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Promoción y protección de todos los derechos humanos, civiles, políticos, económicos, sociales y culturales, incluido el derecho al desarrollo

Visita a Etiopía

Informe del Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión* **

Resumen

El Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, David Kaye, visitó Etiopía del 2 al 9 de diciembre de 2019, por invitación del Gobierno. La visita tuvo lugar en el contexto de una importante reforma jurídica e institucional en curso.

En el presente informe, el Relator Especial acoge con satisfacción las medidas adoptadas por el Gobierno para levantar el estado de emergencia, liberar a los periodistas y presos políticos, permitir que los grupos de oposición anteriormente prohibidos puedan desempeñar su labor, y aprobar nuevas leyes en relación con las organizaciones de la sociedad civil y la lucha contra el terrorismo. El Relator Especial también expresa preocupación por la aprobación de una nueva ley destinada a poner freno al discurso de odio y a la desinformación, que puede afectar negativamente a la libertad de expresión. En este contexto, recomienda que el Gobierno lleve a cabo un diálogo nacional amplio y profundo para atender las reclamaciones y crear instituciones democráticas sólidas e inclusivas. En virtud de su mandato, el Relator Especial sigue firmemente decidido a colaborar con el Gobierno y el pueblo de Etiopía en las actividades que realizan para cumplir las obligaciones del Estado dimanantes del derecho internacional de los derechos humanos.

* El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho, que figura en el anexo, se distribuye únicamente en el idioma en que se presentó.

** Se acordó publicar el presente informe tras la fecha de publicación prevista debido a circunstancias que escapan al control de quien lo presenta.

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Annex

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his visit to Ethiopia

Contents

I. Introduction

1. Pursuant to Human Rights Council resolution 34/18, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, undertook an official visit to Ethiopia from 2 to 9 December 2019 at the invitation of the Government. The main objective of the visit was to assess the situation of freedom of expression in the country in the context of the State's obligations under international human rights law.

2. The Special Rapporteur held various meetings in Addis Ababa and Bahir Dar. He and his team met with government officials, including the Minister of Peace and the Minister of Innovation and Technology, and with representatives of the Office of the Attorney General, the Federal Police Commission and the Ministry of Foreign Affairs. He had the opportunity to meet with representatives of the legislative and judicial branches – including the Chair and members of the Parliamentary Standing Committee on Legal and Justice Affairs, and the President and Vice-Presidents of the Federal High Court, respectively. He also met with the Chief Commissioner of the Ethiopian Human Rights Commission, members of the National Election Board of Ethiopia, the Director of the Ethiopian Broadcasting Authority, the Director and Deputy Director of the Agency for Civil Society Organizations, and members of the Advisory Council for Legal and Justice Affairs.

3. The Special Rapporteur also met with journalists, lawyers, academics, students and civil society representatives. He would like to thank all those individuals he met for their hospitality and openness in sharing their experiences with him.

4. The Special Rapporteur is grateful to the Government for inviting him to undertake the visit and for facilitating government meetings. He also thanks the United Nations Resident Coordinator Office, and the Office of the United Nations High Commissioner for Human Rights, including the East Africa Regional Office, for their valuable support prior to and during the visit.

II. Background

5. In April 2018, a new administration took office under the leadership of Prime Minister Abiy Ahmed. In his first few months in office, the Prime Minister initiated major reforms, including with a view to enhancing freedom of expression. The Government lifted the state of emergency, freed journalists and political prisoners, authorized the operation of previously banned opposition groups, halted rampant government censorship, and charged a number of military and civilian figures with corruption. The Government continued by launching a formal process of legal and institutional reform, introducing a public participatory process of legislative drafting and advice, which the Special Rapporteur considers to be a model for democratic processes worldwide. Applying this model, Ethiopia adopted a progressive law on civil society organizations, revised its legislation to counter terrorism, and is now in the process of considering other laws relating to the media and access to information, police use of force and accountability, and computer crime. In May 2019, Ethiopia hosted the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Press Freedom Day conference in Addis Ababa. The Government announced that freedom of opinion and expression would be "one of the areas of focus in the ongoing political reforms".[1]

6. Subsequent to his visit, the Special Rapporteur has learned that, following an assessment of the impact that the coronavirus disease (COVID-19) pandemic may have in the country, the National Election Board of Ethiopia has decided to suspend operations for the national elections that were scheduled to take place in August 2020. The Government

[1] A/HRC/WG.6/33/ETH/1, para. 55.

has not announced a rescheduled date for the elections. Under the previous administration, elections had been marked by government crackdowns on protests and Internet shutdowns, which imposed a severe constraint on the media's ability to report on elections and on participation by individuals in decision-making processes. After bans on several opposition parties were lifted by the current Government, many new and pre-existing movements began to emerge. Though new requirements were put in place, such as an increase in the number of signatures required for party registration from 1,500 to 10,000, many report the political environment to be increasingly open. In November 2019, the ruling party, the Ethiopian People's Revolutionary Democratic Front, announced that it would be renamed the Ethiopian Prosperity Party, with the hope of uniting the country and addressing ethnic polarization. As well as encouraging new parties, the National Election Board of Ethiopia is updating the country's voting systems in order to address accusations of fraud, which characterized past elections. A new electoral law, adopted on 24 August 2019, requires the Government to collaborate with the media, refrain from obstructing the work of the media during elections and improve access by political parties to political processes.[2]

7. Yet change also brings challenges. One challenge involves the emergence of new players competing for political power, some of them making use of sectarian or identity-based divides or exploiting the frustration of those receiving less benefit than in the past. In October 2019, 86 people were reportedly killed during protests amid what many interlocutors referred to as inter-ethnic clashes in various locations in Oromia Regional State. While the efforts of the Government to ensure justice and respect for the rule of law were unanimously recognized during the meetings held with the Special Rapporteur, several interlocutors considered that the Government had not taken sufficient measures to protect human lives, nor taken enough steps to hold perpetrators of current – or past – human rights violations to account. Numerous interlocutors denounced the manipulation of ethnic division by the elites. Some others expressed concerns that the response to the October 2019 events, and to those that took place in early 2020,[3] might suggest that some practices from the past had not completely disappeared.

III. Legal standards guiding freedom of expression in Ethiopia

8. Ethiopia acceded to the International Covenant on Civil and Political Rights on 11 June 1993, thereby pledging, inter alia, to ensure and protect the right of its population to seek, receive and impart information and ideas of all kinds, under article 19 (2). It is stated in article 19 (1) of the Covenant that everyone shall have the right to hold opinions without interference. Under article 19 (3), any restriction imposed on those rights must be provided by law and be necessary for respect of the rights or reputations of others or for the protection of national security, public order, public health or public morals.

9. Ethiopia is party to a number of other international human rights treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, all of which contain relevant provisions for the protection and promotion of the rights to freedom of opinion and expression. The Special Rapporteur welcomes the Government's announcement that it will accede to the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

10. During its last universal periodic review, in 2019, Ethiopia acknowledged in its national report (A/HRC/WG.6/33/ETH/1) many of its own violations – including "a systemic violation" of the right to be free from torture and cruel or degrading treatment by the security and law enforcement agencies, the use of torture in prisons, notably in the

[2] For instance, 76 staff of media organizations are said to have been accredited in November 2019 for the referendum on the creation of a Sidama region.

[3] See www.amnesty.org/en/latest/news/2020/01/ethiopia-authorities-crack-down-on-opposition-supporters-with-mass-arrests/.

Ma'ekelawi detention centre where suspects were "kept in inhuman conditions", the jailing of journalists and of members and leaders of the opposition, and the legal restrictions placed on civil society organizations working in the area of human rights. Ethiopia accepted over 100 more recommendations than it accepted in 2014 – many of which relate to freedom of expression principles, including revising the Anti-Terrorism Proclamation, the Proclamation on Freedom of the Mass Media and Access to Information and the electoral law and bringing them into line with the country's international human rights obligations and commitments.[4] Since the universal periodic review, overt steps taken to meet these goals, including efforts to "amend the Proclamation on Freedom of the Mass Media and Access to Information to protect the rights to freedom of expression and press freedom" and "continue its reform measures to widen civic space and protect the right to freedom of expression, in particular through the revision of the Anti-Terrorism Proclamation".[5]

11. The Special Rapporteur's official visit to Ethiopia may also be seen as an indicator of the seriousness of the reforms, especially as it was the first visit by a special procedure mandate holder of the Human Rights Council since 2006. The Special Rapporteur hopes that his visit will be the first of many such visits and engagements by his mandate and by other special procedures reporting to the Human Rights Council. He also appreciates the Government's recent invitation to other special procedure mandate holders, including the Special Rapporteur on the elimination of discrimination against persons affected by leprosy and their family members, the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extreme poverty and human rights. He urges Ethiopia to continue to engage with the Human Rights Council, including by extending a standing invitation to all special procedures.

12. Another important mechanism of accountability stems from the obligations of Ethiopia under multiple regional human rights mechanisms. Ethiopia acceded to the African Charter on Human and Peoples' Rights in 1998, became a party to the Declaration of Principles on Freedom of Expression in Africa in 2002, and ratified the African Charter on Democracy, Elections and Governance in 2008. The African Commission on Human and Peoples' Rights recently praised the State for "the lifting of the state of emergency, freeing political detainees, allowing exiled dissidents to return to the country, revising key laws such as the media and civil society laws, entering a historic peace deal with the State of Eritrea, and appointing women to key Government posts" (ACHPR/Res.429(LXV)2019). However, the Commission also expressed concern over the increased violence resulting from ethnic, religious and political tensions and the rising number of internally displaced persons and urged "all parties to engage in dialogue in order to bring about lasting peace and security in Ethiopia".[6]

13. In keeping with the obligations of Ethiopia under human rights law, article 13 of the country's Constitution establishes that fundamental rights and freedoms set forth in the Constitution must be interpreted in a manner that conforms with international human rights instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and any international instruments adopted by Ethiopia. The Special Rapporteur welcomes the strength of the country's constitutional provisions guaranteeing a multitude of components necessary to guard freedom of expression. Notably, the right to hold opinions and to freedom of expression, without interference, is explicitly recognized in article 29 of the Constitution. The same article of the Constitution also guarantees freedom of the press, by prohibiting any form of censorship, recognizing the importance of access to information of public interest, and providing the press with legal protections to ensure its operational independence and its capacity to entertain diverse opinions. The Constitution also protects the right to privacy, the right to assembly, demonstration and petition, and the right to freedom of association.

[4] A/HRC/42/14, paras. 163.58–163.59.

[5] Ibid., paras. 163.56 and 163.60.

[6] Available at www.achpr.org/sessions/resolutions?id=460.

IV. Main findings

A. Legal reform process

14. For several years, the Government of Ethiopia tortured and jailed journalists and human rights defenders, labelling them as terrorists.[7] It restricted civil society organizations through repressive laws that severely limited their funding and activities. Media laws gave the Government broad, unchecked authority over licensing and registration requirements, and the ability to criminally prosecute journalists – provisions that were criticized for having a chilling effect on journalism. Despite legal guarantees to protect freedom of expression in the Constitution of Ethiopia, and even in some of the preambles to these laws, the laws themselves and their application imposed serious constraints on freedom of expression.

15. Since 2018, the Government of Ethiopia has taken significant steps to identify and reform laws that were historically used to restrict freedom of expression. In the past two years, the Government has initiated significant institutional reforms. Among these is the establishment of the Advisory Council for Legal and Justice Affairs to the Federal Attorney General's Office, created in June 2018 to reform the justice and legal systems – which the Special Rapporteur considers a model for engagement by civil society actors, academics and others in the development of legislation. The Advisory Council has a three-year term to address a range of critical issues, including revising repressive laws. It is composed of independent legal professionals, academic experts, lawyers and journalists, some of whom were jailed or exiled under the laws they seek to reform, who voluntarily, independently and professionally review current laws and advise the Federal Attorney General on amendments to make. The Special Rapporteur encourages the Government to replicate these working methods at the regional level.

16. Additionally, the Advisory Council's independence from the Government, while encouraged, means that there is no guarantee as to how Parliament will choose to consider the Advisory Council's drafts and incorporate its recommendations. This concern was apparent in the process of enacting the hate speech legislation, which was developed by the Attorney General's Office, but did not go through the Advisory Council. The Special Rapporteur appreciates the sense of urgency presented by the recent violence in Ethiopia, however he understands from his discussions with officials that the purpose of the Advisory Council is precisely to advise on the best way both to reform existing laws that threaten freedom of expression and to ensure that new laws do not interfere with the right to freedom of expression. Changing or failing to implement key reforms and recommendations of the Advisory Council, or bypassing the Advisory Council altogether, may result in the creation of new laws that pose the same threats to freedom of expression and will later need to be amended or repealed. The Special Rapporteur strongly encourages the Attorney General and Members of Parliament to keep the Advisory Council involved in all stages of the drafting process in order to guarantee the success of the legal reform process.

1. Organization of Civil Societies Proclamation

17. The first law to undergo the new reform process was the Organization of Civil Societies Proclamation, which repealed and replaced the repressive Charities and Societies Proclamation of 2009. The previous law had been criticized for giving the overseeing agency broad discretionary powers over organizations, for imposing strict budgetary limitations on charities which prohibited them from receiving more than 10 per cent of their funding from foreign sources, and for imposing criminal penalties for failing to comply with certain provisions. The Special Rapporteur, together with the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur

[7] A/HRC/WG.6/33/ETH/1, paras. 35, 44 and 52. See also, for instance, ETH 2/2015 – the communication sent by the Special Rapporteur regarding the detention of nine bloggers and journalists charged under the Criminal Code and the 2009 Anti-Terrorism Proclamation, available at https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=15476.

on the situation of human rights defenders, had previously expressed concerns over the agency's decisions to freeze the assets of the Ethiopian Human Rights Council and to close 124 human rights organizations since the passage of the Charities and Societies Proclamation.[8]

18. In response to these criticisms, Ethiopia adopted the Organization of Civil Societies Proclamation, in February 2019. Significant changes include the repeal of the previous 10 per cent foreign funding restrictions, the removal of many of the intrusive powers of the overseeing agency, and the right of organizations to appeal registration decisions issued by the overseeing agency.

19. The Special Rapporteur met with the newly reformed Agency for Civil Society Organizations to discuss the effects of the new legislation. The Special Rapporteur welcomes the fact that out of the new Agency's 11 board members, seven were previously members of civil society organizations. During the meeting, representatives of the Agency informed the Special Rapporteur that it had not denied any application for registration and that it hoped to partner with civil society organizations in their development while ensuring that they complied with the law. As at December 2019, 1,379 civil society organizations, including 456 new organizations, had registered under the new proclamation which had only been in force since March 2019 – covering over 100 themes. The Agency aims to provide a response to registration applications within 15 days and to increase engagement with what it considers "partners for development" – a drastic shift from the previous context. It also hopes to expand its services through the creation of branch offices at the regional level, and the creation of a Civil Society Fund – a fund designed to provide support for civil society organizations that work with vulnerable groups such as women, children, and persons with disabilities.

20. The Special Rapporteur welcomes the passage of the Organization of Civil Societies Proclamation and the subsequent activities of the Agency. The work of civil society is crucial for the promotion of human rights. Overly restrictive laws and authoritative agencies can hinder the work of these organizations by placing undue burdens on their functioning and making them hesitant to engage in activities that could be seen as critical of government. The Special Rapporteur encourages the efforts of the newly reformed Agency to open up civic space, including to increase women's participation in public and political life and at all levels of governance. The positive aspects of the civil society reform, namely appointing board members who are independent of the Government and promoting the efforts of civil society organizations that work with vulnerable populations, should be replicated in other areas of legal reform.

21. In this context, the Special Rapporteur would also like to specifically commend, and urge further, the inclusion of women in the country's offices of power. The current Government has made progress in gender equality: Sahle-Work Zewd was the first woman to be elected President, the Prime Minister appointed women to half of his Cabinet, and 37 per cent of those elected to Parliament are women. These achievements stand as globally significant signs that the State is taking seriously its role in opposing gender discrimination and is recognizing the necessity of women's involvement in a peaceful and prosperous democracy of the future. Ensuring stable access to education throughout primary and secondary school and pushing for representative leadership in universities will undoubtedly create a sustainable path for women to become truly included and empowered in the next generation of leadership in Ethiopia.

2. New media law

22. Media laws in Ethiopia have undergone a number of reforms in the past few decades. Prior proclamations, such as the Press Law of 1992 and the Proclamation on Freedom of the Mass Media and Access to Information of 2008, were criticized for imposing defamation provisions on journalists and giving the authorities broad authority

[8] See https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=19173.

over licensing and registration.[9] In the years preceding the recent reforms, protestors, opposition leaders, human rights defenders, and local election observers were arrested, and the mounting pressure on journalists led to the shutdown of numerous newspapers.

23. During his meeting with the Attorney General's Office, the Special Rapporteur was pleased to learn that the Government saw the opening up of media space as a main achievement of the reforms in Ethiopia in recent months. The Prime Minister began his tenure by releasing all journalists from detention, lifting bans on television programmes, and launching a process of revising the draft media law with public consultations. The Special Rapporteur welcomes the decision to reform the Proclamation on Freedom of the Mass Media and Access to Information and the Government's recognition of the importance of the media in promoting freedom of opinion and expression. Specifically, the Special Rapporteur welcomes the fact that the draft law provides for the establishment of the Ethiopian Media Authority as an autonomous federal government agency, the liberalization of ownership by obliging broadcasters to make programmes accessible to vulnerable groups, and the removal of criminal defamation provisions.

24. The Special Rapporteur hopes that the reform of the Proclamation on Freedom of the Mass Media and Access to Information will have similar benefits for the development of civic space as the successful reform of civil society legislation did. In particular, the Special Rapporteur encourages the creation of the Ethiopian Media Authority in a similar manner to the creation of the Agency for Civil Society Organizations, which appears to have a significant degree of autonomy from the Government and appoints civil society experts to its board.

25. While the Special Rapporteur praises the intention of the authorities to remove criminal liability provisions for defamation in the new media proclamation, he is concerned that the draft text continues to carry civil penalties of up to Br 300,000 (about $9,500). Under article 12 of the Declaration of Principles on Freedom of Expression in Africa, of the African Commission on Human and Peoples' Rights, States should ensure that defamation sanctions are never so severe as to inhibit the right to freedom of expression, including by others. The risk of penalty for legitimate expression will always be a disproportionate and excessively punitive measure in response to defamation charges. In part, this is due to the chilling effect felt by journalists, artists, activists and social media users, whose freedom of expression is stifled by fear of imprisonment. Furthermore, States may only interfere with individuals' right to freedom of expression by articulating a transparent, easily accessible and non-arbitrary legal standard. The Special Rapporteur urges the Government, when drafting the provisions on civil liability for defamation, to consider the chilling effect that sanctions can have on freedom of expression. The Special Rapporteur also asks that the Government continue to hold public forums and consultations that allow for journalists and other media stakeholders to give their inputs on the upcoming new law.

3. New anti-terrorism proclamation

26. The most recent law to undergo the reform process is the Proclamation to Prevent and Control Terrorism, passed in January 2020. The previous proclamation gave the National Intelligence and Security Services the authority to intercept or conduct surveillance of the telephone, Internet and electronic or similar communications of a person suspected of terrorism. It also allowed for punishment from 15 years to life in prison or even the death penalty. These provisions not only resulted in the arbitrary arrest, detention and prosecution of politicians, human rights defenders, journalists and activists exercising legitimate forms of expression, but also created fear that criticizing the Government would lead to the implementation of these harsh penalties. The Special Rapporteur had raised concerns at the broad definition and broad scope of application of the offence of terrorism in the previous anti-terrorism proclamation.[10] Trials conducted under the previous anti-terrorism proclamation reportedly had a number of due process concerns, such as lengthy pre-charge detentions, barriers to legal counsel, and absence of judicial independence. The

[9] A/HRC/WG.6/19/ETH/3, para. 43.

[10] See https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=18909. See also A/HRC/WG.6/33/ETH/3, para. 14.

broad interception and surveillance power afforded to the National Intelligence and Security Services created a chilling effect on anyone seeking to exercise the right to freedom of expression.

27. In this context, the Special Rapporteur welcomes the repeal of this legislation and the passage of a new law. The Special Rapporteur notes with satisfaction that the new legislation explicitly recognizes that Anti-Terrorism Proclamation No. 652/2009 had produced a negative effect on the rights and freedoms of individuals. However, he remains concerned by some provisions of the new law that may hinder freedom of expression. In June 2019, the Special Rapporteur, together with the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the right to privacy, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, raised concerns about the definitions of "terrorism" and "incitement" contained in the new law, which he considers to have the potential to stifle legitimate expression.[11] Moreover, the Special Rapporteur is concerned at the harsh punishment provided in the law, which allows for a minimum of 15 years and up to life in prison or even the death penalty. While noting that some safeguards have been put in place to protect the expression of political dissent, the Special Rapporteur urges the Government to reconsider this provision in light of the previous law's role in arresting and detaining opposition leaders and journalists exercising legitimate forms of expression. Facing the possibility of capital punishment may have an extreme chilling effect on the work of these individuals. The death penalty has long been regarded as an extreme exception to the fundamental right to life and must therefore be interpreted in the most restrictive manner. The Special Rapporteur refers to Human Rights Committee general comment No. 36 (2018) on the right to life, in which the Committee made it clear that any such sanctions could only be imposed for the most serious crimes, and that they must be read restrictively and be subject to a number of strict conditions, notably respect for the fair trial guarantees provided for in article 14 of the International Covenant on Civil and Political Rights. In fact, the Special Rapporteur has concerns over certain provisions of the new law and warns against it being used in a similar manner to its predecessor.

28. Further, the Special Rapporteur is seriously concerned by reports received that individuals continued to be arrested under the 2009 law while the Government was working on the new legislation. During the visit, the Government confirmed the use of the 2009 law during the reform process, including against members of the political opposition and against journalists following the Amhara Region coup plot of June 2019. Several interlocutors that the Special Rapporteur met expressed worry at the use of this restrictive legislation while the successor legislation was under discussion, which they consider eroded public confidence in the reform process. The Special Rapporteur calls upon the authorities to ensure that the new law is strictly applied to the crime of terrorism and that surveillance is constrained by law and subjected to independent, preferably judicial, oversight.

B. Confronting intolerance and discrimination

29. Throughout the visit, interlocutors repeatedly raised concerns about the threat of ethnic division and intolerance. Many expressed grave concern that such divisions could lead to violence and thus threaten Ethiopia's ongoing reform, undermine social and political stability, and trigger massive internal displacement. Although the new administration acknowledges the need for deep change, several interlocutors raised concerns that police forces continued to employ the same tactics in the face of demonstrations and clashes. National police authorities assured the Special Rapporteur of the Government's commitment to managing demonstrations in accordance with international standards. Both the federal and regional governments must work to prevent

[11] See https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=24664.

violence, but they should do so while protecting and promoting the independent voices of activists and journalists.

30. The introduction of social media to the country's political discourse has amplified the voices of many, facilitating freedom of expression. At the same time, the country has witnessed several tragedies in response to the amplification of misinformation and fear. The need to counter what many consider "hate speech" and various forms of disinformation in the media, including the print and broadcast media and digital and social media, took on heightened immediacy and gravity as they became entangled with violence and tragic loss.

31. The Hate Speech and Disinformation Prevention and Suppression Proclamation adopted in March 2020 is touted by many as a solution to hateful online posts. However, the Special Rapporteur is seriously concerned that too often these laws fall short of international standards and are misused by authorities.

32. International law provides that States have the obligation to prohibit advocacy of national, racial and religious hatred that constitutes incitement to discrimination, hostility and violence (art. 20 of the International Covenant on Civil and Political Rights), not necessarily to criminalize it. The Special Rapporteur is concerned that the Hate Speech and Disinformation Prevention and Suppression Proclamation criminalizes the dissemination of disinformation. Such restrictions could therefore undermine public debate and the free flow of information, which is protected by international human rights law. Further, the Special Rapporteur notes that, too often, investigation and prosecution for "hate speech" or "disinformation" provides a new platform for speakers to restate their hateful expression and pretend to be at the mercy of State-run justice, thus amplifying their hateful message. The Special Rapporteur is convinced that numerous other steps – especially regular public messages from high-level officials and community leaders about the danger of hate speech, media literacy, professional training and self-regulation, and implementation of existing criminal provisions on incitement to violence – could be taken to confront these problems. The newly created Ministry of Peace, which works collaboratively with elders and community and religious leaders, could also play a role in promoting societal dialogue and a culture based on knowledge, tolerance and mutual understanding.

33. The Special Rapporteur is concerned that the Hate Speech and Disinformation Prevention and Suppression Proclamation does not provide the structured guidance necessary to limit its application to expressions prohibited by article 20 of the International Covenant on Civil and Political Rights. This law defines hate speech in its article 2 (2) as "speech that deliberately promotes hatred, discrimination or attack against a person or a discernible group of identity, based on ethnicity, religion, race, gender or disability". The Special Rapporteur is concerned that this definition is overbroad, does not meet the requirements of article 20 of the Covenant and goes beyond the limitations on restrictions required under article 19 (3) of the Covenant. There is a high risk that its application will result in arbitrary interpretation, with dire consequences for legitimate expression.

34. In particular, the Hate Speech and Disinformation Prevention and Suppression Proclamation could lead to penalties being imposed on those who merely repost or otherwise share content deemed to be "hate speech" or "disinformation". The scope of such an approach could be enormous, which is particularly concerning as the problem of hate speech is often not merely the content but its virality and the ease by which it may be shared by hundreds or thousands of people. This is also concerning given that the law carries penalties of Br 50,000 to 100,000 (about $1,500 to $3,000), in addition to providing for a maximum prison sentence of three years, which appear to be very significant sanctions. However, the Special Rapporteur welcomes the fact that forms of punishment other than financial penalties and imprisonment are provided for in the law. Second, the law's excessive vagueness means that officials at the federal and regional levels would have practically unbounded discretion to determine whom to investigate and prosecute, resulting almost certainly in enforcement leading to a wave of arbitrary arrests and prosecutions. Third, there is a serious risk that the law may be used to silence critics. Given the ethnic representation within political parties and within general governance at the national and regional levels, numerous individuals whom the Special Rapporteur met shared their fear that political debate and minority voices might be penalized under the new law.

35. The Special Rapporteur would like to encourage consideration of an approach to "hate speech" that is rooted in applicable international human rights standards. While article 20 (2) of the International Covenant on Civil and Political Rights obligates States to prohibit advocacy of hatred that constitutes incitement, the State also remains constrained by the standards of legality, necessity and proportionality, and legitimacy, under article 19 (3) of the Covenant.[12] In his most recent report to the General Assembly on online hate speech (A/74/486), the Special Rapporteur referred extensively to Human Rights Council resolution 16/18, in which the Council launched an explicit plan of action which came to be known as the Istanbul Process for Combating Intolerance, Discrimination and Incitement to Hatred and/or Violence on the Basis of Religion or Belief, and to the Rabat Plan of Action which provides clear guidance to States seeking to limit incitement to violence. In particular, the Rabat Plan of Action recommends a six-part threshold test to determine whether the severity of incitement to hatred rises to the level of criminalization under article 20 of the Covenant. These factors include: (a) context; (b) speaker; (c) intent; (d) content and form; (e) extent of the speech act; and (f) likelihood, including imminence, of incitement leading to violence. If the Hate Speech and Disinformation Prevention and Suppression Proclamation were to comply with these standards, and its implementation were to be carefully planned with all relevant stakeholders at the regional level, it could very well achieve its intended objectives, while ensuring that individuals did not fear for their safety, nor self-censor.

36. As the Hate Speech and Disinformation Prevention and Suppression Proclamation had, at the time of writing the present report, just been adopted by Parliament, the Special Rapporteur believes that consultations could take place, including with regional law enforcement authorities, the Ethiopian Human Rights Commission, the Office of the United Nations High Commissioner for Human Rights, civil society organizations and other members of the public, and national and international experts, to ensure that the implementation of the law does not result in disproportionate restrictions to freedom of expression. He welcomes the fact that the Government ensures that law enforcement officials, especially at the State level, receive proper training on the criminalization of direct incitement to violence, while protecting freedom of expression.

37. With over 5 million users, Facebook has become a source of news for a growing population of Ethiopians and deserves the careful attention of many actors in the country. Facebook must deliver localized support to its burgeoning user base to ensure that its platform contributes to people's expressions, rather than becoming a tool for the spread of hatred or disinformation. While company responsibilities may vary from the obligations of Governments, companies do have a clear responsibility to integrate human rights into their structures, including through transparent human rights impact assessment procedures, adequate oversight, and opportunities for individuals to obtain redress, in compliance with the Guiding Principles on Business and Human Rights.

38. As the Hate Speech and Disinformation Prevention and Suppression Proclamation seeks to give intermediaries some role to police online content, the Special Rapporteur recalls that intermediary liability can be imposed only with due respect for international human rights law.[13] Regulating content does not only require knowledge of local languages, which in the Ethiopian context is a difficult endeavour in itself, but also an in-depth understanding of the local context, including the country's history and its social and cultural habits, which requires considerable resources. As a result, the Special Rapporteur urges Facebook and other information and communications technology companies to conduct periodic reviews of the human rights impact of their activities in Ethiopia, to establish more regular contacts with the Government, relevant independent authorities and civil society to prevent or mitigate adverse impacts that may arise, and to consider opening branches in Ethiopia to better understand the issues at stake and ensure regular communication with the general public. As a first step, social media companies should

[12] See Human Rights Committee, general comment No. 34 (2011) on the freedoms of opinion and expression.

[13] See A/HRC/38/35.

establish regular and rapid-reaction mechanisms to enable civil society to report the most concerning kinds of content on these platforms.

C. Promoting independent journalism and access to information

39. Government repression sought to decimate the media sector in Ethiopia for years preceding the Government headed by Abiy Ahmed. Independent reporting through television and radio networks, newspapers, blogs and even Facebook posts was accompanied by threats of arrests and by actual detentions. The release of imprisoned journalists, the acknowledgement of systematic torture by law enforcement agencies and the promise to amend laws that authorized arbitrary and mass arrest all display the State's commitment to protecting freedom of expression. Nonetheless, Ethiopia has multiple hurdles to manoeuvre in order to build a strong and independent media sector, several of which stem from the Government itself. According to information shared by civil society, some journalists have been subjected to attacks or arrests in the past two years.[14] During the visit, several journalists reported having been subjected to harassment; some reported, for instance, that their personal information had been posted online to intimidate them into not reporting. In order to restore trust, the State should be the staunchest defender of journalists, media workers and human rights defenders, take effective measures to improve the safety of independent voices, and initiate prompt and independent investigations where violations or abuses have taken place.

40. After having met with officials from the Ethiopian Broadcasting Authority, the Special Rapporteur is convinced of the leadership's positive approach to the promotion of accessible and independent broadcast journalism. Historically, the Ethiopian Broadcasting Authority operated as an extension of the ruling party. The previous leadership employed its political power to impede independent media by denying licences, blocking radio and television signals and censoring stories. The new leadership asserts that the Authority's role has been transformed from a media watchdog to a media advocate. Appointments to leadership positions, and day-to-day decisions, are made seemingly independently of undue parliamentary influence, and the Authority is working broadly to ensure a plurality of opinions by diversifying its broadcasting structure and stabilizing access to networks, and signals. Several important and exciting steps indicate this commitment. Within the licensing process, the Authority removed the assessment of applicants' substantive political identity and implemented a transparent and mostly procedural process. As a clear product of this reform, no outlets have been denied a licence since the Authority began its reforms. According to the data available, the number of private print and electronic media outlets has significantly increased, with more than 246 websites and television channels allowed,[15] including from the diaspora. There are three types of broadcasting which concern both television and radio: 9 licences have been issued for public broadcasting, 18 for commercial broadcasting and 49 for community broadcasting (with 63 local languages used in community and mainstream media). Furthermore, the Authority recognizes that due to the history of repression of the media profession, the country is in dire need of capacity-building. For that purpose, the Authority hosts training for various actors from both State-sponsored and independent outlets to learn and discuss innovative reporting tactics and professional responsibility. It also provides confidential monthly reports on journalism ethics and integrity, with a view to increasing the media's aptitude to report factually and professionally.

41. As the population's media literacy continues to increase, the media sector has an interest in promoting self-regulated professional and ethical standards of journalism. As the Government continues to work on its media reform, the media sector should increase journalists' capacity to report factually and independently on matters of public interest. It also has an important role in deterring and raising awareness about disinformation and propaganda, especially during elections.

[14] See https://cpj.org/2020/03/two-journalists-and-a-driver-arrested-held-without.php.

[15] A/HRC/WG.6/33/ETH/1, para. 56.

42. For the proper growth of an independent and professional media and a functioning democracy, increased access to information is necessary. During his meetings with journalists, civil society and other stakeholders, the Special Rapporteur heard repeated criticisms of a systematic lack of access to general information throughout the government offices. Information is simply not made available through any official, open or accessible channel. Instead, information is sporadically dispersed from various sources, leading to the inevitable spread of disinformation and mistrust. Unfortunately, these barriers are coupled with other challenges: the diverse linguistic background of constituents, partisan media that blurs the line with independent journalism, capacity issues as regards the appointment of press officials for each government office, inadequate notice for press briefings, and a lack of electronic databases and of grievance mechanisms.

43. The constitutional, statutory and international human rights obligations of Ethiopia create a clear standard for the right to information. The African Commission on Human and Peoples' Rights has enunciated the importance of information through its adoption of the Declaration of Principles on Freedom of Expression in Africa: "Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law." Under article 29 of the Constitution of Ethiopia, the State must provide individuals with the opportunity to have access to information of public interest. Similarly, the Proclamation on Freedom of the Mass Media and Access to Information ensures the establishment of "mechanisms and procedures to give effect to that right in a manner which enables persons to obtain information as quickly, inexpensively and effortlessly as is reasonably possible". Notwithstanding the important role of the Ombudsman in providing information to the public, it appears that the Government could do more to inform the public and to support the exercise of this basic right.

44. The practical benefits of access to information are to strengthen society as a whole. Democracies cannot function effectively if journalists – and consequently the general population – are kept unaware of key decision-making; the public must remain the ultimate regulator of good governance and accountability. The exposure of prison management in Ethiopia exemplifies the immense power of an informed public. Torture was systematically employed by a number of Ethiopian prison officials over the past couple of decades, yet very few members of the public were aware of the mass atrocities being committed.[16] In 2011, the Committee against Torture expressed deep concern about "numerous, ongoing and consistent allegations concerning the routine use of torture by the police, prison officers and other members of the security forces, as well as the military, in particular against political dissidents and opposition party members, students …"[17] Only after the release and confirmation of this information did the public engage in open debate. Consequently, the Ethiopian prison system entered into deep reform, and numerous perpetrators were able to be convicted. Furthermore, activities such as corruption can better be exposed by having public information be not only available but expected.

45. With these repercussions in mind, the Special Rapporteur urges the Government to implement and streamline methods for delivering all public information. Officials must be aware of what information the public is entitled to and of the requirement that this information be easily accessible. The Special Rapporteur would like to draw special attention to this issue in connection with the next elections. He recalls that under article 21 of the Universal Declaration of Human Rights, "the will of the people shall be the basis of the authority of government", but without an informed electorate, an election can never be declared democratic or fair.

[16] See, for example, communications sent by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and other special procedures, concerning allegations of torture against individuals during interrogation or in detention, at https://spcommreports.ohchr.org/TM ResultsBase/DownLoadPublicCommunicationFile?gId=14917, https://spcommreports.ohchr.org/ TMResultsBase/DownLoadPublicCommunicationFile?gId=19001 and https://spcomm reports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=14939.

[17] CAT/C/ETH/CO/1, para. 10.

46. Lastly, the international community should actively support efforts made to achieve journalistic independence and freedom of expression, and, where appropriate, with political and financial contributions. While the Government has been bold in its reform initiatives, and the energetic re-emergence of the media has been nothing short of excellent, Ethiopia could benefit greatly from international support directed at the advancement and expansion of the entire profession. Many of the hurdles that Ethiopia faces stem from a lack of capacity; from technical operations to general media literacy, targeted educational measures could cement the foundations of an entire country's media sector.

D. National technological innovations and the Internet

47. The Special Rapporteur met with the Minister of Innovation and Technology to discuss his Ministry's plans for promoting and protecting freedom of expression. Given that a previous criticism of the executive was the appointment of officials based primarily on their government connections as opposed to their objective qualifications, the Special Rapporteur welcomes the appointment of government and agency officials who are experts in their chosen fields. This ensures that official duties can be carried out competently and without regard to political affiliation.

48. The Ministry of Innovation and Technology is actively engaged in expanding Internet, broadband and mobile access. The Government is seeking to increase 3G mobile penetration from 45 per cent to 90 per cent in the next five years and increase broadband access speeds from 2MB to 1000MB per second. The Ministry is also seeking to increase public access to information by creating a digital library centre and 19 community radio systems to both disseminate to and receive information from people living outside urban areas. The Ministry is also planning to open up the telecommunications sector by issuing more licences in the short term and establishing a regulatory body.

49. The Special Rapporteur applauds the efforts of the Ministry to open up access to information to all groups through the use of evolving technology. The Special Rapporteur would like to note that these plans will require broad support and prioritization. One area, in particular, that will require prioritization is opening up Internet access in primary schools. A partnership with the Ethiopian Broadcasting Authority may be beneficial to both the Ministry and the Authority, since both entities have similar duties and goals in promoting freedom of expression.

50. Despite the commendable advancements of Ethiopia in technology for the benefit of the public, the Special Rapporteur regrets that the Government still routinely asserts control over Internet access. The blocking of websites and apps, and general disconnections, have continued well after the election of Abiy Ahmed as the Prime Minister. Shutdowns are reported to have accompanied anti-government protests, national exams and ethnic conflicts. One shutdown, which occurred immediately after the coup attempt in June 2019 in which six government officials were assassinated in the Amhara Region and the capital, lasted for several days. During the week that the Special Rapporteur was in Ethiopia, the Information Network Security Agency confirmed that the Internet had been shut down in order to address a cyberattack on government and private banks.

51. Shutdowns ordered covertly, without an obvious legal basis,[18] and/or pursuant to vaguely formulated laws and regulations, violate the requirement under article 19 (3) of the International Covenant on Civil and Political Rights that restrictions be "provided by law". Shutdowns must also be necessary to achieve aims specified in article 19 (3) of the Covenant, and shutdowns often fail to meet this requirement. The failure to explain or acknowledge shutdowns creates the perception that they are designed to suppress reporting, criticism or dissent. Shutdowns are often disproportionate, as they affect areas beyond the Government's specific concerns and cut users off from a variety of essential activities and services such as emergency services and health information, mobile banking and e-

[18] The Government indicates that the Information Network Security Agency is "vested with the power to keep the country safe from any threats against national security and it can take measures when the necessity arises" (A/HRC/44/49/Add.3, para. 20).

commerce, transportation, school classes, voting and election monitoring, reporting on major crises and events, and human rights investigations.

52. Despite condemnation from a multitude of stakeholders, including the United Nations High Commissioner for Human Rights, the African Commission on Human and Peoples' Rights, and the same Commission's Special Rapporteur on Freedom of Expression and Access to Information, and from the Special Rapporteur himself, Ethiopia has continued to shut down the Internet with no apparent legal basis.[19] These shutdowns severely undermine the ability of the public to access information – which is even more important in times of unrest, health crisis or elections, so that the public can be informed and take proper safety precautions. The Special Rapporteur urges the Government to cease and desist from its continued use of Internet shutdowns.

V. Conclusions and recommendations

53. **Not too long ago, Ethiopia was widely known for repressing civil society, crushing independent media, jailing journalists and restricting public access to information. In just a few months, the new administration managed to undertake a reform process leading to the revisions of various laws that had been used by the previous regime to arrest and detain journalists, human rights defenders and members of the political opposition. The Special Rapporteur encourages the Government to continue to invest in and promote human rights, the rule of law, justice and non-discrimination.**

54. **Yet, this is only the start of a process that will take years of legal and policy commitment, and persistent dedication to human rights oversight and public participation. The media and civic space in Ethiopia are still recovering from decades of repression, which has long severely constrained an independent media and frustrated the ability of political parties, civil society and others to take part in decision-making processes. Furthermore, growing concern about ethnic conflict, fuelled at times by political figures competing for power, has now emerged, posing renewed challenges to the democratization process. Intolerance and violence have the potential to destabilize the nation and the existence of the country, and the Government must do its utmost to protect its population against mob violence.**

55. **However, law alone cannot solve all the problems. On the contrary, an ill-conceived law on hate speech and disinformation could well reinforce rather than ease ethnic and political tensions and undermine the long-term prospects for success of the reforms in the country. As such, no law alone can address hatred, or disinformation. What is needed is not necessarily more law, but vibrant and robust debate, efforts to combat the root causes of tensions, and a broad and deep national dialogue to address grievances and build strong democratic institutions that can adequately and effectively respond to criminal acts. A national dialogue that includes political, religious and community leaders from across the country may well allow the balance to be struck between pursuing the national unity agenda while respecting and empowering individuals and communities' identity.**

56. **To support this promise, external actors should also take an interest in supporting the ongoing process, including, where appropriate, by providing vigorous diplomatic and financial contributions. Building a democratic, inclusive and peaceful society, with robust judicial institutions that can hold perpetrators of violence to account, will require patience and perseverance, but there can be no turning back to the era of repression that ruled Ethiopia for over a quarter of a century.**

[19] Human Rights Watch, "Millions of Ethiopians can't get COVID-19 news", 20 March 2020.

A. Review of national legislation

57. **The Special Rapporteur welcomes the participatory approach that is accompanying the reform process. He urges the authorities to pursue the reforms with the same commitment to human rights principles and obligations.**

58. **The Special Rapporteur recommends the Government to ensure prompt, thorough and independent judicial enforcement of freedom of expression protections.**

59. **When considering restrictions to freedom of expression, the authorities must ensure that any restriction complies with international human rights law, namely that it is provided for by law, that it serves one of the legitimate interests recognized under international law, and that it is necessary and proportionate to protect that interest. Any such restriction must be subject to independent judicial oversight.**

60. **The Special Rapporteur urges the authorities to finalize its new media law after an inclusive participatory process that allows journalists and other media stakeholders to give their inputs on the upcoming new law. He also urges the authorities to ensure its effective implementation in order to allow everyone to freely seek, obtain and share information and ideas of all kinds, in the media – broadcast, print and electronic – as protected by international human rights law.**

61. **The Special Rapporteur recalls that under international human rights law, the burden of proof is on States to demonstrate that the use of counter-terrorism and national security measures is necessary, appropriate and proportionate in each particular instance. The Special Rapporteur calls upon the authorities to ensure that the implementation of the new legislation aimed at countering terrorism does not hinder the work and safety of journalists and individuals engaged in promoting and defending human rights.**

62. **The Special Rapporteur supports the efforts of the authorities to create independent public institutions that can be free from political or ethnic affiliations. He urges the Government to continue to strengthen the independence of the judiciary, at both the federal and the state levels.**

63. **The Special Rapporteur invites the Government to share draft legislation impacting human rights in general, and freedom of expression in particular, with relevant human rights bodies and mechanisms, especially with the Office of the United Nations High Commissioner for Human Rights, as well as with the Ethiopian Human Rights Commission, civil society organizations and other members of the public, for their inputs.**

B. Media freedom and access to information

64. **The Special Rapporteur urges the authorities to continue to promote a diverse, free and independent media environment, with a clear regulatory framework for broadcasters that is free from political and commercial interference or pressure.**

65. **The Special Rapporteur recommends that the authorities strengthen media literacy and professionalism, ensure that public media have sufficient financial and human resources, promote media self-regulation as part of striving for accuracy in news reporting, provide targeted educational measures to strengthen the sector's capacity, and guarantee the independence of the broadcasting authority.**

66. **The Special Rapporteur is mindful that disinformation misleads and interferes with the public's right to know and to seek, receive and impart information and ideas of all kinds. However, he believes that the use of criminal sanctions is generally inappropriate to address false news, and that imprisonment is never an appropriate penalty. He urges the authorities to decriminalize the offence of defamation and to provide for reasonable civil liabilities.**

67. **In the light of threats and violence faced by journalists covering public events, especially women journalists, the Special Rapporteur calls upon authorities and**

others to publicly express their rejection of any form of threat and intimidation against journalists or other professionals carrying out reporting work and to initiate prompt and impartial investigations and prosecutions.

68. **The Special Rapporteur urges the authorities to encourage and support the expansion of Internet access, while developing digital literacy tools to address and reduce concerns about privacy, and about hatred and intolerance, acts of intimidation and harassment, and restrictions to freedom of expression that may exist online.**

69. **Under international law, readily accessible and understandable information should be made available to the public. The Special Rapporteur urges the authorities to consider the right to access information as a priority, particularly in times of political reform and social tensions.**

70. **The Special Rapporteur recalls that shutdown of the Internet and telecommunication networks not only often fails to meet the necessity and proportionality test, but also affects emergency services and economic activities. He urges the authorities to ensure that any disruption has a legal basis that is in line with international law. He further urges the authorities to refrain from imposing Internet or telecommunications network disruptions and shutdowns.**

C. Freedom of expression, and of peaceful assembly and of association

71. **The Special Rapporteur calls upon the authorities to protect the safety and integrity of individuals and groups exercising their rights to freedom of expression, and of peaceful assembly and of association, including from attacks committed by non-State actors. The protection of rights requires that the State take effective measures to prevent and redress any acts of violence, threats or interference committed by State and non-State actors alike.**

72. **The Special Rapporteur welcomes the adoption of new legislation on civil society organizations. He urges the Agency for Civil Society Organizations to facilitate the registration of civil society groups, to ensure that groups can access resources, including from foreign sources, and to strengthen their capacities to support the political reform process. He also urges all public authorities to devote resources to expanding opportunities for women to participate at all levels of governance and in all professions.**

73. **The Special Rapporteur urges the authorities to ensure that the new policy on police use of force and accountability complies with international human rights standards, namely with the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and the 10 principles for the management of assemblies that were developed by the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/31/66).**

74. **The Special Rapporteur urges the authorities to support efforts of the Ethiopian Human Rights Commission to modernize itself, including by providing it with adequate financial and human resources to ensure its independent, transparent and effective functioning.**

75. **Given the importance of the rights to freedom of expression and freedom of peaceful assembly and of association in times of democratization, especially in the context of elections, the Special Rapporteur refers to the report on elections by the Special Rapporteur on the rights to freedom of peaceful assembly and of association,**[20] **in which he advised that the threshold for imposing restrictions should be more difficult to meet during election times.**

[20] A/68/299.

D. Discrimination and hate speech

76. **The Special Rapporteur is mindful and is concerned that hateful speech may incite violence, discrimination or hostility against groups in society. He encourages the authorities to address intolerance and inter-ethnic tension through a national dialogue and legal, policy and educational initiatives.**

77. **The Government, politicians, community leaders and other leadership figures in society should refrain from making statements that encourage or promote intolerance against individuals on the basis of protected characteristics, such as ethnicity. Instead, they should work together to develop a culture based on knowledge, tolerance, respect and intercultural understanding.**

78. **The Special Rapporteur urges the authorities to ensure that the new legislation on hate speech and disinformation is implemented carefully and narrowly with a view to tackling the offences of hate speech and disinformation. He also urges the authorities to refrain from imposing criminal sanctions in such instances.**

79. **The Special Rapporteur urges the authorities to ensure that any restriction on content is imposed pursuant to an order by an independent and impartial judicial authority, and in accordance with due process and standards of legality, necessity, proportionality and legitimacy.**

80. **The Special Rapporteur urges the authorities to conduct further consultations, including with regional law enforcement authorities, the Ethiopian Human Rights Commission, the Office of the United Nations High Commissioner for Human Rights, civil society organizations and other members of the public, and national and international experts, to ensure that the new law does not restrict freedom of expression. He also urges the Government to conduct proper training on the criminalization of direct incitement to violence to ensure that the new law does not adversely affect the right of the population to freedom of expression.**

81. **Social media companies should establish regular and periodic reviews of the human rights impact of their activities in Ethiopia, in cooperation with civil society, to prevent or mitigate any adverse human rights impacts that may arise.**

82. **While advocacy of hatred that constitutes incitement to hostility, violence and/or discrimination should be prohibited, safeguards should be in place to ensure that criticism of political views or of ethnic or religious traditions and practices remains permissible in the context of the requirements of international law.**