 also received a high level of engagement: the post on the 23rd of July received 710 reactions, 207 comments and 76 shares, and the post on the 31st of July received 774 reactions, 322 comments and 66 shares. It is to his hundreds of thousands of followers, a good number of which actively engage with his posts as the numbers here demonstrate, that Zemedkun Bekele regularly shares his religious and political views.

Zemedkun Bekele is known as an Orthodox Christian who advocates on behalf of the Amhara ethnic group. His two posts were analyzed together using the Rabat threshold by a native Amharic speaker to determine to what extent the posts amounted to hate speech. The posts are directly related to the event, having both been published within nine days after the end of the violence, and both referring directly to the events themselves. The following analysis using the Rabat threshold was recorded:

Context: The context of the SNNPR referendum in which the posts were shared was described above. Dozens of deaths occurred, hundreds were displaced, and property was destroyed, including the burning of three churches. As a reaction, Zemedkun Bekele's posts, published in the immediate aftermath of this violence, aim to allege and assert who

[199] Data collected by thesis author 13 July 2020 from Facebook posts starting on 1 June 2020.

the mastermind behind the violent acts was. Due to the high tension in the region, the context in which these posts were shared has the potential to exacerbate hostility.

Speaker: Because of Zemedkun Bekele's hundreds of thousands of followers, he is recognized as an influential speaker in Ethiopia. Furthermore, the engagement with his posts adds to his potential for greater influence. These two posts, each gaining hundreds of reactions, comments and shares, demonstrate a relatively high level of engagement from his followers. Furthermore, being known for posting about ethnicity and religion, two of the most influential themes in all of Ethiopia, Bekele is speaking about topics of interest for Ethiopians.

Intent: Bekele's posts were determined to have clear intent: to draw attention to the violence and place blame for who is responsible for it. First, a direct and express association between the attack on Orthodox churches in Sidama and the people who he claims committed the attacks, the *Ejjeeto* (Sidama youth group known for political activism[200]), and Jawar Mohammed, a prominent figure known especially for pro-Oromo activism is drawn. The intent, therefore, is for Bekele to place direct blame on the mastermind behind the attacks. By doing this, Bekele enables his hundreds of thousands of followers to draw clear and direct links between the attacks and attackers.

Content and Form: Written in Amharic, which is undoubtedly the most accessible language for the followers of this pro-Amharic speaker, the speech takes an accusatory form. The posts "clearly and undoubtedly" accuse members of certain ethnic groups of being responsible for the attacks with no proof provided. In addition, the post from the 23rd of July directly calls out Jawar Mohammed by referring to him as "Ja-War", and Bekele refers to Jawar as a leader of Wahhabism, which is an Islamic extremist group. These posts stood out visually on the page and in follower's newsfeeds because Bekele used the Facebook feature of adding a background to the post.

[200] 'Death toll rises to "More than 35" in Sidama zone, hundreds displaced after losing properties'.

Extent and Magnitude of the Expression: Because of the limited access to this specific data from the perspective of a page viewer, it cannot be known exactly how many people viewed these posts. However, the two posts garnered over 2,000 reactions, and, due to the public nature of the page, it is likely that more people saw the posts than who reacted to it. This contributes to a relatively large impact, increasing these posts' scores when it comes to extent and magnitude.

Likelihood of harm occurring, including its imminence: These posts were "likely to strengthen the wound of the victims and it is likely to cause reaction or retaliation of some kind by the faith group members in a certain way, shape or form." Their reason for concluding a high likelihood of harm occurring was because of the violations to right to life, the destruction of churches, and bodily injuries, combined with the large audience and respect of the speaker.[201]

While Bekele's posts were made after the violence of Incident 9, the thesis author would concur with the reviewer's initial findings in that the posts contribute to generation of imminent chances of harm. The main reason for this agreement is because of trends that seem to be pointing towards more prevalence of religious tensions, which can be seen in a more recent event, Incident 13, which correlates to the burning of religious structures in Mota town in December 2019. Because part of Incident 9's violence was driven by religious tensions and religious structures were targeted, it may be considered an indicator of a growing trend – or, as Terje Østebø may argue, new recognition of tension that has existed well before today.[202]

These two Facebook posts were found to have clear and direct intent from a widely influential speaker, which named specific potential targets for blame and/or retaliation. Being that the posts were shared so recently after the incidents occurred, the posts had

[201] Review of Zemedkun Bekele's Facebook posts conducted by Expert 1.
[202] Østebø.

greater likelihood for causing a violent reaction, as victim's wounds were still fresh. Combined, these factors are why the speech was determined to qualify as hate speech.

4.4.2: Incident 11 Analysis: Jawar Mohammed's Facebook posts and corresponding violence

Incident 11 is a largely ethnically motivated event that occurred in October 2019. It is that of the violence that occurred directly in relation to Facebook posts shared by the social media personage and owner of the Oromia Media Network (OMN), Jawar Mohammed. The specific incident that took place caused the loss of 86 lives, 10 of which were reportedly at the hands of security forces, at least 97 injuries, at least 30 properties destroyed, and displacement of many (the actual number was not reported, though the immediate aftermath sent at least 3,000 people to churches for shelter).[203] The violence that occurred after Jawar's posts is best understood within the context of the greater dialogue about ethnic identity and conflict, most especially that of the Oromos.

The Oromo ethnic group is currently the largest in Ethiopia, comprising 34.4% of the total population.[204] Despite their size, the largely Islamic-identifying group has never been truly represented at the federal level. As with most ethnicities in 19th and early 20th century Ethiopia, the Oromo peoples were primarily pastoralists and engaged in some trade.[205] History books, at least those written in English, do not represent Oromos as overly engaged in striving to become the ruling party. There was just one ruler, Lej Iyassu, who is cited as having tried to promote the culture and religion most closely associated with Oromo peoples during his *de facto* rule from 1911 to 1916. However, his "challenge to the long-established hegemony of Orthodox Christianity in Ethiopia" would be used as "good propaganda material for his opponents."[206] His attempts to address the question of national identity, and to more directly include Oromos in the answer to that question, would not be

[203] Human Rights Watch, 'Ethiopia: Justice needed for deadly October violence', 1 April 2020, Available from https://www.hrw.org/news/2020/04/01/ethiopia-justice-needed-deadly-october-violence (accessed 30 June 2020).
[204] Minority Rights Group International.
[205] Zewde, p. 20.
[206] Zewde, p. 124.

realized. In fact, they may have caused more damage to the Oromo identity, for his reign ended with charges of apostasy due largely to his varied forms of support for the Islamic religion.[207] After Iyassu's reign, it was not until 1963 that the Oromo began an organized quest for self-identity, which took the forms of the Mecha and Tulama Self-Help Association and then the Oromo Liberation Front (OLF).[208] Considered threats by the ruling party, and with their own internal challenges, these groups "ceased to have any political consequence by 1978."[209] This trend continued, even as the Dergue indiscriminately thrashed Ethiopian resistance, and veiled attempts for representation were made by the EPRDF when they came into power in 1991. The result was and has been continued oppression of the largest ethnic group in Ethiopia. The difference in the latest power transition in 2018 was that more people had access to platforms, which enabled more diverse dialogue around the issues of ethnicity, politics and religion.

Jawar Mohammed began to build his media presence from the United States, which he was exiled to in 2003 because of his opposition to the Tigrayan-led EPRDF. It was in 2015 that the OMN, the media network owned and operated by Jawar from the United States, began posting content that highlighted divisions between the government and people on the ground, especially those from Oromo. By sharing this content, Jawar stirred opposition; one group was particularly active, the *qeerroo*, a group comprised mostly of young Oromo male bachelors. Violent clashes opposing the government took place around the country, gaining support from additional ethnic groups including Amharas. These clashes lasted from 2015 until the abrupt resignation of then Prime Minister, Hailemariam Desalegn, in February 2018.[210] In his place came Oromo-born Abiy Ahmed.

Fast-forward to October 2019, after the sweeping legislative reforms initiated by Abiy, and a feeling of discontent from the initially hopeful Oromo could be sensed. It is particularly

[207] ibid.
[208] ibid., p. 261.
[209] ibid., p. 262.
[210] E. Peralta, 'How an exiled activist in Minnesota helped spur big political changes in Ethiopia', NPR, 6 December 2018, Available from https://www.npr.org/2018/12/06/672196480/how-an-exiled-activist-in-minnesota-helped-spur-big-political-changes-in-ethiopi?t=1594739513945 (accessed 14 July 2020).

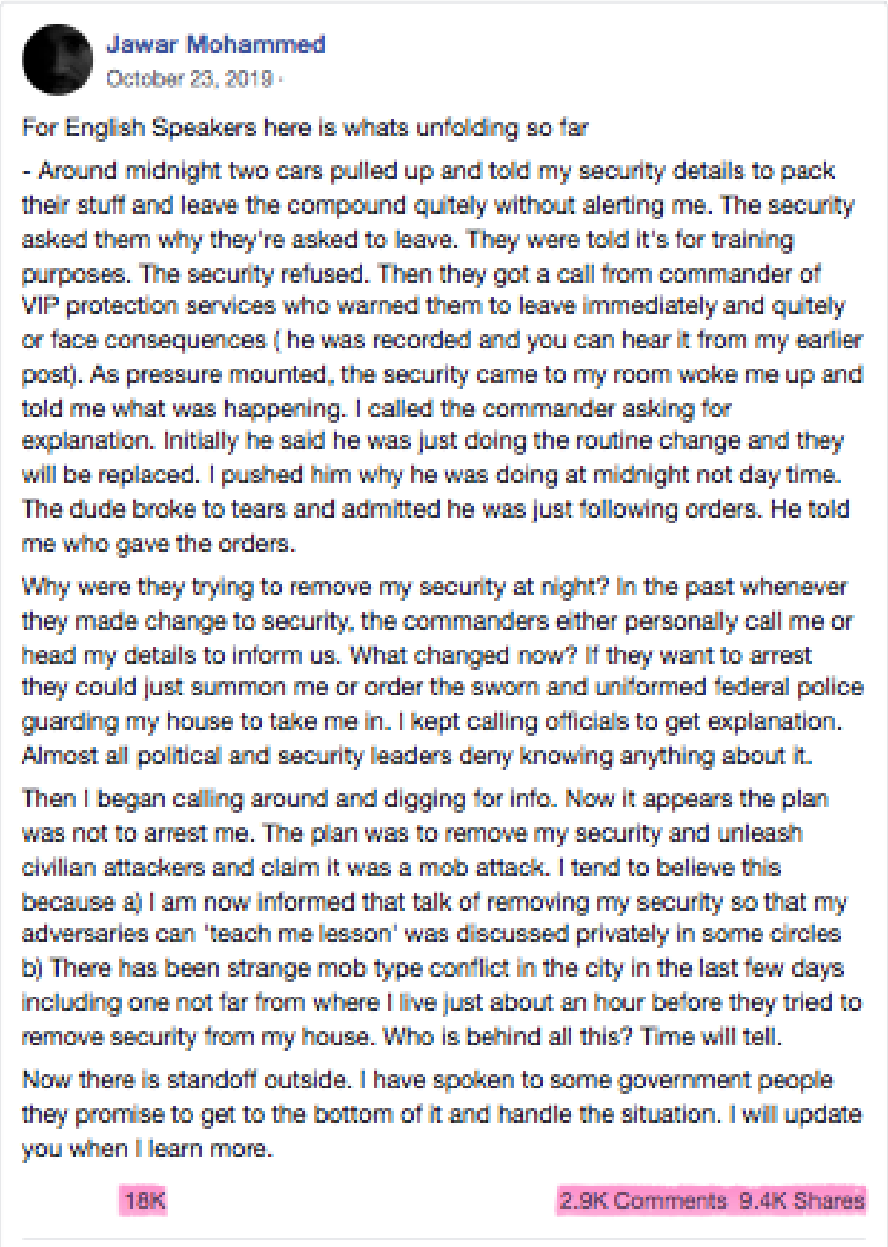
palpable on social media outlets, including Jawar's increasingly popular Facebook page. Between the 10th of January 2020, and the 7th of July 2020, Jawar's Facebook followers grew from 1,799,206 to 1,953,533, an increase of 154,327 people. Jawar's followers are highly engaged: in the twenty most recent Facebook posts, posted between the 28th and 30th of June 2020, each post averaged 11,615 reactions, 1,633 comments, and 4,129 shares. It should be mentioned that part of the reason why Jawar's averages are so high on the twenty most recent posts is that his five most recent posts were about the June 2020 killing of a popular Oromo singer, Hachalu Hundessa, which has led to killings of a reported 239 people throughout Ethiopia.[211] These five posts alone each averaged 27,400 reactions, 4,800 comments, and 12,500 shares. While the event of Hundessa's killing falls outside of the scope of this thesis due to its timing, a similar analysis could be conducted to discover links between social media and real world violence. This will be discussed further in the concluding recommendations.

The specific post that Jawar published on the 23rd of October 2019 falls well into the averages of his most recent posts having received 18,000 reactions, 2,900 comments and 9,400 shares. His reputation among his followers, well established because of his prior involvement in ethnic-political engagements mentioned above, led to swift responses to his post. Offline the post elicited loss of life, personal injury, destruction of property and displacement in numerous parts of the country.[212] While at first glance the post's words alone may not seem to constitute hate speech, a careful analysis using the Rabat threshold highlights its true potential to elicit hate-fuelled, real-world violence.

The English version of the post, posted in English by Jawar himself, was one of three posts that occurred concurrently after an incident took place at his Addis Ababa residence. The other two posts were in the Amharic and Oromofiya languages. Jawar describes the event in the post and raises questions about which actors and motives were involved. A

[211] T. Geme, 'US Oromos protest singer Hachalu's killing in Ethiopia', Voice of America, 13 July 2020, Available at https://www.voanews.com/usa/us-oromos-protest-singer-hachalus-killing-ethiopia (accessed 14 July 2020).
[212] Human Rights Watch. "Ethiopia: Justice needed for deadly October violence".

screenshot is below (next page) with the full text of the post. The post and a select number of reactionary comments have been shared in Annex III.



Jawar Mohammed
October 23, 2019 ·

For English Speakers here is whats unfolding so far

- Around midnight two cars pulled up and told my security details to pack their stuff and leave the compound quitely without alerting me. The security asked them why they're asked to leave. They were told it's for training purposes. The security refused. Then they got a call from commander of VIP protection services who warned them to leave immediately and quitely or face consequences (he was recorded and you can hear it from my earlier post). As pressure mounted, the security came to my room woke me up and told me what was happening. I called the commander asking for explanation. Initially he said he was just doing the routine change and they will be replaced. I pushed him why he was doing at midnight not day time. The dude broke to tears and admitted he was just following orders. He told me who gave the orders.

Why were they trying to remove my security at night? In the past whenever they made change to security, the commanders either personally call me or head my details to inform us. What changed now? If they want to arrest they could just summon me or order the sworn and uniformed federal police guarding my house to take me in. I kept calling officials to get explanation. Almost all political and security leaders deny knowing anything about it.

Then I began calling around and digging for info. Now it appears the plan was not to arrest me. The plan was to remove my security and unleash civilian attackers and claim it was a mob attack. I tend to believe this because a) I am now informed that talk of removing my security so that my adversaries can 'teach me lesson' was discussed privately in some circles b) There has been strange mob type conflict in the city in the last few days including one not far from where I live just about an hour before they tried to remove security from my house. Who is behind all this? Time will tell.

Now there is standoff outside. I have spoken to some government people they promise to get to the bottom of it and handle the situation. I will update you when I learn more.

18K 2.9K Comments 9.4K Shares

Image 2: Screenshot of Jawar Mohammed's English Facebook post.

Upon first reading the post, it has the appearance of being a harmless, even reasonable retelling of events. Without a close analysis, Jawar's narrative of what happened at his home on the evening of the 23rd of October seems only to acknowledge that something strange happened, and that he felt his life was potentially in danger. However, a closer analysis guided by the Rabat threshold unveils a different, more complex side of the post.

Context: Context specific to this post is limited in that, prior to the violence that occurred as a result of the post, there was not a specific event or action that triggered it. However, the wider context of the Oromo ethnic group, and the ways in which Jawar had established himself as an influential figure starting in 2015 as was described above does play a meaningful role for the context of this event. Because Jawar was such a central figure in uniting people from the Oromo ethnic group, particularly the *qeerroo*, he is already viewed as a prominent figure and fits into the pro-Oromo narrative. This post fits nicely into the context of that narrative, of which he is already seen as an authoritative voice.

Speaker: As one of the most influential voices in Ethiopia, talking about one of the most prominent issues in the country, ethnicity, Jawar Mohammed's role as speaker is one of the main elements of this post to consider. Because he broadcast some version of the same message in English, Amharic and Oromofiya, to over 1 million followers, the post had even wider reach than it would have if he had posted in just one language. Furthermore, Jawar's past involvement in Ethiopia's ethnic-political scene, both on social media and as the owner of OMN, gives him extra recognition, both to his followers and opposition. Whether people agree or disagree with him, Jawar's identity had, over time, "transformed from an outside agitator, an activist, to a political figure with huge influence over the new government."[213]

Intent: In order to determine intent objectively, a close analysis of the specific language used should be carefully applied. Otherwise, the risk of speculation by the reviewer is high. Based on his use of enthymeme and rhetorical questions (discussed next in the review), and the us vs. them narrative posted in three different languages, some intent can be objectively

[213] Peralta.

determined. The post was clearly intended to be accessible to as wide an audience as possible, and it was meant to give readers a chance to participate in the event that unfolded that night. Unfortunately, readers did not keep their interpretations online; the violence that erupted as a response to his post ended in the loss of over 80 lives.

Content and Form: Jawar's post follows a narrative format, in which he describes the events of the evening. He identifies some actors, including his own security forces, VIP protection forces, and federal police. He also refers to unspecific "officials" and "political and security leaders", unspecific "civilian attackers", "some government people", and refers to a "they" throughout the text without identifying who "they" are. By doing this, Jawar creates an "us vs. them" narrative, in which he is the victim.

Upon first read, Jawar's post could come off as harmless; it is merely a retelling of events that does not include language explicitly identifiable as explicit. However, a critical read reveals the use of strategic rhetorical tools that leave readers to see the message that best fits their biases. In other word, through attribution bias, they attribute meaning to what Jawar is saying based on what biases they already hold. By using rhetorical questions such as "Why were they trying to remove my security at night?" and "What changed now?" the post becomes participatory; readers can fill in the gaps with their own answers. Comments provide some insight into what readers took away from his message: "Government plan was to kidnap and kill Jawar after those security men leave his place, however, those security men refused their orders, they ready to sacrifice their life, those security men are heroes" (received 169 likes and 15 replies); "Can you please disclose the guy who gave the order? Pls Jawar" (received 4 likes and 5 replies); and "Now you get the Oscar for your talent in acting! Sorry the Nobel is gone for now" (received 267 likes and more than 20 replies).[214]

Extent of the speech act: Being that the post was shared on Jawar's public Facebook page, his more than 1 million followers, and even those who did not follow him, could see the

[214] Screenshots of these and more comments are provided in Annex III.

post. At the time of review for this thesis, the post received 18,000 reactions, 2,900 comments and 9,400 shares. Because he posted about the event in English, Amharic and Oromofiya, he reached an even wider set of his followers. Furthermore, his prominence in debates about ethnicity and politics in Ethiopia lend to the extent of this speech; people pay attention to what he has to say, whether they are supporters, opposition, or simply curious seekers of information about the topic. One effect of this is that his page becomes a place where people not only engage with his messages, but also share their own takes on them.

Likelihood, including imminence: Taking into account the influence and notoriety Jawar has, the fact that he wrote the posts in three different languages, and that he shared it on his publicly accessible Facebook page, *combined with* the pre-existing tensions between ethnic groups and the relationship between Abiy and Jawar known to be strained, this post has a high likelihood to incite violence. While it does not make use of explicitly hateful language in the English version, it uses more sophisticated rhetorical techniques such as enthymemes, leaving readers to draw their own conclusions as to what is really happening. This leads first to attribution bias, and is then followed by confirmation bias, which is already more likely to take place in an online setting, and which has the likely effect of reaffirming what the thousands of viewers already felt before they viewed the post.

4.5: Facebook's influence in Ethiopia

The case studies above provide two major examples of ways social media, especially Facebook, display relationships between the exercise of freedom of expression online to real world human rights violations. There were many examples of hate speech and corresponding real world events that were not explained in more detail for this thesis. As was mentioned at the start of this section, native speakers initially analyzed social media channels including Facebook to identify instances of hate speech. For the thesis, fifteen real world events, identified for their diverse and large number of human rights violations, were cross referenced with the pre-identified instances of hate speech. Five of the events could

be directly linked to the 48 Facebook posts that amounted to hate speech. While just two posts were explored in depth for the thesis, a similar process was followed to explore the links between the expression and the event. Similar patterns can be seen in their relationships. Based on the analysis and responses from questions shared with experts on the topic, a number of conclusions can be drawn about the ways in which social media and real world events are related in Ethiopia.

First, direct cause and effect links cannot be drawn in one direction between a post and an event or an event and a post. As Expert 3 stated, "It's really hard to determine the direct relationship between hate speech and violence in Ethiopia. The direct correlation is really hard to figure out. Hate speech fuels and grows the long-standing ethnic tension and it can lead to ethnic violence, but to actually say it is the direct cause – it wouldn't be methodologically correct."[215] Instead, these two posts demonstrate the ways in which influential figures can exacerbate real world tensions with their Facebook posts, creating a cyclical relationship. Zemedkun Bekele's two posts, which were shared directly after the real world violence, enabled tension and hate to continue online. By using direct and incendiary language, including by referring to Jawar Mohammed as "Ja-war", he gave his followers a target at which they could direct their anger. His language also instructed his followers how to feel about this target. However, because the posts happened after the violence on the ground, they cannot be described as causing the violence. Instead, they have the power to exacerbate pre-existing tensions and division between ethnic groups. In the case of Jawar Mohammed's post, which was posted before the violence occurred, it can be seen as having a causal effect. The combination of his large number of followers, his pre-established authority on the issue of ethnicity, and the use of specific rhetorical tools gave his post(s) enough credibility for people to turn their reactions into more than just comments on a Facebook wall. The role of these Facebook posts and the related real world violence in both events, the failed June 2019 Sidama referendum and the October 2019 ethnic clashes, can be seen as reciprocal: the online platform becomes a place for real world

[215] Interview with Expert 3, Digital, 24 June 2020.

sentiments to be expressed, and confirmation bias that happens so readily online[216] strengthens poster's convictions.

A second, related point this analysis highlights is the important role that context plays. Expert 2 highlighted the importance of contextualization in their interview: "Even in the definition [of "hate speech"] itself, there should be, we need to have our own contextualized definition of hate speech. How do we present it? How do we punish it? All of those things have to be contextualized."[217] Pre-existing ethnic tensions existed well before Facebook, so Zemedkun Bekele and Jawar Mohammed and any other public figures are merely stoking sentiment that existed before. One vitally important contextual change makes all the difference though: these posts happened after Abiy became Prime Minister and his reforms, particularly the repeal of the CSO and ATP laws, opened up the door for greater freedom of expression. Prior to Abiy, freedom of expression that would have incited this type of violence would have landed the author in prison[218], or, as was the case with Jawar, exiled. Abiy's reforms did not remove the ethnic tension, but they did remove the lid on top of frustrations.

Now, with more freedom to express one's self, influential figures are making public their opinions that they may have once held inside or at least not broadcast in an arena as public as Facebook for fear of repercussions from the State. With the reforms though, that fear is dissipating – faster for some than for others – and the use of speech that incites and draws out violence is having dangerous real world consequences. Expert 2 summarizes this when responding to a question about the leading cause of hate speech online: "How I think about it is, different reasons, but mainly that people didn't have the chance to express themselves for a very long time. For the past 20-some years, when [the] previous regime – either you were scared of saying anything or you don't have access to Internet or your bandwidth is so slow – now it's an accumulation of emotions. Everyone was silent. People were so scared

[216] S. Knobloch-Westerwick, C. Mothes, and N. Polavin, 'Confirmation bias, ingroup bias, and negativity bias in selective exposure to political information', *Communication Research*, vol. 47, no. 1, 2020, p. 104-124.
[217] Interview with Expert 2.
[218] As yearly reports from Amnesty International and Human Rights Watch cited in Chapter 3 documented.

of saying anything. There was a huge consequence about it [speaking out]. People think they have to say something now."[219]

A third conclusion can be drawn, and that is the importance of having a systematic way to analyze instances of speech. The Rabat threshold provides the means to systematically look at each instance of speech and determine whether it can be labeled as hate speech or not. As a tool, Rabat's strengths are also what provide challenges. Its ability to be adapted to whatever context the speech occurs in—it can be used in the United States just as easily as it can be used in Ethiopia—makes it an accessible, relevant and ready-to-use tool. However, that same adaptability can also be a challenge, as it puts more responsibility on the individual using it. Because it does not have strict requirements for the types of input that can or should be used, it would not be difficult to misuse, even unintentionally, the threshold. A well-trained, unbiased reviewer who is familiar with the context in which the speech is occurring is a valuable asset in order to correctly use the Rabat threshold.

Another challenge when using the threshold is that varying degrees of hate speech exist, but the Rabat threshold offers no way to systematically categorize variations of hate speech. Partly due to the lack of one universally accepted definition, hate speech can take many forms. As Jawar's Facebook post demonstrates, even speech that does not use obviously incendiary language can qualify as hate speech. The use of strategic rhetorical tools though does not exempt the speech from its role in inciting violence. Because of the different forms hate speech can take it would be helpful to have a way to measure different speeches using a unified scale. Quantification can make it easier to identify trends over time, across regions, and in different thematic areas, especially when working with a large volume of data. It also makes it easier to present findings to people from outside of the field, including members of the judiciary who may be responsible for determining whether someone should be prosecuted for violating freedom of expression and what a proportionate response would be. The Rabat threshold does not offer a means for quantifying the degree to which an

[219] ibid.

instance of expression qualifies as hate speech. As with the challenge stated above, this process of quantifying findings is also subjective, highlighting yet again the need for an unbiased reviewer familiar with the context the speech is occurring in. However, when properly used, the Rabat threshold proves to be a valuable tool, useful for evaluating speech that relates to real world violence. This point will be readdressed in Chapter 5 when discussing the government's obligation to protect the freedom of expression.

The main question this analysis is meant to raise is whether these posts constitute hate speech at a level that violates the right to freedom of expression and, therefore, the need for Ethiopia's government to limit it. By using the Rabat threshold, it was determined that these posts and the additional Facebook posts analyzed in the original study do qualify as hate speech. These speeches fueled real world conflict and contributed to tension and violence that resulted in violations of human rights. The next logical question then is how the government should respond in order to comply with their obligation to proportionally protect both the freedom of expression and the human rights of others. Ethiopia's response to this obligation has been to draft and pass the Hate Speech and Disinformation Prevention and Suppression Proclamation No. 1185/2020 (hereinafter the "Proclamation"), which the next chapter will analyze.

Chapter 5

Hate Speech and Disinformation Prevention and Suppression Proclamation No. 1185/2020 Review and Analysis

When the first draft of the Hate Speech and Disinformation Prevention and Suppression Proclamation No. 1185/2020 ("the Proclamation") was released it received large amounts of criticism for its vagueness and failure to adhere to international human rights standards. From NGO's such as Human Rights Watch and ARTICLE 19 to the Special Rapporteur on Freedom of Expression, David Kaye, the Ethiopian government was urged to revise the draft before passing it into law. Initially released on the 9th of November, 2019, the draft of the Proclamation was viewed as "an ill-construed law that opens the door for law

enforcement officials to violate rights to free expression"[220], and one that "contains broad definitions of 'hate speech' and 'false information'", leaving it prone to overstepping "permissible limitations on freedom of expression."[221] The Special Rapporteur stated in his 2020 report to the Human Rights Council that he is "seriously concerned" that the types of laws that get passed as "a solution to hateful online posts" too often "fall short of international standards and are misused by authorities."[222] Though the violence that occurred in relation to social media has been great enough to warrant a government response, it is widely agreed that the Proclamation does not reflect international standards. Its vague definitions, criminalization standards, and placing of undue responsibilities, particularly on private social media providers, fall outside of the boundaries of limitations set out by the ICCPR. Despite this criticism, Parliament approved the Proclamation in February 2020, and President Sahlework Zewde signed the Proclamation into law in March 2020.

A number of the Proclamation's articles fall outside of the scope of international human rights law, and the Proclamation does not meet the ICCPR's threshold for limitations outlined in article 19, paragraph 3. The Human Rights Committee's remarks in General Comment 34 help clarify why. Most notably, definitions provided for in the Proclamation are not "formulated with sufficient precision", which enables "individuals to regulate their conduct accordingly".[223] Article 2 of the Proclamation defines the following: Speech, Hate Speech, Disinformation, Broadcasting, Violence, Dissemination, Social Media, Print Media, Social Media Servicing Enterprises, and Person. A review of these definitions on the officially translated English half of the Proclamation leaves the reader with an open end to essentially define at will. In fact, Article 2 itself opens the definitions up for free

[220] Human Rights Watch. "Ethiopia: Bill threatens free expression".
[221] ARTICLE 19, 'Ethiopia: Analysis of draft law on hate speech and false information', 28 November 2019, Available from https://www.article19.org/resources/ethiopia-analysis-of-draft-law-on-hate-speech-and-false-information/ (accessed 22 April 2020).
[222] Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, 2020, (*para. 31*).
[223] United Nations Human Rights Committee, *General Comment No. 34: Article 19: Freedoms of opinion and expression (para. 25*).

interpretation when it states that "In this Proclamation unless the context otherwise requires:…" and it goes on to lay out vague definitions for each word/phrase listed above.[224] This does not meet standards in article 19(3), which requires that limitations do "not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution."[225] Depending on who is arguing and/or judging the case, the context could look entirely different, which puts the risk of mis-contextualizing and falsely criminalizing someone for violating the Proclamation far too high. Contextualization is, as the Rabat threshold exercise above and experts such as Expert 2 highlight, a necessary part of the exercise. However, when combined with vague definitions, it can too easily violate the limitations laid out in article 19(3).

States are, according to article 20(2) of the ICCPR, obliged to prohibit by law "advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence."[226] However, the Human Rights Committee provides clarification on this obligation in General Comment 34, where they emphasize that "restrictions must not be overbroad."[227] The Proclamation's definition of "Hate Speech" reads: "speech that deliberately promotes hatred, discrimination or attack against a person or an discernable group of identity, based on ethnicity, religion, race, gender or disability".[228] While the definition itself mirrors that found in the UN Strategy and Plan of Action on Hate Speech[229], the Proclamation diverges from the UN Strategy in article 4 when it prohibits hate speech itself. For, the UN Strategy explicitly reads, "Rather than prohibiting hate

[224] Government of Ethiopia, *Hate Speech and Disinformation Prevention and Suppression Proclamation No. 1185/2020*, 2020, *Article 2*, Available from https://www.accessnow.org/cms/assets/uploads/2020/05/Hate-Speech-and-Disinformation-Prevention-and-Suppression-Proclamation.pdf (accessed 20 July 2020).
[225] United Nations Human Rights Committee, *General Comment No. 34: Article 19: Freedoms of opinion and expression (para. 25*).
[226] *International Covenant on Civil and Political Rights*, (*Article 20, para. 2*).
[227] United Nations Human Rights Committee, *General Comment No. 34: Article 19: Freedoms of opinion and expression (para. 34*).
[228] Ibid. (*Article 2, para. 2*).
[229] The UN Strategy defines hate speech as "any kind of communication in speech, writing or behavior, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor." (page 2 of UN Strategy, May 2019)

speech as such, international law prohibits the *incitement* to discrimination, hostility and violence".[230] Emphasis was added to the word "incitement", because the Human Rights Committee is recommending the criminalization of incitement rather than hate speech. Article 5 of the Proclamation goes on to also prohibit dissemination (the "spread or share [of] a speech on any means for many person, but it does not include like or tag on social media"[231]) of disinformation (that being "speech that is false, is disseminated by a person who knew or should reasonably have known the falsity of the information and is highly likely to cause a public disturbance, riot, violence or conflict"[232]). These broad definitions not only diverge from international standards, but also provide a greater opportunity for disproportionate State responses to speech they deem as violations.

The criminalization of "hate speech", "false information", and "dissemination", outlined in article 7, is another specific criticism of the Proclamation. ARTICLE 19 states that article 7's provisions "do not meet the requirement of legality under the three-part test", and that "the breadth, and subjectivity of the key terms in these provisions make the offences in the Draft Proclamation indeterminate in scope." Furthermore, "Exceptions in the provisions are also very vague", making it "impossible for a person, be it the author of potentially problematic expression, or the persons who share or host that content, to know whether they would be held liable under the law." Finally, "The potential for arbitrary application is significant, and thus individuals may self-censor to avoid expressing opinions or ideas that may lead to censure, and even close platforms or discussion forums to avoid becoming an accessory to an offence."[233] Special Rapporteur, David Kaye, expresses similar concerns, stating, "the proposed criminal liabilities would not meet the standards of necessity and proportionality provided under article 19(3) of the ICCPR."[234] He goes on to highlight an unintended consequence of criminalization, which would be that just the act of

[230] UN Strategy, p. 2.
[231] Government of Ethiopia, *Hate Speech and Disinformation Prevention and Suppression Proclamation No. 1185/2020*, 2020, (*Article 2, para. 7*).
[232] ibid., (*Article 2, para. 3*).
[233] ARTICLE 19, 'Ethiopia: Analysis of draft law on hate speech and false information', p. 13.
[234] D. Kaye, 'Visit to Ethiopia 2-9 December 2019 - End of mission statement'.

criminalizing "hate speech" could draw more attention to it.[235] These criticisms are especially pertinent in Ethiopia during this time of transition and reform. In a country where previous legislation such as the 2009 Charities and Societies Proclamation bred fear of and mistrust in the government, new laws must be careful not to perpetuate old habits from those in power. The psychological effects of past laws combined with new laws that have potential to be just as harmful, especially in the wrong hands, mean that the new Proclamation could result in continuing the trend of suppressing freedom of expression in Ethiopia.

Finally, the Proclamation's assignment of duties of institutions and service providers in article 8 is also problematic. While the Guiding Principles on Business and Human Rights calls for businesses "to comply with all applicable laws and to respect human rights" and "the need for rights and obligations to be matched to appropriate and effective remedies when breached"[236], article 8 of the Proclamation goes beyond the scope of the Guiding Principles. It does this by placing too much responsibility on social media service providers. Not only is article 8 too vague, particularly because of lack of clear definitions and standards, but it also goes beyond the scope of the Guiding Principles, which calls for States to, *inter alia*, "provide effective guidance to business enterprises"[237], "encourage, and where appropriate require business enterprises to communicate how they address their human rights impacts"[238], and provide "adequate assistance to business enterprises to assess and address the heightened risks of abuses"[239]. ARTICLE 19 points out that the Proclamation does not offer a clear standard for "what constitutes 'upon receiving the information on their prohibition depending on the viability of the information.'"[240] Article 8(2) requires that "social media service providers should act within twenty four hours to

[235] Kaye.
[236] United Nations Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights*. p. 1.
[237] ibid., *Article 3, para. c.*
[238] ibid., *Article 3, para. d.*
[239] ibid., *Article 7, para. b.*
[240] ARTICLE 19, 'Ethiopia: Analysis of draft law on hate speech and false information', p. 15.

remove or take out of circulation disinformation or hate speech upon receiving notifications about such communication or post."[241]

By delegating the determination of what content should be removed, the Proclamation essentially places the role of determining when a violation of freedom of expression has occurred into the hands of service providers. Arguments have been made that social media providers are responsible for what takes place on their platforms: "The owners of these platforms [Google and Youtube] have an absolute responsibility to deal with that [architecture built for max revenue at the expense of human integrity], just as they have a responsibility to deal with the radicalization of (mostly) young (mostly) men via extremist videos – of any political persuasion."[242] This argument may well be valid on its own; even the Guiding Principles state that business enterprises "should address adverse human rights impacts with which they are involved", meaning business enterprises should take "adequate measures for their [human rights'] prevention, mitigation and, where appropriate, remediation."[243] However, explicitly stated in the Guiding Principles themselves, they are not to be "read as creating new international law obligations."[244] They truly are *guiding principles* for best practice and do not exempt a state from undertaking their official obligations as agreed to when signing international human rights treaties, as Ethiopia has done. For Ethiopia to shift the responsibility of protecting rights holders against hate speech or misinformation to private enterprises, who "are not competent to make these complex factual and legal determinations", partly because they "do not necessarily equip their staff with the knowledge and expertise to carry out such an assessment"[245], can be seen as a way for the Government of Ethiopia to escape their obligations to protect the freedom of expression under international human rights law.

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[241] Government of Ethiopia, *Hate Speech and Disinformation Prevention and Suppression Proclamation No. 1185/2020*, 2020, (*Article 8, para. 2*).
[242] Bridle, p. 230-231.
[243] United Nations Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights*. (*Article 11*).
[244] United Nations Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights*. p. 1.
[245] ARTICLE 19, 'Ethiopia: Analysis of draft law on hate speech and false information', p. 15.

5.1 The Proclamation: Widely criticized, but passed nonetheless

The Proclamation was passed by a Parliament that was eager to find a way to counteract the rising amounts of problematic speech, especially that which is shared widely and rapidly online. As the analysis in Chapter 4 shows, these acts of speech have clear links to real world violence, which the government is responsible for responding to. However, freedom of expression must also be protected at the same time as other rights such as the right to life. Despite its failure to strike the proper balance between protection of freedom of speech and protection of other human rights, the Proclamation was passed by Ethiopia's Parliament by 300 favorable votes; only 23 voted against it and two abstained.[246] Legislators believed the "law is needed because existing legal provisions did not address hate speech and disinformation".[247] One legislator is cited as saying, "Ethiopia has become a victim of disinformation. The country is a land of diversity and this bill will help to balance those diversities."[248] Experts interviewed for the research also agree that legislation is needed, though they also agree that the Proclamation itself is insufficient. Experts 1 and 2 (Expert 3 did not respond to the question) responded with the following answers to the question, "Do you have any opinions about the hate speech bill passed by Ethiopia?":

> Expert 1: "Yes I do. I believe it was a well-timed and dearly needed legislation considering the time we are in. However, the bill has many gaps as it was a bit rushed. It fails to meet the most fundamental elements of international standards on freedom of opinion and expression in the definition; measures to be taken and penalties prescribed for hate speech content in Ethiopia. It also opens the door for potential abuse by the executive branch with ambiguous terminologies and vague spirit. As evidence to that recently two journalists/activists were arrested based on the new hate speech bill accused of spreading disinformation, but looking back the

[246] 'Ethiopia passes controversial law curbing 'hate speech'', Al Jazeera, 13 February 2020, Available from https://www.aljazeera.com/news/2020/02/ethiopia-passes-controversial-law-curbing-hate-speech-200213132808083.html (accessed 22 April 2020).
[247] ibid.
[248] ibid.

two individuals were critical of the government. Hence, narrow interpretation and exceptional use of the maximum penalties put in the bill is crucial to avoid the contravention on the freedom of expression."[249]

Expert 2, after re-emphasizing the need for contextualization, stated: "The law has to be contextualized, it has to be clearly laid out so you can avoid using it to attack the freedom of expression. It confuse[s] people as well. If you say something you don't know what the consequence will be because it's not clear.

Even inclusion of other components, outside of the legal [should be considered]. It might be determined outside of other things. The law itself needs to have other components – other educational activities. It can be in terms of early learning, but like that component, even recognizing that hate speech has its own root causes so you have to use other ways, different multi type of activities to address it instead of just punishing."[250]

5.2 The Proclamation in practice

Despite negative reviews by non-state actors who are experts on the subject of freedom of expression, the Proclamation is now law. As the analysis in Chapter 4 showed, links between expression disseminated on social media and real world violence can be drawn and should be addressed. These links do serve as valid reasons for an official State response, particularly because the real world violations are so extreme. The 86 individuals who lost their lives after the Facebook post from Jawar Mohammed, and all injured, the thousands displaced, those who lost homes or places of worship due to instances of hate speech online—they deserve a State response that can restore a sense of justice in their communities. Although the Proclamation is problematic, it is one tool that experts agree is needed in order to quell the rapid spread of hateful language on and offline. Given the

[249] Interview with Expert 1.
[250] Interview with Expert 2.

turbulent period of transition that Ethiopia is currently in, the motivation to create a deterrent is understandable. Unless or until it is revised or repealed, the government is now responsible for applying the Proclamation in ways that conform to international human rights standards.

There are a number of tools and strategies the government can use in order to apply the Proclamation in a responsible and proportionate way, though some of its shortcomings will prove challenging. One strategy is to use the Rabat threshold when determining whether an instance of hate speech would violate the Proclamation. By using this internationally accepted tool, the analysis at least has the chance to apply some aspects of international human rights law during the evaluation process. A careful and thorough analysis with Rabat can help determine an appropriate State response. In order to do this accurately and responsibly though, Rabat should be applied with the considerations mentioned in Chapter 4: speech should be contextualized, and someone independent and impartial should conduct the initial review. Capacity building should be conducted for members of the judiciary who may be responsible for evaluating instances of speech. Another challenge for using the Rabat threshold that was mentioned above was the need to be able to quantify and strategically compare instances of speech, particularly when reviewing large numbers of cases. However, if it is being used for cases of individual instances of speech, as is more likely if the speech is being evaluated under the Proclamation, then this becomes less of a problem.

Another way in which the government could supplement the aims of the Proclamation is to engage civil society and community members to help promote free speech and community values. Abiy's reforms were made with an aim to make Ethiopia a more democratic and representative space. The government alone cannot accomplish that; they must engage a diverse range of actors. In the case of Ethiopia, these actors may include members of civil society organizations, local leaders and/or religious leaders. Years of suppression under former EPRDF leadership did not wipe out all of Ethiopia's civil society. Re-building trust between civil society and the government is a major hurdle for Abiy's administration to

overcome, but empowering their participation in pro-freedom of expression campaigns is one way trust could be re-built. This may take the form of the Government enabling and supporting capacity building workshops for civil society, such as the one hosted in January 2020 that brought together nearly 60 members of diverse civil society organizations for training on basic human rights.[251] Similarly, engaging local figures that are directly in touch with their community members could be a powerful step to ensure violations of the Proclamation do not occur in the first place. One example of involving locals in a social change project was REACH Ethiopia, which aimed to improve the performance of health extension workers on maternal health in the SNNPR. With the help of a leader's meeting guide and supervision by both health centre staff and REACH Ethiopia staff, the health extension workers were empowered to reshape a safer culture around maternity health. REACH's efforts helped increase the "identification of pregnancies and utilization of maternal health services", thereby increasing "knowledge and awareness about maternal health issues in the community."[252] By conducting similar engagement around the topic of freedom of expression, specifically on how to critically engage with information, increased digital literacy could be accomplished.

In his 2019 report to the General Assembly, the Special Rapporteur shared ideas of "creative" and "out of the box" options that take a multi-stakeholder approach to combating misinformation and hate speech. In India, hotlines and "social media labs" were created for individual community members to report potential hate speech to officials.[253] In France, an official commission was being formed at the time of the report; the commission was proposed to "involve judicial authorities addressing hate speech problems and multi-

[251] One such example includes a workshop hosted by USAID and the Ethiopian Federal Charities and Societies Forum (EFCSF) NGO. This workshop brought together approximately 60 CSO representatives from around Ethiopia to discuss basic human rights, and how they relate to the work of the CSOs.

[252] E. Michael, 'Community engagement in Ethiopia: Efforts towards improved maternal health', Reachout Consortium, 2016, Available from http://www.reachoutconsortium.org/news/community-engagement-in-ethiopia-efforts-towards-improved-maternal-health/ (accessed 24 July 2020).

[253] United Nations General Assembly, *Promotion and protection of the right to freedom of opinion and expression*, 9 October 2019, UN Doc, A/74/486, (*Article 36*), Available from https://www.ohchr.org/Documents/Issues/Opinion/A_74_486.pdf (accessed 24 July 2020).

stakeholder initiatives to provide oversight of company policies."[254] It could be feasible for Ethiopia to create an official commission of their own, which would involve relevant actors such as community leaders and members of the Ethiopian Broadcast Authority and/or the Ethiopian Human Rights Commission, both agencies already being mentioned explicitly in the Proclamation itself.[255]

Professional members from all types of media are important actors to engage in the promotion of freedom of expression as well. Until Internet penetration is higher, traditional forms of media such as radio and television remain the primary source for Ethiopians around the country to gather information. Under Abiy's reforms, capacity building workshops on basic human rights and the media have already begun.[256] The Proclamation itself calls for the engagement of the Ethiopian Broadcast Authority (EBA) and the Ethiopian Human Rights Commission (EHRC). The EBA is responsible for preparing a report that will educate the public on social media enterprises and "whether they discharge their duty properly under sub this article."[257] The EBA is also tasked with conducting public awareness and media literacy campaigns aimed at combating disinformation.[258] The EHRC has been tasked with conducting public awareness campaigns to combat hate speech.[259] These measures have the potential to lend real strength to the Proclamation, because they involve diverse actors who are specifically responsible for promoting information and human rights. However, after decades of oppression, both the EBA and EHRC are in need of resources and capacity building in order to properly carry out their responsibilities.

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[254] ibid., *Article 37*.
[255] Government of Ethiopia, *Hate Speech and Disinformation Prevention and Suppression Proclamation No. 1185/2020*, 2020, (*Article 8, para. 4, para. 5, para. 6*).
[256] One example includes a workshop in January 2020 the author participated in for Ethiopian media professionals about how they can incorporate basic human rights principles into their work.
[257] Government of Ethiopia, *Hate Speech and Disinformation Prevention and Suppression Proclamation No. 1185/2020*, 2020, (*Article 8, para. 4*).
[258] ibid., (*Article 8, para. 5*).
[259] ibid., (*Article 8, para. 6*).

Finally, as the Proclamation starts to be put into use, it will be important to apply it in a way that sets precedent that falls within international human rights standards. Proclamation No. 454/2005 was passed in 2005, stating that the "Interpretation of a l[a]w by the Federal Supreme Court rendered by the cassation division with not less than five judges shall be binding on federal as well as regional council at all levels. The cassation division may however render a different legal interpretation some other time", and "The Federal Supreme Court shall publish and distribute decisions of the cassation division that contain binding interpretation of laws to all levels of courts and other relevant bodies."[260] With this proclamation, decisions made by the "Cassation Division of the Federal Supreme Court on interpretation of a law is binding on Federal and State Courts at all levels."[261] Theoretically, this should mean that when new cases are decided under the 2020 Hate Speech and Disinformation Prevention and Suppression Proclamation, their rulings should set precedent for future decisions. Outcomes can be used as a gauge for determining if and/or how Ethiopia's judicial institutions are respecting the freedom of expression.

The above actions are just some of the ways the Government of Ethiopia can take positive steps towards not only responsibly responding to online hate speech, but it can also be following more general recommendations made by international experts and bodies to combat intolerance, discrimination, negative stereotyping and stigmatization that leads to incitement to and occurrence of violence. In a 2011 Resolution, the Human Rights Council reaffirms the "positive role that the exercise of the right to freedom of opinion and expression and the full respect for the freedom to seek, receive and impart information can play in strengthening democracy and combating religious intolerance"[262] By using

[260] Government of Ethiopia, *A Proclamation to Reamend the Federal Courts Proclamation No. 25/1996*, *Proclamation No. 454/2005*, 2005, *Article 2, para. 1*, Available from https://chilot.me/wp-content/uploads/2011/09/proc-no-454-2005-federal-courts-proclamation-reamendment.pdf (accessed 24 July 2020).
[261] ibid., (*Article 2, para. 1*).
[262] United Nations General Assembly, *Resolution adopted by the Human Rights Council – 16/18 Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief*, 12 April 2011, UNDoc A/HRC/RES/16/18, Available from

internationally accepted tools such as the Rabat threshold, strengthening the capacity of state institutions, engaging civil society and community members to help boost and encourage digital literacy, and setting precedents in line with international human rights standards when cases do come forward, it is possible for the Proclamation to promote freedom of expression despite the document's shortcomings.

Chapter 6
Conclusion

Even laws written with the best intentions that were perfectly formulated would mean nothing without appropriate, proportionate and necessary efforts on the ground. As a country undergoing transformative democratic reforms, the Government of Ethiopia is responsible for ensuring peace throughout the transition. Complicating development is the increased use of social media, which disseminates information – verified or not – more rapidly and to a wider audience than any other means of communication has ever done in the past. Gone are the days of spreading movements through student newspapers: now movements can be stirred from abroad, as Jawar did from abroad in 2015 when he inspirited the *qeerroo* to take to the streets and protest against the then-residing Prime Minister.[263] Striking the right balance between the protection of freedom of expression – in all arenas where it takes place – and the protection of additional human rights during a time of transition and reform is no simple task. Ethiopia is likely to hold federal elections in the near future (though Covid-19 has suspended them from happening in late summer 2020), which adds yet another layer of complexity to this moment in the country's history. This, combined with the complexities this thesis discussed—diverse identities, lasting psychologies, increasing Internet usage, and conflict fueled in part by online hate speech—are all topics worth considering when determining how best to move forward into a

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https://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.RES.16.18_en.pdf (accessed 23 July 2020).

[263] Peralta.

democratic future, inclusive of the many voices and perspectives in Ethiopia. In depth research such as that conducted for this thesis can help guide the diverse array of actors working on the promotion, protection and fulfillment of rights.

Stressed repeatedly throughout the research, news reports, and expert interviews, contextualization is key to understanding the problems that Ethiopians face. Ethiopia has always been a place of diverse ethnic groups, religions, languages and cultural practices. While their history is shared, experiences of that history are unique to the individual. For example, the history of the spread of the Amharic language as the national language is well known, but not all Ethiopians experienced the effects of the spread in the same way. When first implemented, the Amharic language was meant to help create a national identity, but as it was not the language every ethnic group spoke; it was not representative of all Ethiopians. Government decisions like this one have lasting consequences. What may seem to be a harmless decision at the Federal level has trickle down effects that build into a pool of resentment. This can largely be seen via the ethnic clashes that have erupted into large-scale violence since Abiy Ahmed became Prime Minister in 2018.

The enjoyment of the right to freedom of expression in Ethiopia today has yet to be fully realized. There are two primary tensions to consider when looking at the enjoyment of the right: institutional reforms that are intended to realize the right to freedom of expression, and State responses to increased expression, which do not align with international human rights standards.

Institutional reforms made by Abiy were intended to move the country in a more democratic direction and open the door to free speech. By releasing prisoners who had been detained for their opposition to past leadership, he not only enabled them to reengage in their work (should they choose to do so), but he also signaled to citizens that expressed opposition would not be the sole reason for imprisoning someone. By appointing a known former opposition leader, Birtukan Midekssa, to the head of the National Election Board of

Ethiopia, Abiy signaled "a desire for institutional independence."[264] The State is also on the path towards privatizing 45% of its currently 100% state-owned telecommunications network, EthioTelecom.[265] Through progressive steps like these, Abiy demonstrated a desire to democratize institutions that impact all Ethiopians. These moves were positive steps towards creating an institutional arena where freedom of expression could be exercised, and trust in government could be restored.

However, at the same time that Abiy was making these institutional reforms, he was also quelling individual rights to freedom of expression, largely by shutting down the Internet. In 2019, the Internet was shut down a reported eight times.[266] So far in 2020, the Internet has been shut down at least twice, the second shutdown lasting 23 days and costing the country over $100 million in direct and indirect economic losses.[267] Besides its economic role, the Internet can be, as the analysis conducted in this thesis shows, a place where discontent and, worse, hatred, is spread. These messages, the result of decades of repressed opinions and fear, can do real damage. The loss of life, injuries, destruction of property, and displacement that occurs in relation to hate-filled sentiments expressed online do warrant attention. However, a complete shut down of the Internet is a disproportionate response. This action further destroys trust in and drives resentment of the government, continuing trends that were alive well before Abiy came to power. Furthermore, the shut down of the Internet also limits access to information, which can have dangerous effects, especially in the time of COVID-19. By shutting down the Internet, limiting the free exchange of ideas, including everything from opinionated posts about ethnic division to important health-

[264] Human Rights Watch, 'Ethiopia: Abiy's first year as Prime Minister, Review of democratic institutions and political space', 7 April 2019, Available from https://www.hrw.org/news/2019/04/07/ethiopia-abiys-first-year-prime-minister-review-democratic-institutions-and (accessed 29 July 2020).
[265] A. Burkitt-Gray, 'Deloitte wins deal to manage Ethio Telecom privatisation', Capacity Media, 24 July 2020, Available from https://www.capacitymedia.com/articles/3826026/deloitte-wins-deal-to-manage-ethio-telecom-privatisation (accessed 29 July 2020).
[266] D. Kaye, 'Visit to Ethiopia 2-9 December 2019 - End of Mission Statement'.
[267] T.A. Tekle, 'Month-Long Internet shutdown cost Ethiopia over $100m: NetBlocks', The East African, 27 July 2020, Available from https://www.theeastafrican.co.ke/tea/business/-internet-shutdown-cost-ethiopia-over-100m-netblocks-1906706 (accessed 29 July 2020).

related information, the State has gone against numerous recommendations from international observers and experts on freedom of expression.

Internet shut downs combined with the 2020 Hate Speech and Disinformation Prevention and Suppression Proclamation are reminiscent of pre-Abiy Ethiopia. While his institutional reforms promote freedom of expression, the individual's ability to exercise freedom of expression has not improved in a meaningful way. As a response to the violence linked to online hate speech, the government responded disproportionately by passing the Proclamation, a vague law that, in the wrong hands, could thrust Ethiopia right back into pre-Abiy ways. It is up to those in power to not abuse the Proclamation, which, with the right types of capacity building and a rights framed approach, is not impossible. The State is now responsible for interpreting and applying the Proclamation in a way that aligns with international human rights standards.

Even if the Internet was not shut down though, and/or the Proclamation was written perfectly in line with international human rights standards, the freedom of expression would still take time to fully realize. More important than technology or laws is the psychology of the individuals who have the right to freedom of expression. To truly enjoy freedom of expression, trust in the government must be established, and people should be empowered to take responsible action. When asked for their input on who is responsible for protecting Ethiopians from the effects of hate speech online, Expert 1 responded: "Ethiopians themselves. First of all, the government should take the lion share and primary responsibilities of suppressing, mitigating hate speech and its impact. But also CSOs, individuals, business organizations and NGOs have the responsibility to do their fair share of combating and mitigating hate speech."[268]

The ability for individuals to take responsibility for their realities is something psychologist and neuroscientist, Barrett demonstrates is possible as she discusses constructed emotion. "The theory of constructed emotion also leads to a whole new way of thinking about

[268] Interview with Expert 1.

personal responsibility."[269] She ponders, "Are you responsible for your concepts [concepts being the definitions we have assigned to things in the world around us]? Not all of them, certainly. When you're a baby, you can't choose the concepts that other people put into your head. But as an adult, you absolutely do have choices about what you expose yourself to and therefore what you learn, which creates the concepts that ultimately drive your actions, whether they feel willful or not. So 'responsibility' means making deliberate choices to change your concepts."[270] While international human rights law says the State is responsible for protecting the rights of its citizens, the individual is also responsible for respecting and not interfering with the rights of others. Respect is more likely to come when the concepts that people carry with them – about themselves, about others, and about the things that make up the society they are all a part of – are worthy of respect. Concepts can be reshaped, but it will take efforts of individual will, CSO driven public awareness campaigns, and the government to do this effectively.

The examples of hate speech that were analyzed for this paper demonstrate that the concepts currently in existence are ones of hatred and distrust. They highlight dividing lines that exist between ethnic groups, political ideologies and religious backgrounds. Their specific targeting of individuals, and the call to action – be it direct or indirect – of their many Facebook followers resulted in real world human rights violations. The online arena provides an effectively uncensored space for the spread of ideas, and the role of social media companies in monitoring posts is an ongoing debate. However, if it is not Facebook or Twitter or Youtube that an opinion gets shared, it will be somewhere else. While the role of private social media enterprises is important to consider, making it their responsibility to determine which posts should be allowed is not the solution. Instead, the root issues that drive the posts must be addressed.

[269] Barrett, p. 154.
[270] Barrett, p. 250.

6.1 Recommendations

The State can enable individuals to behave responsibly, both online and in the real world, by following a rights framed approach when drafting and implementing new laws and reforms. By taking into consideration the historical context from which much of the conflict exists, the State can position itself to reshape the narratives people tell themselves. Social media's wide-open arena for anyone to post new ideas complicates the government's role, which highlights the reason why the Internet is shut down quickly and repeatedly at any moment of civil unrest. However, a more long term solution would be to help increase people's digital literacy, and to build trust with people so they feel comfortable re-wiring their thoughts about the government and fellow Ethiopians. Barrett states, "culture wires the brain. Ideas get under your skin, simply by sticking around long enough. Once an idea is hardwired, you might not be in a position to easily reject it."[271] Through consistent actions such as applying the Proclamation in ways that align with international human rights standards, the government will begin to reshape people's emotions, perceptions and relationships towards the government and with each other.

Ethiopia's Internet shutdowns are evidence that an approach that aligns with international human rights standards is yet to be taken. An Internet shutdown not only violates international human rights standards around freedom of expression[272], but it also will not provide solutions to the real world human rights violations that are occurring in relation to online hate speech. Consider the following analogy from writer and artist, James Bridle:

> Learning to code is not enough, just as learning to plumb a sink is not enough to understand the complex interactions between water tables, political geography, ageing infrastructure, and social policy that define, shape and produce actual life support systems in society. A simply functional understanding of systems is insufficient; one needs to be able to think about histories and consequences too.

[271] Barrett, p. 253.
[272] D. Kaye, 'Visit to Ethiopia 2-9 December 2019 - End of Mission Statement'.

> Where did these systems come from, who designed them and what for, and which of these intentions still lurk within them today?[273]

Making sense of the complex layers of Ethiopian history, politics and cultural identities requires the holistic approach Bridle is talking about here. It is the best option, because it is the most human option, as it considers the past, present and future realities of how individuals related, are relating and will relate to one another. The State has the power and responsibility to consider this as they govern.

Specific recommendations were made in Chapter 5.2 for how the State should apply the Proclamation so as to respect human rights. Using the Rabat threshold to analyze instances of speech provides the opportunity for the government to strategically analyze a text with a threshold that is accepted by the international human rights standards. Mindfulness of the Rabat threshold's shortcomings though is important: in particular, analysis should be conducted by an unbiased expert on the context of the setting the speech originates from. Civil society and members of the community who are known to be respected, such as religious leaders, should be engaged in dialogue about promoting community values into free speech both on and offline. The Proclamation may also benefit from an "out of the box" approach, such as forming a multi-stakeholder commission who can responsibly and impartially develop ways to address hateful expression. Similarly, empowering members of civil society and the media with human rights knowledge is a powerful way to spread information that promotes democracy. Some of these steps are already underway in Ethiopia: for example, human rights workshops with members of civil society organizations and media professionals from around the country occurred in early 2020.

At the time of this writing, freedom of expression is at risk now more than any other period since Abiy Ahmed's appointment. Ethnic violence escalated when the popular Oromo singer, Hachalu Hundessa, was killed in Addis Ababa on the 29th of June 2020, which resulted, according to Ethiopian authorities, in the death of 166 civilians and 11 police

[273] Bridle, p. 3.

officers.[274] With respect to freedom of expression, the violence led to a 23-day Internet shut down[275] and the arrest of Jawar Mohammed. Police plan on putting Jawar "on trial for the murder of an officer allegedly shot by one of his bodyguards", and they also stated in the article posted on the 16th of July, 2020, "Jawar would also be prosecuted over protests that led to the deaths of 97 people last October", referring to the violence that erupted after his Facebook posts, which were analyzed for this research.[276] In addition, OMN is also under investigation, and its Addis Ababa offices were raided after being suspected of being used "to incite violence".[277] Exactly which laws would be used to prosecute Jawar or his media network have not been cited.

Whether the newly passed Hate Speech and Disinformation Prevention and Suppression Proclamation No. 1185/2020 is used to charge Jawar or a different law will be used, it is up to the Government of Ethiopia to do so responsibly and within the confines of acceptable international human rights standards. The recommendations made in Chapter 5 are one place to start. Still more exist to help prevent the spread of hate speech and disinformation online. Some campaigns aimed at limiting misinformation and hateful content on Facebook have already taken place in Ethiopia.[278] Institutionalizing a model to educate students about how to critically engage with online content could be considered. Finland, for example, educates students beginning in primary school how to identify misinformation and question

[274] S. Yekoye, 'Ethiopian rebel group denies role in singer's death', Voice of America, 17 July 2020, Available from https://www.voanews.com/africa/ethiopian-rebel-group-denies-role-singers-death (accessed 24 July 2020).

[275] 'Internet cut in Ethiopia amid unrest following killing of singer', Netblocks, 30 June 2020, Available from https://netblocks.org/reports/internet-cut-in-ethiopia-amid-unrest-following-killing-of-singer-pA25Z28b (accessed 24 July 2020).

[276] B. Atoma, 'Jawar Mohammed: The Ethiopian media mogul taking on Abiy Ahmed', BBC Afaan Oromoo, 9 July 2020, Available from https://www.bbc.com/news/world-africa-53306091 (Accessed 24 July 2020).

[277] 'Jawar Mohammed tells Federal Court he is being held at a basement in unmarked building; Judges grant police 14 more days', Addis Standard, 16 July 2020, Available from https://addisstandard.com/news-jawar-mohammed-tells-fed-court-he-is-being-held-at-a-basement-in-unmarked-building-judges-grant-police-14-more-days/ (accessed 24 July 2020).

[278] C. Endalkachew, 'In Ethiopia, disinformation spreads through Facebook Live as political tensions rise', Global Voices, 7 August 2019, Available from https://globalvoices.org/2019/08/07/in-ethiopia-disinformation-spreads-through-facebook-live-as-political-tensions-rise/# (accessed 8 July 2020).

content critically, a move that, they say, is important for national security.[279] While Ethiopia would need to tailor a model like this to suit their needs, the idea of educating its community members on how to critically engage with media content could be a valuable effort to invest in.

The history of Ethiopia is filled with century's worth of rich, legendary tales of queens and kings and trade and an independent, hard working population that resisted colonization. Their story is still being told. Narratives are, being that they are constructed in the human brain, inherently flawed, but they are also important tools used to shape identities and values of a community. Social media is allowing new voices to contribute to the narrative. Whether what those new voices are saying is true or not is up to the people to debate and decide for themselves. One role of government is to encourage civil discourse through both institutional capacity building and the building of trust between the people and their leaders. With a holistic, rights framed approach that considers the past from which Ethiopians are emerging from, the democratic reforms Abiy made starting in 2018 can help usher Ethiopia into an exciting new chapter in which all rights, including freedom of expression, can be enjoyed by all members of its diverse society.

[279] J. Henley, 'How Finland starts its fight against fake news in primary schools', The Guardian, 29 January 2020, Available from https://www.theguardian.com/world/2020/jan/28/fact-from-fiction-finlands-new-lessons-in-combating-fake-news (accessed 22 April 2020).a

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Interviews Conducted

Interview with Expert 1, Digital, 19 May 2020.

Interview with Expert 2, Digital, 22 May 2020.

Interview with Expert 3, Digital, 24 June 2020.

Abstract

When Abiy Ahmed was appointed to Prime Minister of Ethiopia in 2018, he instated a series of reforms, intending to move the country towards a more democratic existence. Past legislation such as the Anti-Terror Proclamation and the Civil Societies Proclamation, which had been used to censor government opposition, was repealed. Through these repeals, Abiy re-granted the freedom of expression as a true right. People were quick to take advantage of this though, and a number of influential figures used their new freedoms to create tension by using hateful language, especially online. Abiy's democratic reform efforts have earned him the 2019 Nobel Peace prize, but they have also enabled violent acts, resulting in loss of life, physical injury, destruction of property, and displacement, among other violations.

In order to determine how best to balance the promotion and protection of Freedom of Expression and simultaneously promote democracy, the thesis will take a holistic approach. It will first outline the freedom of expression itself, and then it will contextualize the right into Ethiopian history. A psychological lens is used to look at how lingering fear impacts present behavior, and at human behavior online. The paper then uses the Rabat threshold to analyze two instances of online hate speech, which is followed by an analysis of the Hate Speech and Disinformation Prevention and Suppression Proclamation. This bill was passed by the Ethiopian Parliament in February 2020, and marks the end of the paper's scope. Recommendations are made in the conclusion.

Keywords: Human rights, Ethiopia, Freedom of Expression, Hate Speech, Democratic Reform

Kurzbeschreibung

Als Dr. Abiy Ahmed 2018 zum äthiopischen Premierminister ernannt wurde, leitete er Demokratisierungsreformen für das Land ein. Frühere Gesetze, wie die Anti-Terror Proklamation und die Zivilgesellschafts Proklamation, mit denen die Opposition der Regierung zensiert wurde, wurden aufgehoben. Durch diese Aufhebungen gewährte Abiy das Recht auf echte Redefreiheit wieder. Diese neuen Freiheiten wurden jedoch von einigen schnell ausgenützt, um Spannungen zu erzeugen, indem sie hasserfüllte Sprache verwendeten, insbesondere online. Abiy's demokratische Reformbemühungen haben ihm den Friedens Nobel Preis 2019 eingebracht, aber sie haben auch gewalttätige Handlungen ermöglicht, die unter anderem zu Todesfällen, Körperverletzungen, Zerstörung von Eigentum und Vertreibung geführt haben.

Es wird das Recht auf Redefreiheit allgemein beschrieben bevor dieses Recht im Kontext der äthiopischen Geschichte dargestellt wird. Unter psychologischem Blickwinkel wird untersucht, wie sich anhaltende Angst auf das gegenwärtige Verhalten und auf das menschliche Verhalten im Internet auswirkt. Mit Hilfe des “Rabat Threshold” werden zwei Fälle von Online-Hassreden analysiert, gefolgt von einer Analyse der “Hate Speech and Disinformation Prevention and Suppression Proclamation”. Dieses Gesetz wurde im Februar 2020 vom Äthiopischen Parlament verabschiedet und bildet auch das Ende des Geltungsbereichs der Masterarbeits. Empfehlungen werden in der Schlussfolgerung gegeben.

Schlagwörter: Menschenrechte, Äthiopien, Redefreiheit , Hassrede, Demokratische Reform

Annex I. – Rabat chart to summarize social media post findings

Article or Post Title (if applicable):
Date Written:
Author (and note the Original Poster in case of a re-share/post if applicable):
Platform or Outlet it was disseminated through:
Link to Article or Copy of Post:

Linkage to Violence
Was the sample shared before or after the violent incident?
How many people lost their lives?
How many people were injured?
Were specific groups/identities targeted? If yes, which ones? In what ways?
Were businesses affected? If yes, how?
Which human rights violations occurred or were threatened?

Criteria	Scale of Relevance (low 1 – high 10)	Specific examples from text that support reasons for selecting/rating the way you did
Context: Context is of great importance when assessing whether particular statements are likely to incite discrimination, hostility or violence against the target group, and it may have a direct bearing on both intent and/or causation. Analysis of the context should place the speech act within the social and political context prevalent at the time the speech was made and disseminated		
Speaker: The speaker's position or status in the society should be considered, specifically the individual's or organization's standing in the context of the audience to whom the speech is directed		
Intent: Article 20 of the ICCPR anticipates intent. Negligence and recklessness are not sufficient for an act to be an offence under article 20 of the ICCPR, as this article provides for "advocacy" and "incitement" rather than the mere distribution or circulation of material. In this regard, it requires the activation of a triangular relationship between the object and subject of the		

speech act as well as the audience		
Content and form: The content of the speech constitutes one of the key foci of the court's deliberations and is a critical element of incitement. Content analysis may include the degree to which the speech was provocative and direct, as well as the form, style, nature of arguments deployed in the speech or the balance struck between arguments deployed		
Extent of the speech act: Extent includes such elements as the reach of the speech act, its public nature, its magnitude and size of its audience. Other elements to consider include whether the speech is public, what means of dissemination are used, for example by a single leaflet or broadcast in the mainstream media or via the Internet, the frequency, the quantity and the extent of the communications, whether the audience had the means to act on the incitement, whether the statement (or work) is circulated in a restricted environment or widely accessible to the general public		
Likelihood, including imminence: Incitement, by definition, is an inchoate crime. The action advocated through incitement speech does not have to be committed for said speech to amount to a crime. Nevertheless, some degree of risk of harm must be identified. It means that the courts will have to determine that there was a reasonable probability that the speech would succeed in inciting actual action against the target group, recognizing that such causation should be rather direct.		

Annex II. – Summary of incidents and reported human rights violations and their sources

#	Name	Date	Primary Theme	Right to Life	Personal Injury	Destruction of Property	Displacement	Other
1	Border Conflict SNNPR[i]	Nov. 2018	Ethnicity	24	167	/	349	/
2	Oromo-Morvale Violence[ii, iii]	Dec. 2018	Ethnicity	34	161	/	10.000	/
3	Afar – Somali Flag Violence[iv, v]	25 Dec. 2018 – 1 Jan. 2019	Ethnicity	18	/	/	/	/
4	Amhara-Qimant Violence[vi,vii,viii]	1-13 Feb. 2019	Ethnicity	30	/	300	45.000	/
5	Amhara-Oromo Violence[ix,x]	9 April 2019	Ethnicity	80	/	1	/	/
6	Amhara-Benishangul Violence[xi,xii,xiii,xiv]	April – Sep. 2019	Ethnicity	68	23	25	21.000	/
7	Muslim – Orthodox Violence[xv]	June 2019	Religion	2	/	1	/	/
8	Somali – Afar Violence[xvi]	June – Nov. 2019	Ethnicity	/	/	/	30.000	/
9	SNNPR Referendum[xvii,xviii,xix,xx,xxi]	18-22 July 2019	Political	170	54	/	900	/
10	Gondar Violence[xxii]	30 Sep – 3 Oct. 2019	Ethnicity	22	/	/	/	/
11	Jawar Facebook[xxiii,xxiv]	23-28 Oct. 2019	Ethnicity	86	56	/	/	/
12	University Kidnapping[xxv]	Dec. 2019	Ethnicity	/	/	/	/	17 kidnapped

								students
13	Mota Town Religious Attacks	20-21 Dec. 2019	Religion	/	/	151	/	/
14	Timket Violence Dire Dawa[xxvi]	21 Jan. 2020	Religion	1	10	9	/	/
15	Timket Violence Harar[xxvii],[xxviii],[xxix]	20-21 Jan. 2020	Religion	/	/	/	246	/

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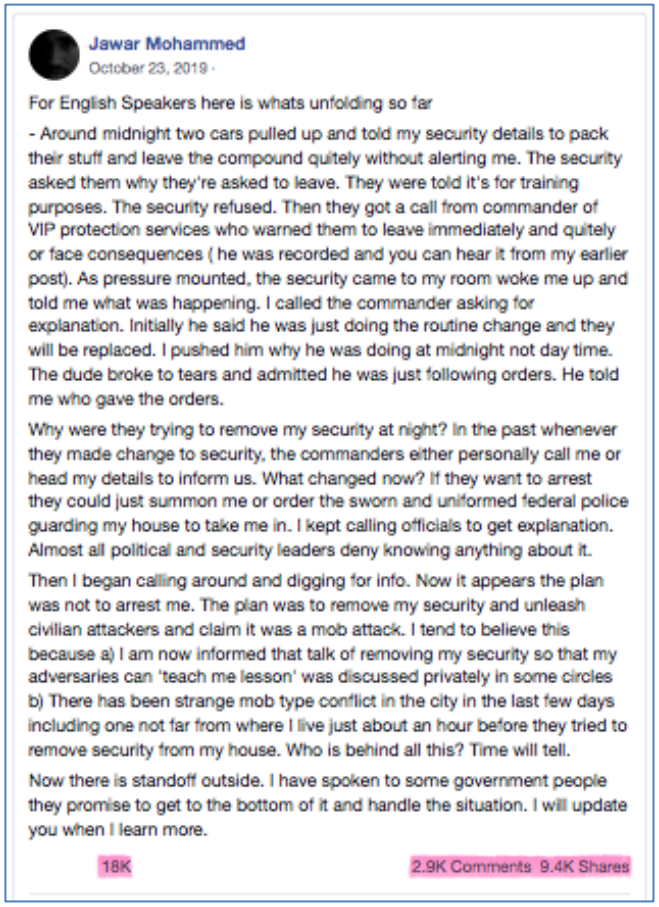
Annex III. – Screenshots of Jawar Mohammed Facebook post 23 October 2019 and selected comments*

*note: Comments were selected to show various levels and types of engagement with Jawar's post; they have been pasted here in order of most reactions to least, not in order of appearance on Jawar's post.



Jawar Mohammed
October 23, 2019 ·

For English Speakers here is whats unfolding so far

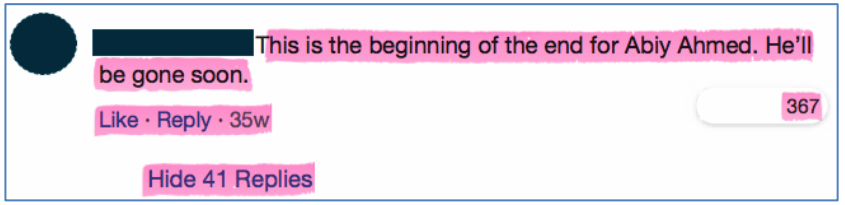
- Around midnight two cars pulled up and told my security details to pack their stuff and leave the compound quitely without alerting me. The security asked them why they're asked to leave. They were told it's for training purposes. The security refused. Then they got a call from commander of VIP protection services who warned them to leave immediately and quitely or face consequences (he was recorded and you can hear it from my earlier post). As pressure mounted, the security came to my room woke me up and told me what was happening. I called the commander asking for explanation. Initially he said he was just doing the routine change and they will be replaced. I pushed him why he was doing at midnight not day time. The dude broke to tears and admitted he was just following orders. He told me who gave the orders.

Why were they trying to remove my security at night? In the past whenever they made change to security, the commanders either personally call me or head my details to inform us. What changed now? If they want to arrest they could just summon me or order the sworn and uniformed federal police guarding my house to take me in. I kept calling officials to get explanation. Almost all political and security leaders deny knowing anything about it.

Then I began calling around and digging for info. Now it appears the plan was not to arrest me. The plan was to remove my security and unleash civilian attackers and claim it was a mob attack. I tend to believe this because a) I am now informed that talk of removing my security so that my adversaries can 'teach me lesson' was discussed privately in some circles b) There has been strange mob type conflict in the city in the last few days including one not far from where I live just about an hour before they tried to remove security from my house. Who is behind all this? Time will tell.

Now there is standoff outside. I have spoken to some government people they promise to get to the bottom of it and handle the situation. I will update you when I learn more.

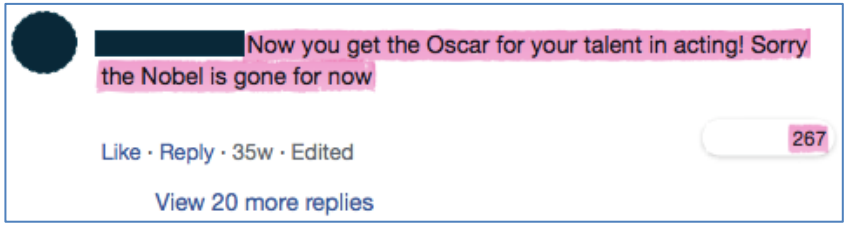
18K 2.9K Comments 9.4K Shares



[redacted] This is the beginning of the end for Abiy Ahmed. He'll be gone soon.

Like · Reply · 35w 367

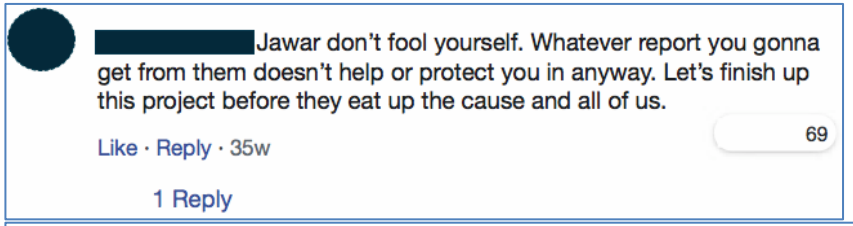
Hide 41 Replies



[redacted] Now you get the Oscar for your talent in acting! Sorry the Nobel is gone for now

Like · Reply · 35w · Edited 267

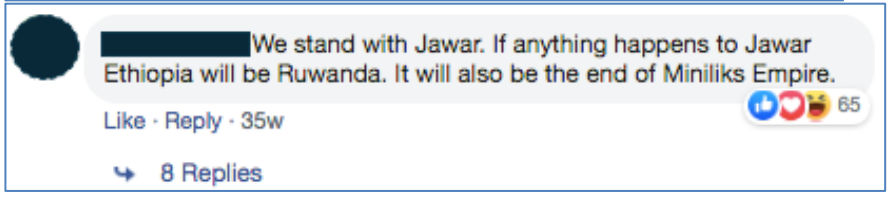
View 20 more replies



[redacted] Jawar don't fool yourself. Whatever report you gonna get from them doesn't help or protect you in anyway. Let's finish up this project before they eat up the cause and all of us.

Like · Reply · 35w 69

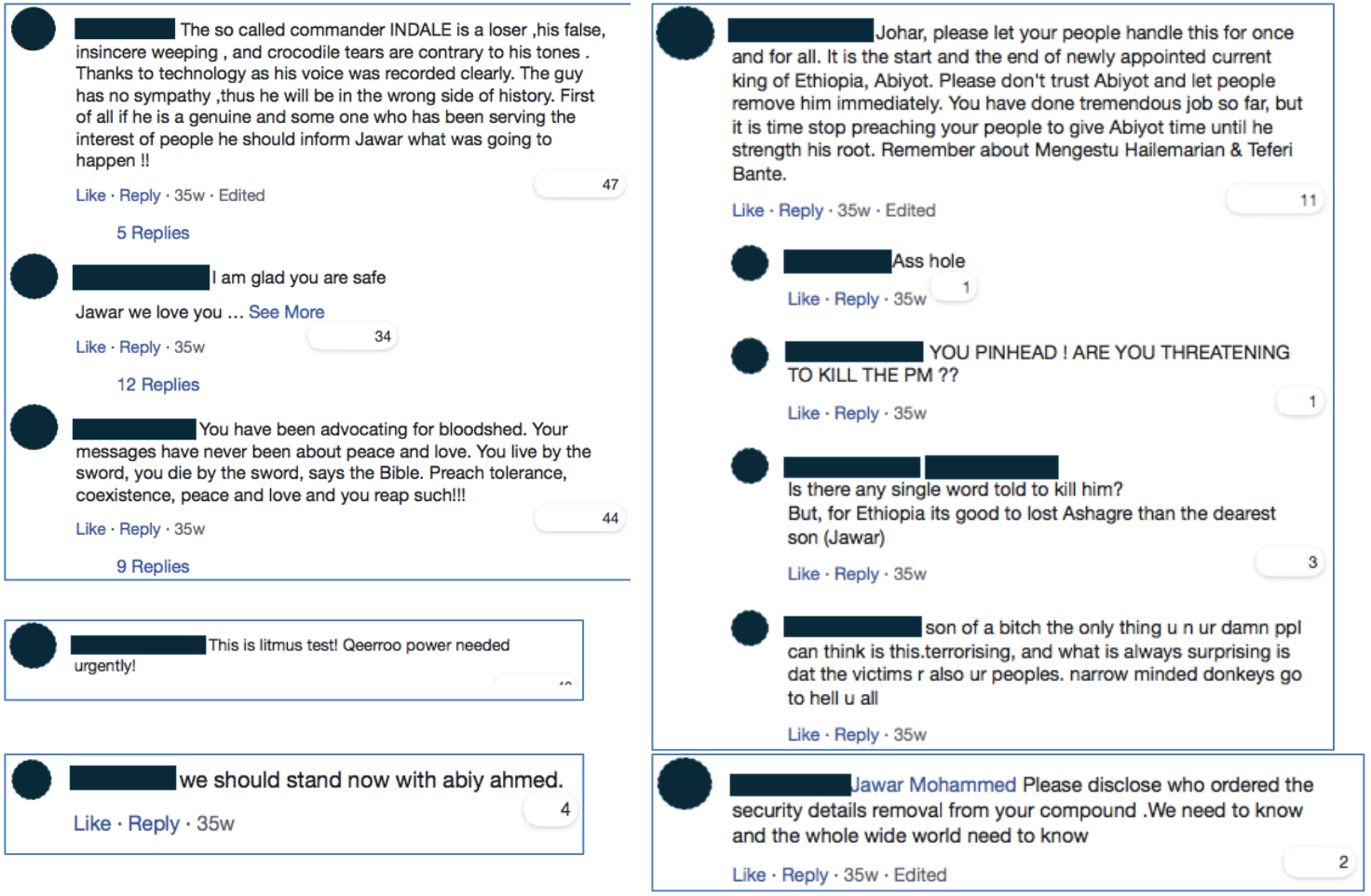
1 Reply



[redacted] We stand with Jawar. If anything happens to Jawar Ethiopia will be Ruwanda. It will also be the end of Miniliks Empire.

Like · Reply · 35w 65

8 Replies


[redacted] The so called commander INDALE is a loser ,his false, insincere weeping , and crocodile tears are contrary to his tones . Thanks to technology as his voice was recorded clearly. The guy has no sympathy ,thus he will be in the wrong side of history. First of all if he is a genuine and some one who has been serving the interest of people he should inform Jawar what was going to happen !!
Like · Reply · 35w · Edited
47
5 Replies
[redacted] I am glad you are safe
Jawar we love you … See More
Like · Reply · 35w
34
12 Replies
[redacted] You have been advocating for bloodshed. Your messages have never been about peace and love. You live by the sword, you die by the sword, says the Bible. Preach tolerance, coexistence, peace and love and you reap such!!!
Like · Reply · 35w
44
9 Replies
[redacted] This is litmus test! Qeerroo power needed urgently!
[redacted] we should stand now with abiy ahmed.
Like · Reply · 35w
4
[redacted] Johar, please let your people handle this for once and for all. It is the start and the end of newly appointed current king of Ethiopia, Abiyot. Please don't trust Abiyot and let people remove him immediately. You have done tremendous job so far, but it is time stop preaching your people to give Abiyot time until he strength his root. Remember about Mengestu Hailemarian & Teferi Bante.
Like · Reply · 35w · Edited
11
[redacted] Ass hole
Like · Reply · 35w
1
[redacted] YOU PINHEAD ! ARE YOU THREATENING TO KILL THE PM ??
Like · Reply · 35w
1
[redacted] [redacted]
Is there any single word told to kill him?
But, for Ethiopia its good to lost Ashagre than the dearest son (Jawar)
Like · Reply · 35w
3
[redacted] son of a bitch the only thing u n ur damn ppl can think is this.terrorising, and what is always surprising is dat the victims r also ur peoples. narrow minded donkeys go to hell u all
Like · Reply · 35w
[redacted] Jawar Mohammed Please disclose who ordered the security details removal from your compound .We need to know and the whole wide world need to know
Like · Reply · 35w · Edited
2