

JIMMA UNIVERSITY  
COLLEGE OF LAW AND GOVERNANCE  
SCHOOL OF LAW

ETHIOPIA'S HATE SPEECH AND DISINFORMATION PREVENTION AND SUPPRESSION  
PROCLAMATION: THE NEED AND COMPATIBILITY WITH INTERNATIONAL  
HUMAN RIGHTS STANDARDS.

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A THESIS SUBMITTED TO JIMMA UNIVERSITY COLLEGE OF LAW AND  
GOVERNANCE IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE  
MASTER OF LAWS (LL.M) DEGREE IN HUMAN RIGHTS AND CRIMINAL LAW

JUNE, 2021, JIMMA UNIVERSITY

## **Declaration**

I declare that this thesis paper which is prepared for the partial fulfillment of the requirements for LL.M Degree in Human Rights and Criminal Law entitled ‘Ethiopia’s Hate Speech and Disinformation Prevention and Suppression Proclamation: The Need and Compatibility with Human Rights Standards’ has been composed by myself and the work contained herein is my own, and this work has not been submitted to any other qualification. I also declare that any source used in the paper has been duly acknowledged.

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## **Acknowledgement**

First and foremost, I am very grateful to GOD Almighty for without his graces and blessings this study would have not been possible. Next, I am extremely grateful to my Principal Advisor Dr. Taddesse Simie for his invaluable advice, continuous support, and patience during my study. His immense knowledge and plentiful experience have encouraged me in all the time of my academic life. Without your tremendous understanding and encouragement in the past few months of unprecedented crisis in our country, it would be impossible for me to complete my study. Thank you in advance again Doctor. Thirdly, my special thanks go to my Co-Advisor Mr. Kebrom Mekonen for shaping my study and giving me insightful comments. Finally, but not least, my appreciation also goes out to my family and friends for their encouragement and support all through my study.

## ***Abstract***

*The claim of preventing and suppressing hate speech and disinformation inextricably linked to the roots of contemporary international human rights discourse. Article 19(2) of ICCPR recognizes that everyone has the right to freedom of expression. However freedom of expression can be limited on the grounds of hate speech and disinformation since they can cause harms to other human rights. Accordingly, Ethiopia is under obligation by cumulatively looking at Article 13(2) of the FDRE constitution and Article 20(2) of ICCPR to confront any advocacy of national, racial and religious hatred that constitutes incitement to discrimination, hostility or violence by law. Ethiopia has no comprehensive law regarding hate speech and disinformation though there are some provisions directly or indirectly related to them by analyzing the existing domestic laws. Hence, she has enacted hate speech and disinformation prevention and suppression proclamation No.1185/2020. But this proclamation must be within strictly defined parameters for limitation of freedom of expression as stated under article 19(3) of ICCPR. Accordingly, the author by assessing the Ethiopia's existing laws and international human rights laws has found that the above proclamation leads to a kind of double warning since some of its provisions are already provided and is incompatible with international human right standards such as legality, legitimacy, necessity and proportionality standards and the widely accepted international norm the Rabat Plan of action.*

**Key Words:** *Incitement, Ethiopia, hate speech, disinformation, proclamation, human rights, compatibility*

## **Acronyms**

ACHR	American Convention on Human Rights
ACHPR	African Charter on Human and Peoples' Rights
ECHR	European Convention on Human Rights
ECTHR	European Court of Human Rights
FDRE	Federal Democratic Republic of Ethiopia
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
NetzDG	Etzwerkdurchsetzungsgesetz (Germany's Network Enforcement Act)
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNESCO	United Nations Economic, Social and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHRC	United Nations Human Rights Committee
EU	European Union
WWII	Second World War
ECtHR	European Court of Human Right
US	United States
VSAT	Very Small Aperture Terminal
HIV/AIDS	Human immunodeficiency Virus/ Acquired Immunodeficiency Syndrome
OSCE	Organization for Security and Co-operation in Europe
GA	General Attorney

## Contents

Declaration .....	i
Approval .....	ii
Acknowledgement .....	iii
<i>Abstract</i> .....	iv
CHAPTER ONE .....	1
INTRODUCTION .....	1
1.1 .Background of the study .....	1
1.2. Statement of Problem .....	7
1.3. Research Questions .....	8
1.4 Objective of research.....	8
1.4.1 General objective .....	8
1.4.2 Specific Objective.....	8
1.5. Literature Review .....	9
1.6. Research Methodology.....	10
1.8. Limitation of the study .....	11
1.10. Structure of the Study.....	12
CHAPTER TWO .....	13
THE GENERAL OVERVIEW OF HATE SPEECH AND DISINFORMATION FROM INTERNATIONAL HUMAN RIGHTS LAW PERSPECTIVE .....	13
2.1 Introduction .....	13
2.2 Historical background of hate speech and disinformation laws.....	13
2.3 Conceptual Analysis of hate speech and disinformation .....	17
2.3.2 Disinformation Vis-a-Vis Mis-information and Mal-information .....	19
2.4 Justifications for and against hate speech and disinformation laws .....	20
2.5 Elements of hate speech crime under international human rights law .....	21
2.5.1 Intent.....	21
2.5.2 Incitement .....	22
2.5.3 The prohibited consequences.....	22
2.6 Conclusions .....	23
THE NEED OF HAVING A SEPARATE PROCLAMATION ON HATE SPEECH AND DISINFORMATION PREVENTION AND SUPPRESSION IN ETHIOPIA .....	25



3.2 Historical background of the proclamation.....	26
3.3.1 FDRE constitution.....	28
3.3.3 Freedom of mass media and access to information proclamation No.590/2008 .....	30
3.3.4 Advertisement proclamation No.759/ 2012.....	30
3.3.5 FDRE criminal code of 2004 .....	31
3.3.6 Computer crime proclamation No.958/2016.....	32
3.3.7 Telecom Fraud Offence proclamation No.761/2012.....	33
3.3.8 The 1960 Civil Code .....	33
3.4 Conclusion.....	34
CHAPTER FOUR.....	36
THE COMPATABILITY OF ETHIOPIA 'S HATE SPEECH AND DISINFORMATION PREVENTION AND SUPPRESSION PROCLAMATION NO .1185/2020 WITH INTERNATIONAL HUMAN RIGHTS STANDARDS.....	36
4.1 Introduction.....	36
4.2. 1. Assessment Yardstick.....	37
4.2.1.1 Legality (provided by law) .....	38
4.2.1.2 Legitimacy (Pursue a Legitimate Aims for Restriction) .....	38
4.2.1.3 Necessary.....	39
4.2.1.4 Proportionality .....	39
4.2.2. Elements of hate speech and disinformation crime under the proclamation .....	42
4.2.3 Degree of liability of hate speech and disinformation crime on Conventional media and social media (on line).....	42
4.2.4 Impacts of the proclamation on Freedom of expression, democracy and the right to privacy. .....	43
4.3. Conclusions .....	46
CHAPTER FIVE .....	47
CONCLUSIONS AND RECOMMENDATIONS .....	47
5.1. CONCLUSION .....	47
5.2 RECOMMENDATIONS .....	49
References.....	51

## **CHAPTER ONE: INTRODUCTION**

### **1.1 .Background of the study**

As the world is ever more inter-connected and as the fabric of societies has become more multicultural in nature, there have been a number of incidents in recent years, in different parts of the world, which have brought renewed attention to the issue of incitement to hatred and fake news. Hate speech is not explicitly mentioned in many international human rights documents and treaties, but it is indirectly called upon by some of the principles related to human dignity and freedom of expression. For instance, Article 19<sup>1</sup> and 7<sup>2</sup> of the 1948 Universal Declaration of Human Rights (UDHR), respectively recognize that everyone has the right to freedom of expression and the right to be protected against discrimination. The UDHR does not specifically provide for prohibitions on hate speech or incitement to hatred.

The International Covenant on Civil and Political Rights (ICCPR) contains the right to freedom of expression in Article 19<sup>3</sup> and the prohibition of advocacy to hatred that constitutes incitement to discrimination, hostility or violence in Article 20.<sup>4</sup> The language of the ICCPR is that of ‘incitement’ rather than ‘hate speech’. Article 19(2) of ICCPR states that 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.<sup>5</sup> Article 19(3)<sup>6</sup> of this convention permits restrictions on freedom of expression where they are: a) provided by the law, b) for the protection of one of the legitimate lists c) necessary to protect that interest.

Other international conventions like the Convention on the Prevention and Punishment of the Crime of Genocide (1951) under art.2 (a, b, and c) protects acts committed with intent to destroy in whole or part, a national, ethnical, racial or religious group<sup>7</sup>. From this, that one of the acts which leads to such kind of prohibition is an act of hate speech. However this Convention is limited only to acts that publicly incite to genocide, recognized as acts committed with intent to

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<sup>1</sup> UDHR (1948) Article 19.

<sup>2</sup> Ibid, Article 7.

<sup>3</sup> ICCPR (1966), Article 19.

<sup>4</sup> Ibid, Article 20.

<sup>5</sup> Ibid, Article 19(2).

<sup>6</sup> Ibid, Article 19(3)

<sup>7</sup> Convention on the Prevention and Punishment of the Crime of Genocide (1951) Article 2 .

destroy, in whole or in part, a national, ethnical, racial or religious group, regardless of whether such acts are undertaken in peacetime or in wartime.<sup>8</sup>

The first international treaty to deal directly with the issue of hate speech was the international convention on the elimination of all forms of Racial Discrimination (CERD), adopted by the UN General Assembly in 1965.<sup>9</sup> The convention was international society's reaction to a wave of anti-Semitic attacks in Germany as well as it was considered to be important for the battle against colonialism and apartheid.<sup>10</sup> Article 4 (a-c)<sup>11</sup> of this convention recognizes that all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination shall be punishable.

Since article 19(2)<sup>12</sup> of ICCPR recognizes information and ideas of all kinds, it also includes untruthful freedom of expression. However since the spread of disinformation can cause harm to a range of human rights, it is better to look at other provisions of this convention. Accordingly, as per article 17<sup>13</sup> of the same convention, no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, or to unlawful attacks on his honour and reputation. From this we can understand that how disinformation can cause to harm our dignity and because of this, it should be regulated.

Article 25<sup>14</sup> of the above convention also recognizes that, every citizen shall have democratic right and the opportunity to take part in free and fair elections. However this right can be harmed by dissemination of disinformation. Hence, disinformation should be regulated to protect our democratic right to election to make it free, fair and credible.

Articles 2(1)<sup>15</sup> and 26<sup>16</sup> of this convention also provides that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or

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<sup>8</sup> *Supra note cited at 7, Article 1 and 2.*

<sup>9</sup> *Toby Mendel, Center For Law and Democracy, Hate speech rule under international law, 2010, p.2*

<sup>10</sup> *Ibid*

<sup>11</sup> *CERD (1965), Article 4.*

<sup>12</sup> *Supra note cited at 5.*

<sup>13</sup> *Ibid, Article, 17.*

<sup>14</sup> *Ibid, Article, 25.*

<sup>15</sup> *Ibid, Article 2(1).*

<sup>16</sup> *Ibid, Article 26.*

other opinion, national or social origin, property, birth or other status. Looking these provisions cumulatively, we can understand that how the spread of disinformation also cause harm to our equality rights based on the grounds stated and this shows some hints for its prohibition.

All of the three regional human rights treaties: Article 10<sup>17</sup> of the European Convention on Human Rights (ECHR), Article 13<sup>18</sup> of the American Convention on Human Rights (ACHR) and Article 9<sup>19</sup> of the African Charter on Human and Peoples' Rights (ACHPR) guarantee the right to freedom of expression. These guarantees are largely similar to those found in the ICCPR.

“Freedom of expression constitutes one of the essential foundations of a democratic society, one of the basic conditions for its progress and for the development of every man. Subject to paragraph 2 of Article 10 of the European Convention on Human Rights, it is applicable not only to information or ideas that are favorably received or regarded as inoffensive or as a matter of indifference, but also to those that offend shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no democratic society. This means, amongst other things that every formality, condition, restriction or penalty imposed in this sphere must be proportionate to the legitimate aim pursued.”<sup>20</sup>

The European Court of Human Rights held that the confiscation of a book deemed to be obscene didn't violate the right to freedom of expression. Richard Handyside purchased the British rights to a book that aimed to educate teenage readers about sex (including subsections on issues such as masturbation, pornography, homosexuality, abortion, etc.) and was convicted of possessing obscene publication for gain under the obscene Publications Act. The court concluded that the Act's intent to protect minors, as well as measured and precise application, met the qualifications for a restriction on a free speech that was “necessary in a democratic society.

This was one of the first freedoms of expression cases considered by the court, and it set a strong standard for the examination of these cases which is applied up until the present day. In particular, it established the principle that freedom of expression is not only to information or

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<sup>17</sup> ECHR, Adopted 4 November 1950, entered into force 3 September 1953. Article 10

<sup>18</sup> ACHR, Adopted 22 November 1969, entered into force 18 July 1978. Article 13

<sup>19</sup> ACHPR, Adopted 26 June 1981, entered into force 21 October 1986. Article 9.

<sup>20</sup> *Handyside v. the United Kingdom judgment*, App. No. 5493/72 (ECtHR, 7 December 1976)

ideas that are favorably received or regarded as inoffensive or as a matter of indifference, but also to that offend shock or disturb the state or any sector of the population.<sup>21</sup>

Tolerance and respect for the equal dignity of all human beings constitute the foundations of a democratic, pluralistic society. That being so, as a matter of principle it may be considered necessary in certain democratic societies to sanction or even prevent all forms of expression which spread, incite, promote or justify hatred based on intolerance provided that any formalities, conditions, restrictions or penalties imposed are proportionate to the legitimate aim pursued.<sup>22</sup>

In this case, a politician was charged for a pre-election speech he had made four years before the charge on the grounds that his comments made distinctions between religions, races and regions. The court pointed out that imprisoning a politician would have a chilling effect. The fact that the charges were pressed four years after the speech did not serve a legitimate aim since it was not likely to contribute 'a present risk' or 'imminent danger'. The court found a violation of Article 10.

In the case *Brzezinski v. Poland*, The European Court of Human Rights ruled that Polish courts violated the freedom of expression of Zenon Brzezinski, a candidate running for local elections, when he was held liable for disseminating false information. The candidate published an election booklet criticizing two local politicians, accusing them of financial mismanagement and unprofessional behavior. The politicians brought a successful legal action against Brzezinski for violating Article 72 of the Polish Local Elections Act, which prohibits the dissemination of untrue information. Brzezinski was prohibited from further disseminating the booklet and ordered to publish an apology in widely read local newspapers. The European Court unanimously ruled that Brzezinski's punishment had a chilling effect on political debate and disproportionately interfered with his freedom of expression.<sup>23</sup>

Only, the ACHR provides for the banning of hate speech under its article 13(5)<sup>24</sup> in a similar way ICCPR convention recognizes unlike the other regional human rights systems This provision

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<sup>21</sup> *Fact Sheet on Hate Speech*, (EctHR, 2020, p.1).

<sup>22</sup> *Erbakan v. Turkey judgment*, App. No. 5 9405/00 (ECtHR, 6 July 2006).

<sup>23</sup> *Brzezinski v. Poland Decision*, App. No. 47542/07, ( EctHR, July 25, 2019)

<sup>24</sup> *Supra note cited at 18, Article 13(5)*

states that any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.<sup>25</sup>

The definition of hate speech is highly contested and there is no internationally accepted definition or understanding of it.<sup>26</sup> However, at an international, regional and national level, efforts have been made to address the problem and define the concept.<sup>27</sup> Although many countries have passed legislation prohibiting hate speech, what is defined as hate speech varies significantly between countries and regions.<sup>28</sup>

Regarding prohibition of disinformation nothing is expressly and clearly said in these international human right laws than finding its clues in different provisions. Hence, not all of them have direct and clear provisions against hate speech and disinformation.

Disinformation is a type of information disorder and defined as information that is false and deliberately created to harm a person, social group, organization or country.<sup>29</sup> Disinformation is information that is false, and the person who is disseminating it knows it is false. It is a deliberate, intentional lie, and points to people being actively dis informed by malicious actors<sup>30</sup> Limitations should not impair the essence of the right.<sup>31</sup> As a general principle, limitations to human rights under the Covenant “must constitute an exception to the rule and must be kept to the minimum necessary to pursue the legitimate aim of safeguarding other human rights established in the Covenant.<sup>32</sup> Any restrictions are only permissible to the extent that they are compatible with Article 19 paragraph 3 of ICCPR. States have an obligation to prohibit speech conceived as advocacy to hatred that constitutes incitement to discrimination, hostility or

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<sup>25</sup> *Ibid*

<sup>26</sup> *Maxime Lepoutre* , *Hate Speech in Public Discourse: A Pessimistic Defense of Counter speech* , *Florida State University Department of Philosophy* , Vol. 43, No. 4 , 2017, p.4

<sup>27</sup> *Jona Aoltheiour Palmadottir* , *Iuliana Kalenikova* , *Hate speech; an overview and recommendations for combating it*, *Icelandic Center for Human Rights* , p.7

<sup>28</sup> *ibid*

<sup>29</sup> *Council of Europe’s Information Disorder Report of November 2017* available at <https://rm.coe.int/>

<sup>30</sup> *Module 2: Thinking about ‘information disorder’: Mis-information, Dis-information and Mal-information* available at <https://rm.coe.int/>

<sup>31</sup> *Iginio Gagliardone* , *Danit Gal* , *Thiago Alves* , *Gabriela Martinez* , *Countering Online Hate Speech*, *UNSECO Series on Internet Freedom*, 2015, p.20

<sup>32</sup> *ibid*

violence in line with Article 19(3) of the ICCPR.<sup>33</sup>The UN High Commissioner for Human Rights (OHCHR) has sought to create spaces for promoting a shared understanding of what hate speech is and how it should be addressed and in 2012 formulated the Rabat Plan of Action on the prohibition of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.<sup>34</sup> It also proposed a six part threshold test to identify hate messages, considering context, speaker, intent, content, extent of the speech and likelihood the speech could incite actual harm.<sup>35</sup>

In overview, balancing freedom of expression and limitations as regards hatred is a highly complex matter in terms of both international laws and regional counterparts. What is clear is that any legal limitations always need to be considered adjacent to the broader right to freedom of expression, and the relation between right and restriction and between norm and exception must not be reversed.<sup>36</sup>

On the national front, several countries have enacted laws proscribing hate speech and fake news; at the same time, many others are either in the process of enacting such laws or have indicated moves towards that. Prominent among such legislations is Germany's "NetzDG" which came into force on 1st October 2017, which requires social media companies to delete hateful expressions, fake news and illegal contents on their sites within 24 hours and other several governments across all regions of the globe like Malaysia, China, Kenya, Tanzania, Uganda, Indonesia, France, Philippines, India, Nigeria, Russia, Sweden, Jordan and many others have proscribed the spreading and sharing of fake news and hate speeches.<sup>37</sup> On the one hand, some states like USA believe that speech must be specially protected against government interference which is done through legal restrictions on hate speech rather it allow a counter speech for hate speech than regulating it.<sup>38</sup>

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<sup>33</sup> *Supra note cited at 6.*

<sup>34</sup> *Supra note cited at 32, p.21*

<sup>35</sup> *Ibid*

<sup>36</sup> *Ibid, p.27*

<sup>37</sup> *Suleiman Usman Santuraki, Trends in the Regulation of Hate Speech and Fake News: A Threat to Free Speech?, HasanuddinLawReview, University of Maidugur, Volume 5 Issue 2, 2019, p.143*

<sup>38</sup> *Ibid, p.150*

Like many other nations, Ethiopia is grappling with the serious and growing problem of hate speech and disinformation. Since she is under pressure to act on it by virtue of article 13(2)<sup>39</sup> of the FDRE constitution the government has enacted hate speech and disinformation prevention and suppression proclamation number 1185/2020 which this thesis will assess in light of international human rights standards.

## **1.2. Statement of Problem**

Regulating hate speech and disinformation has become a pressing issue and problematic around the world. The ease and speed with which harmful and dangerous content is disseminated and accessed via social media particularly reinforces this challenge. It is also understandable that the Ethiopian government is under pressure to act through legal measures and/or non-legal measures within strictly defined parameters. Accordingly, Ethiopia has enacted hate speech and disinformation prevention and suppression proclamation No.1185/2012. As the author referred from the minute of the drafters<sup>40</sup>, the justifications for the enactment of this proclamation is due to freedom of political expression increased, dissemination of hate speech and disinformation was highly increased and this poses danger to national and peoples' peace and security, democratic system, creates conflicts and attacks on the life and property. Due to the absence of current comprehensive laws regulating these issues, the government is in need of having laws preventing and suppressing hate speech and disinformation. In the process of the drafting, different stakeholders particularly, political parties, elites who have researched on this issue, journalists and civil societies have participated in debating and discussing on the importance of this law and accordingly, there were the proponents and opponents of this proclamation.<sup>41</sup> The opponents rose that this law silences the dissents' voice and it leads to more problems than its benefits. The proponents rose that even it is too late to have such kind of law and very important. Accordingly, this proclamation was approved on February 13, 2012 by majority, being opposed by 23 members and two abstain voices among 300 members of the parliament attended the session.<sup>42</sup> The author has found out that Ethiopia's hate speech and disinformation prevention and suppression proclamation No.1185/2020 leads to arbitrary application of the laws and double

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<sup>39</sup> Article 13(2) of the FDRE constitution (1995).

<sup>40</sup> Ethiopian Law, Draft Hate Speech Proclamation( Amharic Version) published on line on 31 December 2019, accessed on June 20/2021

<sup>41</sup> Ibid

<sup>42</sup> Supra note cited at 41.



warning since its some provisions are repeatedly recognized looking into the existing domestic laws. This proclamation also contributes to the risk of misinterpretation of article 20(2)<sup>43</sup> of the ICCPR since it is not enacted with in strictly defined parameters contained in article 19(3)<sup>44</sup> of the Covenant.

This again curtail freedom of expression, democracy, the right to privacy, the right to equality and severely outweighed by both the intended and unintended consequences like silencing journalists, activists, bloggers, political parties, dissidents and minorities. Hence, by assessing the provisions of the Ethiopia's hate speech and disinformation prevention and suppression proclamation No. 1185/2012, the paper analyzes its need and compatibility in light of international human rights standards and identifies its shortcomings and forwards suggestions for the problems.

### **1.3. Research Questions**

The research answers the following questions:

1. Is there a need to have a separate proclamation on hate speech and disinformation prevention and suppression in Ethiopia?
2. If yes, is Ethiopia's hate speech and disinformation prevention and suppression proclamation compatible with international human rights standards she adopted?

### **1.4 Objective of research**

#### **1.4.1 General objective**

The general objective of this study is to provide an overview and assess the need and compatibility of Ethiopia's hate speech and disinformation prevention and suppression proclamation in light of international human rights laws and identifying its shortcomings and pushing the government either to revise it or to use other mechanisms to prevent hate speech and disinformation.

#### **1.4.2 Specific Objective**

- To discuss the need of having a separate proclamation on hate speech and disinformation prevention and suppression in Ethiopia.
- To assess the consistency of Ethiopia's hate speech and disinformation prevention and suppression proclamation with the international human rights standards she adopted.

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<sup>43</sup> *Supra note cited at 3, Article 20(2).*

<sup>44</sup> *Supra note cited at 6.*

- To forward recommendations identifying possible actions for the problems.

## 1.5. Literature Review

According to my knowledge and access although there are a number of literatures directly or indirectly related with hate speech and fake news in the world, there is no research conducted directly on the issue of assessing the compatibility of Ethiopia's hate speech and disinformation prevention and suppression proclamation in light of International human rights standards saving, its enactment is debatable one among journalists, politicians, academician, bloggers and others in Ethiopia. But there are some attempts to deal with the issues directly and indirectly mainly with hate speech. For instance, Gelana Tolasa Sarbesa has written his LLM thesis on the title, regulating hate speech under Ethiopian legal system: A human right perspective.<sup>45</sup> Firstly, he only focused on hate speech not misinformation and accordingly argues that Ethiopia should regulate hate speech with express and comprehensive law.<sup>46</sup> Supporting his argument, Ethiopia has now enacted hate speech and disinformation prevention and suppression proclamation. Mulugeta Abraha has also conducted research on the title, Mapping online hate speech among Ethiopians: The case of Facebook, you tube and twitter<sup>47</sup> and accordingly he concluded that social Medias are the major reasons for the prevalence of hate speech among which Facebook is the chief one, followed by YouTube and Twitter.<sup>48</sup> Iginio Gagliardone, Alisha Patel and Matti Pohjonen have written a working paper on the title, 'mapping and analyzing hate speech online: Opportunities and Challenges for Ethiopia'<sup>49</sup> and they tried to provide an introductory remark on hate speech, especially as communicated through online media in divided societies in general and Ethiopia in particular. They indicated the relationship between the media and the state, and ethnic divisions and the use of online hate speech for political ends which is out of legal concept.

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<sup>45</sup> *Gelana Tolasa Sarbesa, LLM thesis on the title, Regulating Hate speech under Ethiopian Legal System: A Human Right Perspective, Jimma University, 2017*

<sup>46</sup> *Ibid, p.85*

<sup>47</sup> *Mulugeta Abraha, Mapping Online Hate Speech Among Ethiopians: The Case of Facebook, You Tube and Twitter, Addis Ababa University, 2019.*

<sup>48</sup> *Ibid, p.74*

<sup>49</sup> *Gagliardone, Alisha Patel and Matti Pohjonen, Working Paper on the title, 'Mapping and Analyzing Hate Speech Online: Opportunities and Challenges for Ethiopia', Addis Ababa University, 2014*

Additionally, Dr. Gedion Timothewos has published an article on the title “We shouldn’t tolerate hate speech “arguing free speech should be protected by all means and the intolerable should not be tolerable.”<sup>50</sup>

Halefom.H.Abraha has also written an article on “the problems with Ethiopia’s proposed hate speech and misinformation law” and concludes that the proposed law exhibits a number of shortcomings and needs serious reconsideration.<sup>51</sup> Tewodros Workneh has also published online on the title of Ethiopia’s hate speech predicament: Seeking Antidotes beyond a legislative response in which he concludes to minimize occurrences as well as impacts of hate speech, a comprehensive, multi-stakeholder, long-term approach in addition to a legislative response must be offered.<sup>52</sup> Yohannes Eneyew has also published online that discusses is Ethiopia’s first fake news in line with human rights norms? And accordingly he concludes that since the definition of disinformation is not clear and over-broad, it goes beyond the command of Article 20(2) and the restriction preconditions required by Article 19(3) of the ICCPR; not based on international human rights standards.<sup>53</sup> Thus, since the focus of my research is comprehensive assessment of the need and compatibility of Ethiopia’s hate speech and disinformation prevention and suppression proclamation in light of international human rights standards, this law itself is a new in Ethiopia and my thesis is a new idea.

Therefore, considering the scarcity of literatures on this field of study, this thesis tries to contribute its own share to fill this gap.

## **1.6. Research Methodology**

In order to address the issues identified above, the study is conducted with doctrinal research method. To this end, the study is conducted with due regard to qualitative research methodology. A qualitative analysis of relevant legal analysis, political situation analysis, case analysis and literature analysis.

In doing this research, both primary and secondary sources are employed to study various issues involved in the research. Primary sources such as Constitutions, Laws, Documents, Cases,

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<sup>50</sup> Gedion Timothewos (PHD), *We Shouldn’t Tolerate Hate Speech*, published online May 4, 2019, accessed on June 20/2021.

<sup>51</sup> Halefom.H.Abraha, *The Problems with Ethiopia’s Proposed Hate Speech and Misinformation law*, University of Malta, published on June 4th, 2019 accessed on March 20/2021.

<sup>52</sup> Tewodros W. Workneh, *Ethiopia Hate Speech Predicament: Seeking Antidotes beyond a Legislative Response*, African Journalism Studies, Kent State University, 2020.

<sup>53</sup> Yohannes Eneyew, *Is Ethiopia’s First Fake News Case in line with Human Rights norms?* Accessed online, May 1, 2020.

International Human Rights Instruments (Covenants and Treaties), and decisions given by International and Regional Human Rights Organs are used while secondary sources are Books, Journals, Websites, Scholarly Articles, , Reports and Unpublished thesis.

### **1.7. Scope of the Study**

The focus of this thesis is only on the assessment of Ethiopia's hate speech and disinformation prevention and suppression proclamation within the scope of international human rights law particularly in light of international human rights standards adopted by Ethiopia through Article 13(2) of the FDRE constitution. Comprehensive assessment is made with other Ethiopian laws directly or indirectly connected with this proclamation. Hence, the scope of this study is limited to international human rights standards and the above proclamation including other Ethiopia's laws directly or indirectly related to it.

### **1.8. Limitation of the study**

Since the proclamation is enacted recently, lack of sufficient sources regarding this issue is a limitation. Covid -19 disease crisis is another limitation which interrupted and disturbed me while conducting my research.

### **1.9. Significance of the Research**

The study is important to law makers, law enforcers and judiciaries to gain a better understanding of legislative patterns, judicial practices and policies regarding the concept of hate speech and misinformation laws.

Beside this, it also helps consumers to what extent exercising their human right mainly freedom of expression through online and offline Medias is limited.

In addition to this, it also gives clue for journalists, activists, bloggers and opposition parties to know the extent of their right not to be silenced under the guise of this draft proclamation.

Not only this but also, it encourages both government and private media stake holders to find better solutions other than legal measures in preventing hate speech and misinformation.

Furthermore, the study also helps to appreciate how international human rights standards and jurisprudence help Ethiopia on the limitation of hate speech and fake news.

Finally, the study also contributes to the legal academician like lecturers, researchers and students since there is scarcity of study on this area.

### **1.10. Structure of the Study**

This thesis provides contents that systematically answer issues raised in the research questions. Therefore, this thesis contains five chapters, which is organized as follows:

Chapter one is an introduction which contains the proposal of the thesis.

Chapter two covers the general overview of hate speech and disinformation from the perspective of international human rights law. Under this topic, historical background of hate speech and disinformation laws, concepts of hate speech and disinformation, justification for and against preventing and suppressing hate speech and disinformation. Different associated terms with hate speech and disinformation will also be discussed.

Chapter three also discusses the need of having a separate proclamation on hate speech and disinformation prevention and suppression in Ethiopia. Under this chapter, the historical background of Ethiopia's hate speech and disinformation law will be dealt. Other Ethiopia's laws directly or indirectly related with hate speech and disinformation such as the FDRE constitution, the Broad casting service proclamation No.533/2007, the Freedom of mass media and access to information proclamation No.590/2008, the Advertisement proclamation No.759/ 2012, the FDRE criminal code of 2004, the Computer crime proclamation No.958/2016, the Telecom Fraud Offence proclamation No.761/2012, and the 1960 Civil Code will be examined.

Chapter four of this thesis, which is the main part of the paper, will assess the compatibility of Ethiopia's hate speech and disinformation prevention and suppression proclamation with international human rights standards mainly adopted by Ethiopia considering elements of hate speech and disinformation crime under the proclamation, Degree of liability of hate speech and disinformation crime on Conventional media and social media (on line), Capability of the Institutions regulating the Proclamation, Jurisdictional challenges of the proclamation, and impacts of the proclamation .

Chapter five of this thesis will draw some conclusions whether Ethiopia's hate speech and disinformation prevention and suppression proclamation is needed to have it separately and compatible with international human rights standards or not and finally forwards recommendations.

## CHAPTER TWO

### THE GENERAL OVERVIEW OF HATE SPEECH AND DISINFORMATION FROM INTERNATIONAL HUMAN RIGHTS LAW PERSPECTIVE

#### 2.1 Introduction

The history of hate speech and disinformation anxieties and disquiet to destabilize society is not new from a historical perspective. It is as ancient as a language itself. But currently, it has powerfully increased especially through social media with dangerous risks. This issue is linked to the roots of contemporary international human rights discourse, to the period that followed the holocaust and the crime committed on a massive scale during the Second World War.

Under this chapter, the author is going to discuss the historical background of hate speech and disinformation laws, the concepts of hate speech and disinformation, the terms associated with hate speech such as hate crime and hate propaganda as well as those associated with disinformation such as mis-information and mal-information. Finally this chapter will be dealt with the justifications for and against hate speech and disinformation laws.

#### 2.2 Historical background of hate speech and disinformation laws

The perception of hate speech and hate crime has been suddenly and powerfully increased with the new developments in information communication such as an expansion in literacy following the development of the printing press.<sup>54</sup> It is true that a new, visual and aural, dimension has been added following the twentieth-century technological revolution, starting with radio and television, and evolving into the platform-independent and convergent phenomenon of the Internet and has provided a new means of global expression where the immediacy of its communications is perceived as having the capacity to overwhelm the narrow State-defined channels of regulated speech with a rising tide of dangerous speech.<sup>55</sup> Over the past few years, disinformation and hate speech spread online and through conventional media have led to rampant physical harm offline across geographies and technology platforms.<sup>56</sup> Regarding the

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<sup>54</sup> Candida Harris , Judith Rowbotham & Kim Stevenson , *Truth, law and hate in the virtual marketplace of ideas: perspectives on the regulation of Internet content, Information & Communications Technology Law, University of Plymouth and Nottingham Trent University, Vol. 18, No. 2, 2009, p.158-161*

<sup>55</sup> *Ibid*

<sup>56</sup> Jessica Young , Preetha Swamy & David Danks, *Beyond AI: Response to hate speech and disinformation, p.1*

earliest use of the term disinformation, while most observers traced it back to the Russian word *dezinformatsiya*, others suggest that it is originated in 1930s Nazi Germany for political effect.<sup>57</sup>

The use of deception and manipulation is as ancient as language itself. Fake was little used as an adjective prior to the late 18th century. Before that point the most common description was false news.<sup>58</sup> The claim for suppressing hate speech is inextricably linked to the roots of contemporary international human rights discourse, to the period that followed the holocaust and the crime committed on a massive scale during the Second World War.<sup>59</sup> Many European countries have regulated hate speech since Second World War in order to promote respect and equality and whereas the United States, by contrast, affords substantial protection to hate speech. Several international laws such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the European Convention on Human Rights additionally mandate limitations on speech deemed hateful.<sup>60</sup> Rising international concern about the problem of hate speech on the Internet has led to calls for greater regulation.<sup>61</sup> Hate, and its expression through speech, is a major concern in today's virtual marketplace of ideas because of the way that its dissemination through the modern media seems to threaten community and state stability. There is a significant body of law, international and national (not all recent), which seeks to regulate hate speech, or at least certain forms of hate speech.<sup>62</sup>

The UN legal framework is a starting point for regional and domestic responses to hate speech.<sup>63</sup> While application of national laws may create a zone of intolerance for hate speech within those countries inclined (for historical reasons) to pursue the matter, the reality remains that other countries, particularly the USA (equally for historical reasons) provide legal safe havens for

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<sup>57</sup> *Ibid*

<sup>58</sup> *Understanding and addressing the disinformation Ecosystem*, Annenberg School for Communication , University of Pennsylvania, workshop held from December 15-16, 2017, p.8

<sup>59</sup> Antonios Pesinis , "The Regulation of Hate speech" ; "The Meaning of Incitement " Under The Case Law of European Court of Human Rights and The Jurisdiction of the European Union , The United Kingdom and The Greece. LLM Thesis, Central European University, 2015, p.10

<sup>60</sup> Roni Cohen , *Regulating Hate Speech: Nothing Customary about It* , *Chicago Journal of International Law*, Article 11, Volume 15, No.1, 2014, p.231

<sup>61</sup> *Supra note cited at 55.*

<sup>62</sup> *Ibid.*

<sup>63</sup> *Supra note cited at 60, p.17.*

offensive material of all kinds . Such divergence in national laws to what is widely perceived as a common and worldwide problem has led to a number of transnational and international measures intended to create greater harmonization of law.<sup>64</sup> International moves to bring some universal consensus to the problem have been faced with not just the same dilemma as national laws (how to balance the democratic value of free expression against the risks of unregulated speech).<sup>65</sup> The UN has made a number of ringing declarations about the need to eradicate discrimination. Inevitably, given the real disagreements in belief behind such rhetoric, they provide little by way of practical mechanisms to control Internet hate speech. Perhaps because of its historical sensitivity to the issue, Europe has been left to move forward on certain aspects of the problem. In April 2007 the Council of the European Union issued a Framework decision on Racism and Xenophobia, establishing that certain forms of intentional hate-based conduct should be punishable in all EU Member States. This was a step towards harmonization of laws (and thus one part of the solution to the jurisdiction problem).<sup>66</sup>

The United Nations adopted the Universal Declaration of Human Rights (UDHR) following WWII (the Second World War) and even if it does not contain any stipulation prohibiting hate propaganda, there was heated discussion during the drafting period whether or not to allow for restrictions on the right to freedom of expression. The member states had many and different personal views on such restrictions and also what their purpose should be. The atrocious acts committed during WWII motivated the nations of the world to do everything in their power to prevent the spreading of intolerance and hate rooted in the war and the events leading up to it. They also wanted to minimize the consequences of such hate and prevent that events such as those which happened in Nazi Germany, would ever happen again.<sup>67</sup> The UN Convention on the Elimination of All Forms of Racial Discrimination (CERD) was adopted in 1965 and entered into force in 1969. The convention was international<sup>68</sup> society's reaction to a wave of anti-Semitic attacks in Germany as well as it was considered to be important for the battle against colonialism and apartheid. CERD defines the term "racism" and Article 4 condemns propaganda and organizations attempting to justify discrimination or based on the idea of racial

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<sup>64</sup> *Ibid*, p.18

<sup>65</sup> *Ibid*

<sup>66</sup> *Ibid*

<sup>67</sup> *Supra note cited at 28, p.5.*

<sup>68</sup> *Ibid*



supremacism. It obliges parties, with due regard to the principles embodied in the Universal Declaration of Human Rights, to adopt immediate and positive measures to eradicate these forms of incitement and discrimination. Specifically, it obliges parties to criminalize hate speech, hate crimes and the financing of racist activities and to prohibit and criminalize membership in organizations that promote and incite racial discrimination. A number of parties to the convention have reservations on this article, and interpret it as prohibiting, or requiring measures that infringe upon freedom of speech, association and assembly.<sup>69</sup> This widening of scope and broader interpretation raises questions on where to draw the line, how far CERD can go in their effort to eliminate discrimination on grounds that are not included in the Convention. CERD has actually limited the scope to only establishing discrimination if race, ethnic origin, colour, descent, national or ethnic origin are also a factor. CERD does for example not cover discrimination against religious groups solely on that ground but only if the discrimination grounds listed in CERD, Article 1, are also a factor.<sup>70</sup>

In spite of the Internet having it is ‘obvious advantages in our daily life, the drawback are how easy it is to exploit the freedom it brings us’.<sup>71</sup> The Internet has therefore increasingly been used to promote hate speech and incitement to hate crime against individuals on grounds of their colour, ethnicity, religion, sexual orientation etc. Through increased access and rapid technical developments, more and more hate sites established by extremist groups have been launched. Studies show that, since 1995, when the first website by an extremist group was launched, they have multiplied in number, in 2012 around 15 thousand sites were found, most of them with racist and xenophobic propaganda.<sup>72</sup>

In the last few years, the world has witnessed a significant increase in the scale of white nationalism in the United States; anti-Semitic, anti-Roma, and anti-immigrant prejudice in Europe; homophobic outrage in different African countries; xenophobia in South Africa; religious persecution against Uyghur Muslims in the People’s Republic of China and the

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<sup>69</sup> *Ibid*, p.6

<sup>70</sup> *Ibid*

<sup>71</sup> *Ibid*, p.20

<sup>72</sup> *Ibid*

Rohingya of Myanmar, to name a few. The rise of right-wing sentiments globally that espouse nativist rhetoric has resurfaced debates about regulating hate speech through legislative means.<sup>73</sup>

The recent popularity of disinformation legislation comes as Freedom House's 2017 report on global press freedoms found that media freedom was at its lowest point in thirteen years and that there were "unprecedented threats to journalists and media outlets in major democracies and new moves by authoritarian states to control the media, including beyond their borders."<sup>74</sup> Some governments have unfortunately capitalized on the rising concerns of disinformation and enacted or proposed legislation that is in violation of freedom of expression rights.<sup>75</sup> As part of the reforms, Ethiopia has also enacted a Hate Speech and Disinformation Proclamation (No. 1185/2020) on Prevention and Suppression which aims to tackle hate speech and disinformation under the newly appointed Prime Minister, Abiy Ahmed.

### **2.3 Conceptual Analysis of hate speech and disinformation**

Hate, and its expression through speech, is a major concern in today's virtual marketplace of ideas because of the way that its dissemination through the modern media seems to threaten community and state stability.<sup>76</sup> Hate speech is a complicated concept and there is no internationally accepted definition or understanding of it.<sup>77</sup> Gradually however, legislations, court precedents and academic<sup>78</sup> publication, the damage and danger a certain form of expression entails, has been internationally recognized. Therefore, both at an international, regional and national level, efforts have been made to address the problem and define the concept. However, although many countries have passed legislation prohibiting hate speech, what is defined as hate speech varies significantly between countries and regions. The Council of Europe, Committee of Ministers recommendation no. 97(20) states that for the purposes of the application of the principles therein, the term "hate speech" shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms

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<sup>73</sup> *Supra note cited at 53, p.5*

<sup>74</sup> *Fernando Nunez, Disinformation Legislation and Freedom of Expression, UC Irvine Law Review, Article 10, Volume 10, Issue 2, 2020, p.791-92*

<sup>75</sup> *Ibid*

<sup>76</sup> *Supra note cited at 55.*

<sup>77</sup> *Supra note cited at 28, p.6*

<sup>78</sup> *Ibid*

of hatred based on intolerance.<sup>79</sup> In dealing with cases concerning incitement to hatred, the European Court of Human Rights (EctHR) has not defined hate speech but refers to it as „all forms of expression, verbal or written , which spread, incite, promote or justify hatred based on intolerance (also on grounds of religion)“.<sup>80</sup> An inevitable problem in any discussion of hate speech lies in the difficulty of defining what exactly the phrase refers to.<sup>81</sup> The concept of hate speech might be a complex or compositional concept since it is composed of other simpler concepts.<sup>82</sup>

Brown use concepts that emerge from given bodies of law and legal practices and the occurrences and meanings of various linked or associated terms that appear in them to analyze the legal concept of hate speech.<sup>83</sup>

Indeed, it will often be more difficult to identify disinformation since the source of the information does not want us to realize that the information is inaccurate or misleading.<sup>84</sup>

### **2.3.1 Hate speech Vis-a-Vis Hate Crime and Hate propaganda**

The terms hate crime or bias crime has established their places in the crime and justice lexicon and appears routinely in the media, scholarly journals, legislation, and judicial opinions. Many advocacy groups, politicians, scholars, and journalists claim that many countries are experiencing a hate crime epidemic. A majority of states have enacted substantive hate crime laws or sentence enhancements for crimes motivated by officially disfavored prejudices.<sup>85</sup> The term hate crime is a misnomer. Generically, hate crime is meant to distinguish criminal conduct motivated by prejudices from criminal conduct motivated by lust, jealousy, greed, politics, and so forth. It emphasizes the offender's attitudes, values, and character.<sup>86</sup> However, only eighteen states and the District of Columbia include gender or sexual orientation bias as a hate crime trigger. Prejudice against Native Americans, immigrants, the physically and mentally handicapped, union members, non- union members, right-to-lifers, and those advocating the right

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<sup>79</sup> *Ibid* p.7

<sup>80</sup> *Ibid*,

<sup>81</sup> *Supra* note cited at 55, p.157

<sup>82</sup> Alexander Brown, *What is Hate Speech? Part 1: The Myth of Hate*, , 2017, p.441-42

<sup>83</sup> *Ibid*, p.16

<sup>84</sup> *Supra* note cited at 6.

<sup>85</sup> James B. Jacobs and Kimberly A. Potter, *Hate Crimes: A Critical Perspective*, Vol.22, *The University of Chicago Press Journal*, 1997, p.2

<sup>86</sup> *Ibid*, p.3

to choose are hardly ever included in hate crime laws. The District of Columbia has the most all-encompassing hate crime statute; it covers religion, national origin, gender and sexual orientation, personal appearance, family responsibility, marital status, and matriculation. Clearly, the boundaries of hate crime legislation are fixed by political decision rather than contemporary American society; however, certain prejudices are officially disfavored-especially those based on race and religion.

Hate propaganda, which invariably employs disinformation tactics, violates people's dignity and equality, and can threaten social cohesion. A laissez faire or libertarian approach is not a viable response.<sup>87</sup>

### **2.3.2 Disinformation Vis-a-Vis Mis-information and Mal-information**

Misinformation is false content shared by a person who does not realize it is false or misleading. Mal-information is to describe genuine information that is shared with intent to cause harm.<sup>88</sup> Disinformation is when false information is knowingly shared to cause harm. During the 2017 French presidential elections, a duplicate version of the Belgian newspaper Le Soir was created, with a false article claiming that Emmanuel Macron was being funded by Saudi Arabia.<sup>89</sup> It is false that Emmanuel Macron was being funded by Saudi Arabia but knowingly duplicated on Belgian newspaper Le Soir intended to cause harm to him and hence, this is disinformation. Misinformation is when false information is shared, but no harm is meant. A tweet about a 'rigged' voting machine in Philadelphia was shared more than 11 000 times during the 2016 US presidential elections. It was later established that the original tweet was a mistake made by a voter who had failed to follow the instructions exhibited on the voting machine but since no harm was caused it is misinformation. Mal-information is when genuine information is shared to cause harm. Example of mal-information includes intentional leakage of a politician's private emails, as happened during the presidential elections in France.<sup>90</sup>

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<sup>87</sup> *Ibid*, p.2

<sup>88</sup> *Kai Shu , Suhang Wang , Dongwon Lee , and Huan Liu , Mining Disinformation and Fake News: Concepts, Methods, and Recent Advancements, Arizona State University, The Penn State University and University Park, 2020, p.1*

<sup>89</sup> *Ibid*

<sup>90</sup> *ibid*

Mal-information is information that is based on reality, but used to inflict harm on a person, organization or country. An example is a report that reveals a person's sexual orientation without public interest justification. Such mal-information – like true information that violates a person's privacy without public interest justification - goes against the standards and ethics of journalism.<sup>91</sup> Information Disorder has three phases: Creation, Production, and Distribution.<sup>92</sup> It has also three elements: Agent, Message, and Interpreter. But it's important to distinguish messages that are true from those that are false, and messages that are created, produced, or distributed by “agents” who intend to do harm from those that are not. Dis-information is information that is false and deliberately created to harm a person, social group, organization or country. Mis-information is information that is false, but not created with the intention of causing harm. Mal-information is information that is based on reality used to inflict harm on a person, organization, or country.<sup>93</sup>

#### **2.4 Justifications for and against hate speech and disinformation laws**

The issue of hate speech has received significant attention from legal scholars and philosophers alike. But the vast majority of this attention has been focused on presenting and critically evaluating arguments for and against hate speech bans as opposed to the prior task of conceptually analyzing the term ‘hate speech’ itself. When looking at the full range of ways of combating hate speech, including but not limited to the use of criminal law, there is every reason to embrace an understanding of hate speech as a heterogeneous collection of expressive phenomena. Another is that it would be unsound to reject hate speech laws on the premise that they are effectively in the business of criminalizing emotions, feelings, or attitudes of hate or hatred.<sup>94</sup> Critics of hate speech regulations, by contrast, claim that even though it has become ‘fashionable’ to defend such regulations and even though defenders of such regulations are (according to critics) ‘well-meaning’, in reality hate speech regulations are themselves harmful

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<sup>91</sup> Claire Wardle , Hossien Derakhshan, Module2 : on Thinking about ‘information disorder’: formats of misinformation, disinformation, and mal-information , p.44

<sup>92</sup> *Supra note cited at 59.*

<sup>93</sup> *Ibid, p.9*

<sup>94</sup> *Supra note cited at 83, p.1*

to self-realization and autonomy, ineffective at best and often counterproductive, and damaging to democracy and legitimacy, amongst other things.<sup>95</sup>

Legislating on disinformation comes with dangerous risks. It gives governments that are hostile towards the media a new means of silencing unfavorable opinions. The recent popularity of disinformation legislation comes as Freedom House's 2017 report on global press freedoms found that media freedom was at its lowest point in thirteen years and that there were "unprecedented threats to journalists and media outlets in major democracies and new moves by authoritarian states to control the media, including beyond their borders." Some governments have unfortunately capitalized on the rising<sup>96</sup> concerns of disinformation and enacted or proposed legislation that is in violation of freedom of expression rights. However, unchecked disinformation may also have serious negative effects on peoples' ability to enjoy their right to freedom of expression and can have destabilizing effects on democracies.<sup>97</sup>

## **2.5 Elements of hate speech crime under international human right laws**

There are three key elements on what may be limited as hate speech. These are intent, incitement and what consequences are prohibited.

### **2.5.1 Intent**

Article 20(2)<sup>98</sup> of ICCPR and Article 13(5)<sup>99</sup> of the ACHR require advocacy of hatred while Article 4(c)<sup>100</sup> of CERD does not. The advocacy parameter can be understood as intent requirement. Accordingly statements made with the intent of inciting hatred are prohibited. To understand more, let's see the case of *Journalist Jersild v. Denmark*. Mr. Olaf Jersild, a Danish national journalist had been convicted by Danish court for violating national penal code for a television program which included hate speech statements by racist extremists in order to expose racism in Denmark. The European Court of Human Right held that his conviction was a breach

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<sup>95</sup> *Ibid*, p.2

<sup>96</sup> *Supra note cited at 75.*

<sup>97</sup> *Ibid*, 792

<sup>98</sup> *Supra note cited at 43.*

<sup>99</sup> *Supra note cited at 24.*

<sup>100</sup> *Supra note cited at 11, Article 4(c).*

to right to freedom of expression in violation of Article 10 of ECHR since the Jersild's intent was not to promote racism rather to expose and analyse it. <sup>101</sup>

### **2.5.2 Incitement**

Article 7<sup>102</sup> of UDHR, Article 20(2)<sup>103</sup> of ICCPR and Article 13(5)<sup>104</sup> of ACHE apply only in the presence of incitement. The UN High Commissioner for Human Rights has expressed this term as it lacks clear definition in international law and because of this, what constitutes incitement is complex and controversial.<sup>105</sup> In assessing whether particular expressions are likely to incite hatred, considering contextual factor is very important since it may have a bearing on both intent and causation.<sup>106</sup> In the case of teacher Ross v. Canada, Ross was removed from the classroom for his anti-semitic publication in which he disseminated Christianity denies Jews the freedom to exercise their religion, instills fear in Jews and other religious minorities and degrades the Christian faith. The Supreme Court of Canada noted that a poisoned environment had been created within the relevant school board and held that it is possible to reasonably anticipate the causal relationship between that environment and the author's publication since Article 20(2) of the ICCPR is violated. The author claims that his rights under articles 18 and 19 of the ICCPR have been violated in that he is prohibited the right to express freely his religious opinions. The HRC held that this satisfied the necessity part of the test for restriction on freedom of expression and, as a result, there was no violation of this right.<sup>107</sup>

### **2.5.3 The prohibited consequences**

Different international human right laws call for prohibitions of expressions inciting different consequences. Article 20(2)<sup>108</sup> of the ICCPR cover the prohibition of incitement to discrimination, violence and hostility. Article 13(5)<sup>109</sup> is limited to prohibition of incitement to

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<sup>101</sup> *Jersild v. Denmark, App.No.15890/89, 1994.*

<sup>102</sup> *Id.*

<sup>103</sup> *Supra note cited at 43.*

<sup>104</sup> *Supra note cited at 24.*

<sup>105</sup> *Supra note cited at 9, p.6*

<sup>106</sup> *Ibid*

<sup>107</sup> *Malcolm Rosss v. Canada, Communication No. 736/1997, U.N.DOC/CCPR/C/70/D/736/1997.*

<sup>108</sup> *Supra note cited at 43.*

<sup>109</sup> *Supra note cited at 24.*

violence. Article 4(a)<sup>110</sup> of CERD even goes further by prohibiting incitement to discrimination, violence, hostility and ideas based on superiority.

## **2.6 Conclusions**

Hate speech is as ancient as a language itself. But this increased suddenly and powerfully with the developments of information communication literacy. In recent years, hate speech including disinformation has become a global phenomenon due to its explosive growth, particularly on social media. The claim for suppressing “hate speech” is inextricably linked to the roots of contemporary international human rights discourse, to the period that followed the holocaust and the crime committed on a massive scale during the Second World War especially from the European countries. The UN legal framework is a starting point for regional and domestic responses to “hate speech with the goal of promoting respect and equality. Additionally, several provisions of international law mandate limitations on speech deemed hateful. Rising international concern about the problem of hate speech on the Internet has led to calls for greater regulation though the US became against the limitation of hate speech unlike the European countries. Hate speech is a complicated concept and there is no internationally accepted definition or understanding of it however efforts have been made to address the problem and define the concept and accordingly, what is defined as hate speech varies significantly between countries and regions. The term "hate crime" or "bias crime" is a misnomer and it is a criminal behavior motivated, not by hate, but by prejudice. Hate propaganda is a political strategy which always involves disinformation.

Disinformation is fake or inaccurate information that is intentionally spread to mislead and/or deceive. Misinformation is false content shared by a person who does not realize it is false or misleading. Mal-information is to describe genuine information that is shared with intent to cause harm. Information Disorder has three phases: Creation, Production, and Distribution. It has also three elements: Agent, Message, and Interpreter.

Those who are in favor of hate speech regulation say that it would be unsound to reject hate speech laws on the premise that they are effectively in the business of criminalizing emotions, feelings, or attitudes of hate or hatred. Those who are against, claim that hate speech regulations

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<sup>110</sup> *Supra note cited at 11, Article 4(a).*



are themselves harmful to self-realization and autonomy, ineffective at best and often counterproductive, and damaging to democracy and legitimacy, amongst other things.

Regarding disinformation, those who are against claim that legislating on disinformation comes with dangerous risks. It gives governments that are hostile towards the media a new means of silencing unfavorable opinions. Those who are in favor of it claim that unchecked disinformation may also have serious negative effects on peoples' ability to enjoy their right to freedom of expression and can have destabilizing effects on democracies. There are three key elements on what may be banned as hate speech; namely, intent, incitement and what are the consequences prohibited.

## CHAPTER THREE

### THE NEED OF HAVING A SEPARATE PROCLAMATION ON HATE SPEECH AND DISINFORMATION PREVENTION AND SUPPRESSION IN ETHIOPIA

#### 3.1 Introduction

The rise of disinformation on social media has prompted governments around the world to enact legislation that may affect every person's right to freedom of opinion and expression. Governments are experimenting with different strategies, ranging from creating task forces to outright criminalizing the dissemination of false content. While the issue of disinformation is deserving of the attention it is receiving, some governmental responses have posed significant problems of their own. Some have gone as far as to shut down the internet to prevent the spread of disinformation<sup>111</sup> and some governments have become hostile towards the media a new means of silencing unfavorable opinions.<sup>112</sup>

Ethiopia has also currently enacted a separate proclamation to prevent and suppress hate speech and disinformation which is intended as a foundation for a democratic, pluralistic society or to protect social harmony, political stability, national unity, human dignity, diversity and equality.<sup>113</sup>

Under this chapter, the paper examines what are the historical backgrounds of Ethiopia's hate speech and disinformation prevention and suppression proclamation .This section assesses the factors behind the coming of this proclamation .The author also going to consider whether the prohibitions of hate speech and disinformation are covered with in the existing Ethiopian legal systems or not. Based on this, if they are covered, why Ethiopia needed to have a separate proclamation will be analyzed. Accordingly, the FDRE constitution, the broad casting service proclamation No.533/2007, the freedom of mass media and access to information proclamation No.590/2008, the Advertisement proclamation No.759/ 2012, the FDRE criminal code of 2004, the Computer crime proclamation No.958/2016, the Telecom Fraud Offence proclamation No.761/2012, and the 1960 Civil Code will be examined.

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<sup>111</sup> *Supra note cited at 22, p.784*

<sup>112</sup> *Ibid, p.791*

<sup>113</sup> *See the preamble Ethiopia's hate speech and disinformation prevention and suppression Proclamation No. 1185/2020.*

### 3.2 Historical background of the proclamation

The rise of displacements, killings, and violence amplified on platforms such as Facebook and other conventional media created a fervent debate on the role of the state in regulating hate speech and disinformation disseminated on social and conventional media.<sup>114</sup>

Due to political freedom of expression increased, dissemination of hate speech and disinformation is highly increased and this pose danger to national and peoples' peace and security, democratic system, creates conflicts and attacks on the life and property.<sup>115</sup> Findings indicate the Ethiopian government's alarm bell on the rise of hate speech in social networking sites and the need for an intervention to counter this threat is warranted.<sup>116</sup> Since there is no comprehensive law in this regard, Ethiopia has needed to enact new law.<sup>117</sup>

Accordingly, the Office of the Attorney General of the FDRE announced in November 2018 a bill, now enacted into law, "aiming to curb hate speech and disinformation and bring accountability towards public speeches and every other discourse" that "ignite hate and ethnic tensions in the Country".<sup>118</sup>

The reasons for the enactment of this proclamation are to prevent and suppress by law the deliberate dissemination of hate speech and disinformation, the threat hate speech and disinformation pose to social harmony, political stability, national unity, human dignity, diversity and equality in proportionate, narrowly tailored and prescribed by law in pursuit of aims that are legitimate in a democratic society.<sup>119</sup>

However the GA Office stated the causes of the displacement, killings and violence occurred in Ethiopia is dissemination of hate speech and disinformation, actually speaking there are different factors such as political question, democracy, rule of law, equality, self-determination, hidden political game of different political groups ( all about system). The causes of the conflicts in Ethiopia are economic inequality and youth unemployment, contested federal structure, lack

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<sup>114</sup> *Ethiopian Law, Draft Hate Speech Proclamation( Amharic version), published on line on 31 December 2019 , accessed on June 20/2021*

<sup>115</sup> *ibid*

<sup>116</sup> *Supra note cited at 74.*

<sup>117</sup> *Id*

<sup>118</sup> *ibid*

<sup>119</sup> *Supra note cited at 101.*

of rule of law and break down of order and law,<sup>120</sup> trans- boundary security factors and geopolitical dynamics<sup>121</sup>. The security and human rights situation in Ethiopia deteriorated as Prime Minister Abiy Ahmed struggled to maintain order amid growing unrest and political tensions. The rights landscape was defined by ongoing abuses by government security forces, attacks on civilians by armed groups, deadly violence along communal and ethnic lines, and a political crisis.<sup>122</sup> The positive human rights reforms of Abiy Ahmed are stuck as a result of growing ethnic-conflicts, which have resulted in significant internal displacement and a breakdown in law and order. Since the reform process began, “longstanding grievances over access to land and complex questions of identity and demarcation of internal borders on occasion led to abuses, including open conflict between ethnic groups, killings, and large-scale internal displacement.”<sup>123</sup> There are various reasons that created a favorable ground for human rights violations during the reform period. Formerly exiled opposition parties and rebel groups returned to the country following the widening of the political space by the government have contributed to the political instability and security problem of the country. The political instability in the transition escalated tension and uncertainty; this developed because of the polarized and antagonistic political space that took over public life. The political instability that emerged from polarized and extremist thoughts have led to widespread human rights violations and abuses in every corner of the country<sup>124</sup> Hence, from this discussions we can understand that nowhere hate speech and disinformation is explained as the only causes for the problems demonstrated by the AG office and no independent investigation show us in this regard however it can be considered as one of the factors. Therefore, it is possible to say that there is a hidden purpose behind the coming of this law from the government. The government enacted this law in order to misuse it and abuse its power under the guise of protecting public health crisis.<sup>125</sup> Legislation cannot really

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<sup>120</sup> *Institute for peace and security studies, Peace and security report, Ethiopia conflict insight, Addis Ababa University, Vol.1, 2020, p.4*

<sup>121</sup> *Ibid, p.5*

<sup>122</sup> *Human Rights Watch, World Report 2021 accessed on <https://www.hrw.org/world-report/2021/country-chapters/ethiopia> .*

<sup>123</sup> *Andinet Adinew Tesfaye , Endalkachew Abera Mekuriya, North western Journal of Human Rights , Conditions of Human Rights in Ethiopia in the Aftermath of Political Reform, Human Rights and access to justice in Ethiopia, Volume 19, Issue 1, Article 3, p.31*

<sup>124</sup> *Ibid, p.34*

<sup>125</sup> *Article 19, Ethiopia: Hate speech and disinformation law must not be used to suppress the criticism of the Government Posted on January 19, 2021 accessed on 26/03/21 at 9:40 LT*

solve the problem of dissemination of hate speech and disinformation and that it has no great role to play in this period of social change because you've got to change the heart and you can't change the heart through legislation .You can't legislate morals. The job must be done through education and religion.<sup>126</sup> . There is no doubt that hate speech and fake news are becoming serious problems in Ethiopia and social media certainly plays a significant role. However, blaming social media for the current predicament and trying to solve it through a five-page law obscures the larger problem. Anyone with even passing knowledge of what is happening in the country would easily observe that hate speech and fake news in Ethiopia have now become matter of politics and power, more than a predicament that can be addressed via legislation.<sup>127</sup>

### **3.3 Hate speech and disinformation under other Ethiopian laws**

Regulating hate speech and disinformation by drawing the line that differentiates protected speech from unprotected speech or allowable free speech from prohibited hate speech as well as truthful information from disinformation in one country is not an easy task. It has its own challenges. Considering the points rose above under the historical background of the proclamation and looking into the Ethiopian legal system regarding hate speech and disinformation regulation, we can get clues why Ethiopia needed to have a separate proclamation on hate speech and disinformation prevention and suppression. Accordingly, the author will examine different legal frameworks which are pertinent to regulate the issue of hate speech and disinformation. The author also will examine whether the prevention and suppression of hate speech and disinformation are really regulated and if they are regulated whether they are better enough or to have separate proclamation.

#### **3.3.1 FDRE constitution**

Everyone has the right to freedom of expression without any interference. 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 media of his choice as per article 29(2)<sup>128</sup> of the FDRE constitution. But, these rights can be limited in

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<sup>126</sup> Prof. Alemayehu G, Mariam, *Hate, Hearts and Minds: "Creating an Ethiopia That is Second to None in Its Guarantee of Freedom of Expression" (Part II)* accessed on March 20/2021.

<sup>127</sup> *Supra note cited at 52.*

<sup>128</sup> *Supra note cited at 40, Article 29(2).*

accordance with sub-article 6<sup>129</sup> of the same provision. Accordingly, they can be limited only through laws which are guided by the principle that freedom of expression and information cannot be limited on account of the content or effect of the point of view expressed. Legal limitations can be laid down in order to protect the well-being of the youth, and the honour and reputation of individuals. Any propaganda for war as well as the public expression of opinion intended to injure human dignity shall be prohibited by law. Nothing is clearly said about hate speech and disinformation in this provision. Ethiopia has also ratified ICCPR convention by virtue of Article 13(2). One of the grounds under which freedom of expression is limited is any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence which of course a part of our constitution by virtue of Article 9(4) of the FDRE constitution. In the same way, nothing is clearly recognized about hate speech and disinformation prohibition in the convention than the clues. But we could find any provision neither in the constitution nor in the convention which prohibits untruthful information as well as allowed and disallowed free speech. From the statement which is stated under article 29(6) of the same constitution which says the public expression of opinion intended to injure human dignity shall be prohibited by law, we can understand that only hate speech which is directly intended against human dignity is recognized as a limitation of freedom of expression and which is not directed against human dignity is not limited. In addition to that the limitation is only allowed only when an expression which is intended to injure human dignity is publically made. Here, it is obvious that expressions of hate message which are not publically made such as face to face hate expression, expression of hate message through SMS, e-mail, or other technologies which are directly delivered to the victim is not limited under this provision. From this the author concludes that the concept of hate speech as a limitation of freedom of expression is not clearly and comprehensively recognized.<sup>130</sup> To conclude, hate speech and disinformation concepts are not clearly and comprehensively recognized under the FDRE constitution and in the convention which become the integral part of the constitution.

### **3.3.2 The broad casting service proclamation No.533/2007**

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<sup>129</sup> *Ibid*, Article 29(6).

<sup>130</sup> *Supra note cited at 46, p.66.*

According to article 30(4)<sup>131</sup> of the broadcasting service proclamation No.533/2007, any program intended for transmission may not: a) violate the dignity and personal liberty of mankind or the rules of good behavior or undermine the belief of others; b) commit a criminal offense against the security of the State, the constitutionally established government administration or the defense force of the country; c) maliciously accuse or defame individuals, nation/nationalities, peoples or organizations; d) cause dissension among nationalities or instigate dissension among peoples; or e) incite war.

However, these provisions are recognized concerning to conventional medias mainly television and radios. Nothing is said regarding programs transmitted through social media which are intended to create the problems stated under the above provisions.

Under this proclamation, we can also understand that prohibition of disinformation and hate speech is not clearly recognized in spite of some of their constitutive elements which are transmitted through conventional media. As far as the constitutive elements of hate speech and disinformation are prohibited in this existing law and their prohibition is for the purpose of what the newly enacted proclamation is intended for, having a separate proclamation regarding the regulation of hate speech and disinformation is a questionable saving so for social media.

### 3.3.3 Freedom of mass media and access to information proclamation No.590/2008

This law is enacted in order to regulate the role of mass media in ensuring respect for the fundamental rights and freedoms guaranteed by the Constitution, and in promoting peace, democracy, equality and justice.<sup>132</sup> But there is no provision which directly deal with the regulation of hate speech and disinformation

### 3.3.4 Advertisement proclamation No.759/ 2012

Hate speech and disinformation may harm the rights and interest of the people under the guise of the advertisement, if not regulated. That is why article 7<sup>133</sup> of advertisement Proclamation No.759/2012 clearly defines the rights and obligations of advertising agents, advertisement disseminators and advertisers.

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<sup>131</sup> Ethiopia's Broadcasting Service Proclamation No.533/2007, Article 30(4).

<sup>132</sup> See the preamble of the Ethiopia's Freedom of Mass media and access to Information Proclamation No.590/2008.

<sup>133</sup> Ethiopia's Advertisement Proclamation No.759/2012, Article 7.

This article of the same proclamation stated the following advertisements as unlawful or immoral content: 1)<sup>134</sup> advertisement that contains image, speech or comparisons that violates the dignity, liberty or equality of mankind in relation to language, gender, race, nation, nationality, profession, religion, belief, political or social status; 2)<sup>135</sup> advertisement that violates the rules of good behavior or human dignity of individuals, nation, nationalities or peoples, and defames the reputation of an organization; 3)<sup>136</sup> 4)<sup>137</sup> advertisement that undermine the dignity or emotional feeling of physically disabled person or a person living with HIV/AIDS or suffering from other disease; 5)<sup>138</sup> advertisement that instigates chaos, violence, terror, conflict or fear among people; 6)<sup>139</sup> Advertisement that instigate an action that could endanger the physical or mental health and security of the people...

However there is no clear statement of the term hate speech and disinformation under this law, some constitutive elements of the definition of hate speech and disinformation are recognized because as discussed so far both violates dignity, liberty and equality of mankind by creating discriminations based on specified grounds and can also have the force of instigating chaos, violence, terror, conflict or fear among people.

### **3.3.5 FDRE criminal code of 2004**

Article 486(b)<sup>140</sup> of the Criminal Code, states that ‘whoever by whatever accusation or any other means foments dissension, arouses hatred, or stirs up acts of violence or political, racial or religious disturbances’ is guilty of a crime. From this provision, we can understand that some constitutive elements of hate speech are regulated under the criminal code of Ethiopia however it doesn’t directly and specifically deal with hate speech.

Article 710<sup>141</sup> of the same code, states that “Where one of the other crimes provided; fall under this Code is committed by means of a computer, the relevant Provision shall apply.” This means however the code doesn’t expressly criminalize on line hate speech other non-property cybercrime which can include the online hate speech is regulated.

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<sup>134</sup> *Ibid, sub-art.1*

<sup>135</sup> *Ibid, sub-art.2*

<sup>136</sup> *Ibid, sub-art.3*

<sup>137</sup> *Ibid, Sub-art.4*

<sup>138</sup> *Ibid, Art-Sub.5*

<sup>139</sup> *Ibid, Sub-art.6*

<sup>140</sup> *FDRE Criminal Code(2004), Article 486(b)*

<sup>141</sup> *Ibid, Article 710.*



### 3.3.6 Computer crime proclamation No.958/2016

It is obvious that the danger of hate speech and disinformation is visible in modern technology mainly through social media unless properly regulated. The online hate speech is mainly covered under the category of illegal contented data section three of the proclamation more specifically article 14<sup>142</sup> provides that intentionally disseminating through a computer system any written, video, audio or any other picture that incites violence or having the tendency to create chaos or conflict among people shall be criminally punishable.

Article 13(1)<sup>143</sup> of the Proclamation criminalizes posting any material online that might be consider as “intimidating” is subject to criminal liability. However, there is no clear definition as to the extent intimidation, the identity of the person to be intimidated. As a result it may threaten the legitimate exercise of freedom of expression. Similarly, article 14<sup>144</sup> criminalize the publication of any content that incites chaos, fear, violence or conflict, would result in the potential imprisonment of journalists who report on environmental disasters or war as the word use in the provision are highly exposed to interpretation. Therefore, Articles 13<sup>145</sup> and 14<sup>146</sup> that would discourage whistle blowers, who may have evidence of gross corruption or human rights violations, from forwarding their finding; and it would also discourage journalists from publishing any such evidence in the social media. However from the above provisions of the proclamation we can understand that there are some constitutive elements of hate speech and disinformation which are prohibited not to be disseminated through a computer system since they are against they are liberty, reputation of persons and public security.

Beside these, according to article 16<sup>147</sup> of the same proclamation, service provider shall be criminally liable for any illegal computer content data disseminated through its computer systems by third parties based on the following grounds. First, if it has directly involved in the dissemination or editing of the contents of data,<sup>148</sup> second, if it has the existence of actual knowledge about the illegality of the data.<sup>149</sup> Thirdly, if it fail to take any measure to remove or

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<sup>142</sup> Ethiopia's Computer Crime Proclamation No.958/2016, Article 14.

<sup>143</sup> *Ibid*, Article 13,

<sup>144</sup> *id*

<sup>145</sup> *Id*

<sup>146</sup> *Id*

<sup>147</sup> *Supra note cited at 83, Article 16*

<sup>148</sup> *Ibid*, sub-article 1

<sup>149</sup> *Ibid*, Sub-article 2.

to disable access to the content data up on obtaining notice from competent administrative authorities<sup>150</sup>. But since the work of the computer is mainly with social media nothing is said about hate speech and disinformation on conventional media .But it is possible to understand that some of the constitutive elements of hate speech and disinformation through social media are regulated through this proclamation.

### **3.3.7 Telecom Fraud Offence proclamation No.761/2012**

According to article 4<sup>151</sup> of this proclamation, whosoever provides Ethiotelecom service without having a valid license issued in accordance with appropriate laws commits an offence. Telecom service means public switched telecom service, cellular mobile service, satellite telephone service , data communication service , telecom-centers or resale service , mobile or fixed private radio service , very small aperture terminal (VSAT) service , cable installation and maintenance service, telecom switches installation and maintenance service , the transmission or reception through the agency of electricity or electromagnetism of any sounds , signs, signals , writings, images or intelligence of any nature by wire, radio, optical fiber, satellite or other electromagnetic systems or any other service designated as telecom service by the ministry, and may not include broadcasting service and intercom connection as per article 2<sup>152</sup> of the same proclamation.

Hence, either little or no attention to prohibition of hate speech and disinformation is given by this proclamation not as directed by the FDRE constitution rather it mainly considered security issues as a great problem of telecom fraud in addition to economic loss, leaving human rights issues as specified under its preamble.<sup>153</sup>

### **3.3.8 The 1960 Civil Code**

A person commits an offence where by his words, his writings or by any other means he acts in such a way as to make another living person detestable, contemptible or ridiculous and to jeopardize his credit, his reputation or his future as per article 2044<sup>154</sup> of this code. However this provision protects individuals' defamation not group defamation whereas hate speech laws protect groups as well as individuals. In other countries, "group libel" and "group defamation"

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<sup>150</sup> *Ibid*, Sub-article 3.

<sup>151</sup> *Ethiopia's Telecom Fraud Offence Proclamation No. 761/2012, Article 4.*

<sup>152</sup> *Ibid*, Article 2.

<sup>153</sup> *Id*, Preamble.

<sup>154</sup> *Ethiopia's Civil Code (1960), Article 2044.*

are terms used in judicial doctrine and among lawyers to describe restrictions of the kind we would call hate speech restrictions.<sup>155</sup> But what makes the common is both are against dignity. Both can also emanate from disinformation especially since in the case of defamation in order to be occurred one of the criteria is, it must be alleged not truth or false. But our civil code doesn't give protection to group defamation as mentioned above. However hate speech and disinformation in order to be prohibited their consequence must be violence, discrimination and hostility. But in the case of defamation the fact that it is against dignity is enough. So, the protection from hate speech and disinformation is that defamation laws offer is only some part of it.

### **3.4 Conclusion**

Generally, the author conclude that from the analysis of the above Ethiopia's laws there is no provision which directly , specifically , clearly and comprehensively deal with the suppression and prevention of hate speech and disinformation . However with some laws there are some prohibitions of constitutive elements of hate speech and disinformation and with some other laws there is little or no attention to prohibition of hate speech and disinformation. As we understand from the general attorney minutes, the reason why the Ethiopian government needed to have a separate hate speech and disinformation regulation is due to the existing laws do not directly and sufficiently cover the suppression and prevention of hate speech and disinformation. That is why the Ethiopian government enacted a separate hate speech and disinformation prevention and suppression proclamation No.185/2012. The author understand that the aforementioned laws do not directly deal with the terms hate speech and disinformation however they are indirectly dealt looking at the purposes for the recent separate proclamation is enacted though I am in doubt regarding its adequacy.

This shows that there are a number of problems with newly enacted proclamation on hate speech and disinformation since its several provisions merely repeat provisions that are already provided by the existing laws. Where existing laws already cover a given offence, its repetition serves no legal purpose. This is like “double warning” and it has its own chilling effect. But the author is not saying all are covered in the existing laws rather what is there before shouldn't be repeated

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<sup>155</sup> Jeremy Waldron , *Dignity and Defamation: The Visibility of Hate* , *Harvard Law Review*, Vol. 123, No. 7 , 2010, p.8.

and what is not there should be enacted and having a separate proclamation may be needed in accordance with its importance and international human rights standards.

## CHAPTER FOUR

### THE COMPATIBILITY OF ETHIOPIA'S HATE SPEECH AND DISINFORMATION PREVENTION AND SUPPRESSION PROCLAMATION NO .1185/2020 WITH INTERNATIONAL HUMAN RIGHTS STANDARDS

#### 4.1 Introduction

At international and national levels, several instruments ranging from punitive laws, to code of conducts have been enacted over the years to address the problem of hate speech and disinformation. These instruments, legal or quasi -legal in nature, vary from state to state, though there might be some points of convergence or even similarities among some. Essentially, they all attempted to solve the problem of hate speech and disinformation, especially online, considering the speed with which it spreads and the possible effects it may have.<sup>156</sup>

The Ethiopian government has enacted hate speech and disinformation prevention and suppression proclamation No.1185/2020 that aims to curb and control hate speech and disinformation. It is obvious that these are pressing issues not only around the world but also in Ethiopia due to their rampant dangerous consequences, especially through social media. The author is not saying hate speech and disinformation in Ethiopia shouldn't be regulated because creating a balanced society is a must. But he is going to examine the regulation should be in light of international human rights standards since the enactment of this law has become the very controversial one.

The assessment of Ethiopia's hate speech and disinformation prevention and suppression proclamation No.1185/2020 will be examined under this chapter. Accordingly, this assessment will be made based on the international human rights standards such as legality, legitimacy, necessity and proportionality parameters and as well as the six factors provided by The Rabat Plan of Action to determine whether or not speech could be regarded as hate speech such as context, the status of the speaker, intent, content, audience, and the likelihood of effectively inciting harm.

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<sup>156</sup> *Supra note cited at 38 , p.146*

Elements of hate speech and disinformation crime under the proclamation, Degree of liability of hate speech and disinformation crime on Conventional media and social media (on line) , and impacts of the proclamation on the other human rights will be part of this chapter and are going to be considered well.

This chapter finally concludes whether the proclamation is in line with the international human standards or not based on the aforementioned points.

#### **4.2 Assessment of proclamation no. 1185/2020 with international human right standards**

This section examines incitement to national, racial or religious hatred and disinformation prevention and suppression while ensuring full respect for freedom of expression as outlined in articles 19 and 20 of ICCPR; to arrive at a comprehensive assessment of Ethiopia's proclamation No.1185/20 looking its conformity with international human right standards

All human rights are universal, indivisible and interdependent and interrelated.<sup>157</sup> Respect for freedom of expression has a crucial role to play in ensuring democracy and sustainable human development, as well as in promoting international peace and security.<sup>158</sup> Accordingly, looking mainly Article 19(3)<sup>159</sup> and 20(2)<sup>160</sup> of the ICCPR, legality, legitimacy, and necessity and proportionality tests are required for restriction on the freedom of expression. The UNHCR, in its General comment No.10, Article 19, on the right to freedom of expression, states that the restrictions specified in Article 19(3) of ICCPR should be interpreted narrowly and that the restriction may not put in jeopardy the right itself.<sup>161</sup> This proclamation has many problems looking in light of International human rights standards.

##### **4.2. 1. Assessment Yardstick**

Article 19 of the ICCPR guarantees freedom of expression, while permitting restrictions on that right, whereas Article 20(2) imposes an obligation to restrict speech. However, it was decided that they should go next to each other, to emphasize the close relationship between them.<sup>162</sup>

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<sup>157</sup> *Human Rights Council , Report of the United Nations High Commissioner for Human Rights on the expert workshops on the prohibition of incitement to national, racial or religious hatred, Twenty-second session, 2013, p.7*

<sup>158</sup> *ibid*

<sup>159</sup> *Supra note cited at 6.*

<sup>160</sup> *Supra note cited at 44.*

<sup>161</sup> *GC.NO.10, Par.3*

<sup>162</sup> *Supra note cited at 9, , p.3*

There are cumulative standards / preconditions for the restriction of the right to freedom of expression as per article 19(3)<sup>163</sup> of ICCPR. Accordingly, any restriction must be provided by law (legality), pursue one of the legitimate grounds for restriction: respect of the rights or reputation of others; protection of national security or public order, or public health or morals; (legitimacy) and be necessary (necessity) and/or proportionate to achieve one of the above lists (proportionality).

#### **4.2.1.1 Legality (provided by law)**

As it is clear from the term itself, ‘provided by law’ mean that the restriction should be stated in the State’s domestic legislation or the limit must be clearly spelt out in a law.<sup>164</sup> The question that needs answer here is about what the law should fulfill. Regarding this question, the UN Special Rapporteur has stated a number of criteria that the laws must fulfill.<sup>165</sup> Those criteria are: Any legislation that restricts the right must be applied by an independent body, free of any political, commercial or other unwarranted influences, and is one that is also able to provide safeguards against abuse, in addition to space for challenges and remedies against its abusive application.<sup>166</sup> The report also indicated that the laws must be accessible, precisely worded and unambiguous.<sup>167</sup> It is also stated that the law must also be compatible with international human rights law.<sup>168</sup> Finally, the laws must clearly set out the remedy against or mechanisms for challenging the illegal or abusive application of that limitation or restriction, including judicial review by an independent court or tribunal.<sup>169</sup>

#### **4.2.1.2 Legitimacy (Pursue a Legitimate Aims for Restriction)**

When the freedom of expression restricted, it should pursue the legitimate aim listed in the law in order to achieve the desired goal such as respect for the rights or reputations of others and Protection of national security, public order, public morals and etc.

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<sup>163</sup>.*Supra note cited at 6.*

<sup>164</sup>*Supra note cited at 46, , p.24*

<sup>165</sup> *Ibid*

<sup>166</sup> *Ibid*

<sup>167</sup> *Ibid*

<sup>168</sup> *Ibid*

<sup>169</sup> *Ibid*

#### 4.2.1.3 Necessary

Necessary, here, means that there are no other options to achieve the stated goal apart from restricting or limiting freedom of expression. In determining whether a restriction on the right to freedom of expression is necessary, there are no objective criteria. But the ECtHR stated that, there should be an assessment of whether or not there is a “pressing” or “substantial need” for the restriction or limitation and the restriction of the right must be rationally connected to protecting the interest at stake.<sup>170</sup>

#### 4.2.1.4 Proportionality

With regard to the proportionality, Toby Mendel stated that the restriction would not be justified unless the benefit of protecting the interest must outweigh the harm caused by restricting freedom of expression.<sup>171</sup> In regulating incitement while respecting freedom of speech, under the 2012 Rabat Plan of Action, David Kaye, the United Nations special rapporteur on the promotion and protection of freedom of opinion, calls on governments to consider six criteria for expressions considered as criminal offence: the context, the status of the speaker, their intent, the content and form of the speech, its reach, and the likelihood and imminence of it causing harm.<sup>172</sup>

Hence, it is based on the above mentioned standards that the author assesses the proclamation. Article 2(2)<sup>173</sup> of Ethiopia’s hate speech and disinformation prevention and suppression proclamation states that “ hate speech” means 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. This proclamation’s definition of hate speech is not narrowly restricted to speech that is likely to incite imminent violence, discrimination or hostility, as is required under international human rights standards. Instead it broadly allows punishment for speech that incites hatred, discrimination or attack against a person or an identifiable group, based on ethnicity, nation, nationalities and people, religion, race, gender or disability.<sup>174</sup> It was suggested that a high threshold be sought for defining restrictions on freedom of expression,

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<sup>170</sup> Jean – Francois Flauss, *The European Court of Human Rights and Freedom of Expression* , University of Paris II, *Indiana Law Journal*, Article 3, Vol.84, Issue 3, 2009, p.818.

<sup>171</sup> *Supra note cited at 46, p.25*

<sup>172</sup> *UNHCR GC.NO.10, Article.19, para.4*

<sup>173</sup> *Ethiopia’s hate speech and disinformation prevention and suppression proclamation No.1185/2020, Article 2(2).*

<sup>174</sup> *Ibid.*



incitement to hatred, and for the application of article 20 of the International Covenant on Civil and Political Rights.<sup>175</sup> In order to establish severity as the underlying consideration of the thresholds, incitement to hatred must refer to the most severe and deeply felt form of opprobrium.<sup>176</sup> The UNHCR, in its General comment No.10, Article 19, on the right to freedom of expression, states that the restrictions specified in Article 19(3) of ICCPR should be interpreted narrowly and that the restriction may not put in jeopardy the right itself.<sup>177</sup> Nor does the proclamation set out an objective process to make this determination. It includes new, vaguely worded online, broad cast and print activities subject to criminal penalty.

What is hate speech and what constitutes hate speech is vaguely defined. Beside these, additional grounds of limitations are included as opposed to Article 19(3)<sup>178</sup> and Article 20(2)<sup>179</sup> of ICCPR. For example, against Ethnicity, nation, nationalities and people are additional grounds of limitations for prohibition of hate speech and disinformation and even their definition is also confusing. Article 2(3)<sup>180</sup> of the same proclamation provides also “Disinformation” means 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. This law places burden on citizens for evaluation of deep fakes and manipulated content in order to determine what is true and false without providing them the digital literacy resources which makes them to evaluate in today’s digital world.<sup>181</sup> In the 2017 Joint Declaration on Freedom of Expression and Fake News , Disinformation and propaganda , the United Nations Special Rapporteur on Freedom of Opinion and Expression , the Organizations for Security and Co-operation in Europe (OSCE) Representative on Freedom of media , and other intergovernmental experts concluded that “ general prohibitions on the dissemination of information based on vague and ambiguous ideas , including “ false news “ or “ non-objective “ information “ are incompatible ... and should be abolished.<sup>182</sup> Based on what we discussed above, freedom of expression in order to be restricted, the laws must be precisely worded and

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<sup>175</sup> *Supra note cited at 145.*

<sup>176</sup> *ibid*

<sup>177</sup> *UNHCR GC.NO.10, Article.19, para.4*

<sup>178</sup> *Supra note cited at 6.*

<sup>179</sup> *Supra note cited at 44.*

<sup>180</sup> *Supra note cited at 161, Article 2(3).*

<sup>181</sup> *Berhan Taye, Ethiopia’s hate speech and disinformation law: the pros, the cons, and a mystery accessed on line, 19 May, 2020*

<sup>182</sup> *Supra note cited at 75, p.791.*

unambiguous .Hence; the definition stated under this proclamation fails to fulfill legality (provided by law principle).

Furthermore, the two definitions under this Proclamation open for the arbitrary application of the law and creating a breeding ground for human rights violations especially an overly broad definition of social media. According to Yohannes Eneyew, the over-broad formulation of hate speech under the new law is deeply concerning”.<sup>183</sup> While the law has clarified that engaging in ordinary social media activities such as tagging or liking certain content does not make you a criminal,<sup>184</sup> as per article 2(7) of the proclamation, it’s not clear whether re-sharing or re-posting the content would be illegal.

Regarding disinformation, prohibition of freedom of untruthful expression is not clearly and directly recognized under international human rights Ethiopia adopted.

It also criminalizes dissemination of disinformation knowingly “false” without defining this concept as stated under article 2(5)<sup>185</sup> of the above proclamation. What is false is not clearly defined. Who determines false is questionable since it is subjective. After all, what is false is a matter of evidence rather than a law. Governments should refrain from enacting policies that place them or private actors in the position of determining what is true or false. That is partly due to the difficulty in determining what objective truth is.<sup>186</sup> Hence, how Ethiopia criminalizes disinformation is the very questionable and not compatible with international human rights standards.

As we discussed above, the restriction of freedom of expression must serve legitimate aim listed in international human right laws Ethiopia adopted. But the purpose of the enactment of this proclamation is to serve social harmony, political stability, national unity, human dignity, diversity and equality as we understand from its preamble.<sup>187</sup> These purposes are on the one hand directly or indirectly provided in the other Ethiopian legal system as we discussed under chapter three though it is not adequate and on the other hand it also included purposes not included under article 19(3) of the ICCPR. Hence, the standard of legitimacy and necessity is failed.

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<sup>183</sup> *Elias Meseret, Hate speech and disinformation concerns escalate in Ethiopia accessed on line, on 06 May, 2020.*

<sup>184</sup> *Supra note cited at 161, Article 2(7).*

<sup>185</sup> *Ibid, Article 2(5).*

<sup>186</sup> *Supra note cited at 75 , p.797*

<sup>187</sup> *Supra note cited at 161.*

#### **4.2.2. Elements of hate speech and disinformation crime under the proclamation**

Art.20 (2) <sup>188</sup> requires the advocacy of hatred element which covers expressions made with intent of inciting hatred. The incitements must be able to produce proscribed results. These are violence, discrimination and hostility. Hence, to constitute incitement, there must be a close nexus between the relevant statement and the risk of harm. But no provision is provided to deal with incitement in the proclamation rather simply dissemination of hate speech and disinformation. Looking at both Article 4 <sup>189</sup> and 5 <sup>190</sup> of the above proclamation, dissemination of hate speech and disinformation simply makes liable whether it incites violence, discrimination and hostility or not. Hence, it is failed to obey the four standards discussed above.

#### **4.2.3 Degree of liability of hate speech and disinformation crime on Conventional media and social media (on line)**

The proclamation also imposes excessive regulation on social media users by treating it with conventional media on equal footing while the latter subject to licensing and editorial control, its actors are known, their degree of responsibility is prescribed in the domestic legislation we discussed under chapter three like Article 30(4) <sup>191</sup> of Broadcasting Service Proclamation No. 533/2007, Article 7 <sup>192</sup> of Advertisement Proclamation No. 759/2012, Article 486(b) <sup>193</sup> of the 2004 FDRE criminal code, Article 2044 ff <sup>194</sup> of Civil Code.

Article 2(7), <sup>195</sup> 4, <sup>196</sup> and 5 <sup>197</sup> of the above proclamation provides disseminators of hate speech and disinformation through broadcasting, print and social media are equally prohibited. We can also understand that their criminal liability is on equal footing as per article 7 <sup>198</sup> of the same proclamation. It does not clarify whether responsibility is limited to people who create content or whether it extends to those that publish and spread it. This raises a question of proportionality test.

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<sup>188</sup> *Supra note cited at 44.*

<sup>189</sup> *Ibid. article 4.*

<sup>190</sup> *Ibid, Article5.*

<sup>191</sup> *Supra note cited at 119.*

<sup>192</sup> *Supra note cited at 121.*

<sup>193</sup> *Supra note cited at 128.*

<sup>194</sup> *Supra note cited at 142.*

<sup>195</sup> *Supra note cited at 161, Article 2(7).*

<sup>196</sup> *Ibid, Article 4.*

<sup>197</sup> *Ibid , Article5.*

<sup>198</sup> *Ibid, Article 7.*

The Proclamation provides provisions that increase penalties for individuals and online groups that have more than 5,000 followers which is an arbitrary number and unnecessary in order to target and disproportionately affect the free expression of bloggers, journalists, activists, political parties , and human rights defenders as stated under article 7(4)<sup>199</sup> of the proclamation.

#### **4.2.4 Impacts of the proclamation on Freedom of expression, democracy and the right to privacy.**

The effects of legislating against hate speech and false information can have unintended consequences, particularly if it is criminalized.<sup>200</sup>

From the above discussions, we can understand that the Ethiopia's hate speech and disinformation law is not in line with international human right standards. Hence, since it opens for abusive application law enforcement organs, it threatens other human rights such as freedom of expression, democracy and the right to privacy.

Freedom of expression has adverse implications for the enjoyment of the right, for the dignity of the bearers of the right and for the development of a democratic order and culture that could help us overcome many of the political and economic challenges we face as a society.<sup>201</sup> Article 19 (1)<sup>202</sup> of the International Covenant on Civil and Political Rights protects the right to hold opinions without interference, and article 19 (2)<sup>203</sup> guarantees the right to freedom of expression, that is, the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, through any media. Numerous other treaties, global and regional, expressly protect the freedom of expression. The Human Rights Committee, the expert monitoring body for the Covenant, has emphasized that these freedoms are indispensable conditions for the full development of the person and constitute the foundation stone for every free and democratic society. They form a basis for the full enjoyment of a wide range of other human rights. Since the freedom of expression is fundamental to the enjoyment of all human rights, restrictions on it

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<sup>199</sup> *Ibid* , Article 7(4).

<sup>200</sup> *ibid*

<sup>201</sup> *Gedion Timothewos (PHD) Freedom\_of expression in Ethiopia: The Jurisprudential Dearth, Addis Ababa University, Mizan Law Review, Vol.4, No.2, 2010, p.231.*

<sup>202</sup> *Supra note cited at 3 Article 19(1).*

<sup>203</sup> *Supra note cited at 5.*

must be exceptional, subject to narrow conditions and strict oversight. The Human Rights Committee has underlined that restrictions, even when warranted, “may not put in jeopardy the right itself.”<sup>204</sup>

Repressive laws have been used in Ethiopia to muzzle journalists, political dissenters, and others. The government, through the prosecutorial apparatus, appears to be continuing to use oppressive legislations to neutralize real or perceived political foes, effectively take over the democratic sphere.<sup>205</sup> Freedom of expression on the internet embraces freedom to seek, receive and impart information using an online medium. Ethiopia is a party to the African Charter and recognizes freedom of expression subject to claw-back clauses which include internet shutdowns, hate speech and disinformation regulation, draconian national laws, and internet censorship.<sup>206</sup> Democracy is one of the human rights recognized under Article 25<sup>207</sup> of ICCPR. But since this proclamation curtails freedom of expression especially dissenting opinions, it is questionable to think about democracy without freedom of expression. Individuals cannot exercise their freedom of expression and their right to democracy due to fear of penalty recognized in the proclamation. Legislation that punishes expression might be particularly suspect in democracies, because the people there depend on a maximum amount of information and number of opinions to make decisions with which to govern them.<sup>208</sup>

The indictment of journalist Yayeseu Shimelis is significant in the pandemic politics of Ethiopia.<sup>209</sup> Yayeseu works as a columnist for Feteḥ magazine and hosts a weekly political program on Tigray TV, a regional government broadcaster. He also posts reports on Facebook and the Ethio Forum YouTube channel. Yayeseu is vocal and has criticized the Ethiopian Prime

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<sup>204</sup> *United Nations General assembly, Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms , Seventy-fourth session, Agenda item 70 (b), 2019, p.5*

<sup>205</sup> *Supra note cited at 54.*

<sup>206</sup> *Yohannes Eneyew , Assessing the limitations to freedom of expression on the internet in Ethiopia against the African Charter on Human and Peoples' Rights , African Human Rights Journal 315-345, 2020, p.344*

<sup>207</sup> *Supra note cited at 3, Article 25.*

<sup>208</sup> *Assistant Professor Tim Bakken, Liberty and equality through freedom of expression: The human rights questions behind 'Hate Crime' laws, The International Journal of Human Rights, Vol.4, No.2, 2007, p.5.*

<sup>209</sup> *Supra note cited at 53.*

Minister Abiy's administration for issues including the formation of Prosperity Party, unrealistic regional diplomacy, and its Nile policy.<sup>210</sup>

This journalist posted on his Facebook that, the government had ordered the preparation of 200,000 burial places in anticipation of COVID-19's impact without mentioning a source, on March 26. His Facebook account was suspended immediately and arrested on March 27. The Ethiopian authorities arrested journalist Yayesew Shimelis, accusing him of terrorism and later charging him for spreading false information. Nearly a month later, the journalist became the first person in the country to be charged with the new law. He was released on bail on April 23.



211

From this case, we can understand that how freedom of expression and democracy started to be curtailed under the umbrella of the newly enacted Ethiopia's hate speech and disinformation regulation.

Article 17<sup>212</sup> of the ICCPR also provides that 1) no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, or to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks. It is very difficult to exercise our right to privacy in the absence of

<sup>210</sup> Ibid.  
<sup>211</sup> Supra note cited at 53.  
<sup>212</sup> Supra note cited at 3, Article 17.

democracy and freedom of expression. This is also another unprecedented consequence of the proclamation.

### **4.3. Conclusions**

Generally, the author concludes that the Ethiopia's hate speech and disinformation prevention and suppression proclamation No. 1185/20 is not compatible with international human rights standards like legality, legitimacy, necessity and proportionality as per article 19(3) and 20(2) of the ICCPR covenant and most importantly, the Proclamation does not draw inspiration from the most widely-accepted norm under international human rights law to draft hate speech laws, the Rabat Plan of Action .The Rabat Plan of Action contains six factors to determine whether or not speech could be regarded as hate speech. These include context, the status of the speaker, intent, content, audience, and the likelihood of effectively inciting harm. Due to it fails to meet these standards; it curtails freedom of expression, democracy and the right to privacy by silencing dissenting opinions of political parties, activists , bloggers, journalists etc. which could lead to self-censorship.

## **CHAPTER FIVE**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **5.1. CONCLUSION**

The claim for suppressing hate speech is inextricably linked to the roots of contemporary international human rights discourse, to the period that followed the holocaust and the crime committed on a massive scale during the Second World War especially in the European countries and increased suddenly and powerfully with the developments of information communication literacy. The UN legal framework is a starting point for regional and domestic responses to hate speech with the goal of promoting respect and equality. Additionally, several provisions of international law mandate limitations on speech deemed hateful. Rising international concern about the problem of hate speech on the Internet has led to calls for greater regulation though the US became against the limitation of hate speech unlike the other western countries. There was heated discussion during the drafting period of UDHR following WWII (the Second World War) whether or not to allow for restrictions on the right to freedom of expression. The UN Convention on the Elimination of All Forms of Racial Discrimination (CERD) which was adopted in 1965 and entered into force in 1969 was international society's reaction to a wave of anti-Semitic attacks in Germany as well as it was considered to be important for the battle against colonialism and apartheid.

In the last few years, the world has witnessed a significant increase in the scale of white nationalism in the United States; anti-Semitic, anti-Roma, and anti-immigrant prejudice in Europe; homophobic outrage in different African countries; xenophobia in South Africa; religious persecution against Uyghur Muslims in the People's Republic of China and the Rohingya of Myanmar, to name a few. The rise of right-wing sentiments globally that espouse nativist rhetoric has resurfaced debates about regulating hate speech through legislative means.

Despite the recent progress in detecting disinformation, it is still non-trivial due to its complexity, diversity, multi-modality, and costs of fact-checking or annotation. Some governments have unfortunately capitalized on the rising concerns of disinformation and enacted or proposed legislation that is in violation of freedom of expression rights.



Hate speech is a complicated concept and there is no internationally accepted definition or understanding of it however efforts have been made to address the problem and define the concept and accordingly, what is defined as hate speech varies significantly between countries and regions. Hate speech has different occurrences and meanings of various linked or associated concept-terms that appear in the relevant bodies of law and legal practices. For example: hate crime and hate propaganda. The term hate crime or bias crime is a misnomer. The term actually refers to criminal behavior motivated, not by hate, but by prejudice, although there is undoubtedly some overlap. All hate crime laws include prejudice based on race, color, religion, and national origin. Hate propaganda is a kind of group libel, directed against communities defined by their race, religion, nationality, immigrant status or other salient markers of identity. It is usually used to persuade members of an in-group that a certain out-group is to blame for their problems and does not merit equal treatment. It is a political strategy which always involves disinformation.

Information disorder can be categorized into three major types: disinformation, misinformation, and mal-information. Disinformation is fake or inaccurate information that is intentionally spread to mislead and/or deceive. Misinformation is false content shared by a person who does not realize it is false or misleading. Mal-information is to describe genuine information that is shared with intent to cause harm.

The issue of hate speech has received significant attention from legal scholars and philosophers which have focused on presenting and critically evaluating arguments for and against hate speech bans. Those who are in favor of hate speech regulation say that it would be unsound to reject hate speech laws on the premise that they are effectively in the business of criminalizing emotions, feelings, or attitudes of hate or hatred. Those who are against, claim that hate speech regulations are themselves harmful to self-realization and autonomy, ineffective at best and often counterproductive, and damaging to democracy and legitimacy, amongst other things.

Regarding disinformation, those who are against claim that legislating on disinformation comes with dangerous risks. It gives governments that are hostile towards the media a new means of silencing unfavorable opinions. Those who are in favor of it claim that unchecked disinformation may also have serious negative effects on peoples' ability to enjoy their right to freedom of expression and can have destabilizing effects on democracies.

There are three key elements for what may be limited as hate speech crime; namely, intent, incitement and what are the consequences prohibited.

The reason why the Ethiopian government needed to have a separate hate speech and disinformation regulation is due to the existing laws do not directly and sufficiently cover the suppression and prevention of hate speech and disinformation. The author has concluded that from the analysis of the Ethiopia's laws, the existing provisions do not directly deal with the terms hate speech and disinformation however some of their prohibitions of constitutive elements are indirectly provided however these are not adequate. This shows that there are a number of problems with this newly enacted proclamation on hate speech and disinformation since several the provisions of this proclamation merely repeat provisions that are already established by the existing laws. Where existing laws already cover a given offence, its repetition serves no legal purpose. This is like double warning and it has its own chilling effect.

The author concludes that although Ethiopia has made a good effort to tackle hate speech and disinformation and needed to have a separate proclamation, the current hate speech and disinformation prevention and suppression proclamation No. 1185/2020 is not compatible with international human rights standards like legality, legitimacy, necessity and proportionality as per article 19(3) and 20(2) of the ICCPR covenant and the Proclamation does not follow the most widely-accepted norm under international human rights law to enact hate speech laws, the Rabat Plan of Action .The Rabat Plan of Action contains six factors to determine whether or not speech could be regarded as hate speech. These include context, the status of the speaker, intent, content, audience, and the likelihood of effectively inciting harm. Due to it fails to meet these standards; it curtails freedom of expression, democracy , the right to equality and the right to privacy by silencing dissenting opinions of political parties, activists , bloggers, journalists etc. which also could lead to self-censorship.

## **5.2 RECOMMENDATIONS**

- There is no specific and comprehensive domestic law on hate speech and disinformation prevention and suppression in Ethiopia. Hence, it is a good move and need to have proclamation No.1185/2020 to curb and control hate speech and disinformation. However several provisions of this newly enacted proclamation merely repeat provisions that are

already established by the existing laws and this should not have been done in order to avoid double warning.

- This proclamation should be revised in a way that it will be compatible with strict parameters for limitation of hate speech and disinformation such as legality, legitimacy, proportionality and Necessity as recognized under Article 19(3) of ICCPR.
- It has to also balance and reconcile the enjoyment of freedom of expression, the right to democracy, the right to equality and the right privacy with the prevention and suppression of hate speech and the spread of disinformation to ensure individual autonomy and development in public life.
- The government should also give more attention to address hate speech and disinformation alternatively through non-legal measures such as digital literacy campaigns, education, and public awareness, more dialogue, efficient and effective fact-checking, media literacy, and content moderation.

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