



EXECUTIVE SUMMARY- ETHIOPIA

***/The intersection of the right to freedom of expression and protection of personal information.**

In Ethiopia, basic digital rights like the right to freedom of expression online and the protection of personal information are protected under the 1995 Constitution of the Federal Democratic Republic of Ethiopia (FDRE Constitution). In addition to the FDRE Constitution, Ethiopia also has various obligations to protect both rights under various international human rights instruments.

This report focuses on the intersection of the right to freedom of expression and protection of personal information and is divided into four sections. This report showed that despite the guarantees of both rights under the FDRE Constitution and international human rights instruments, some laws and State-ordered violations continue to threaten both rights in Ethiopia. In examining this intersection and the challenges posed to the protection of both rights, this report is divided into four major sections.

In the first section despite the guarantee of the right to freedom of expression under the 1995 FDRE Constitution laws which deal with hate speech, disinformation, Internet shutdowns and social media regulation impact on the right to freedom of expression especially online. For example, the definition of hate speech under *Article 2(2) of Proclamation No. 590/2008 of 2008* was found to be overboard as it did not define the meaning of 'hatred.'

In addition, the report also found that Article 2(3) of the *Hate Speech and Disinformation Proclamation No. 1185/2020* is sweeping in its scope of defining the disinformation and may violate the legality requirement under Article 19(3) of the ICCPR. Article 8(1) of the same Proclamation also found that the various responsibilities placed on platforms to regulate hate speech and disinformation are not clear and could be a basis for online censorship. At one point or the other, these laws have been used to harass or arrest media practitioners, human rights defenders and activists with contrary opinions. Article 24(1) of the draft *Computer Crimes Proclamation of 2020* on Internet shutdowns is also found to be in violation of international human rights standard as it would give legal backing to the already problematic and illegitimate rise of Internet shutdowns in Ethiopia.

On the protection of personal information in Ethiopia which the second section focuses on, article 26 of the FDRE Constitution provided for the right to privacy which could be referred to as the most proximate right under the Constitution. Some of the laws that impact on protection of personal information are Articles 56(1) and 58(2) of the *Registration of Vital and National Identity Card Proclamation No.760/2012*, Article 2(1) of the *Computer Crimes Proclamation No.958/2016*, Articles of 11, 20, 24, 27 of the *1960 Civil Code*, and Article 606 of the *Criminal Code of 2004*.

These laws do not only impact on the right to freedom of expression online and protection of personal information in Ethiopia, they also determine to a large extent pointed out the need to protect the intersections of both rights. This is the focus of the third section. For example, three intersections of both rights namely the 'right to be forgotten', encryption and communications surveillance. For example, Article 38 of the draft *Data Protection Proclamation* provides for the right of the data subject to request the erasure of their personal data from a data controller. This provision did not seem to take into consideration the right to freedom of information as it the public has the 'right to know' in some contexts with respect to personal information.

On encryption, Article 2(7) of the *Electronic Signature Proclamation* provides for encryption under Ethiopian law. The law also puts the Information Network and Security Agency (INSA) as the regulator of encryption service in Ethiopia. There is no clear information with respect to how INSA carries out its services. This could potentially lead to abuse of access to encrypted information.

This report, in its fourth and final section notes the alarming use of indiscriminate use of communications surveillance by the government against journalists and human rights defenders. While this often lead to indiscriminate arrests and violations of human rights, citizens become more afraid to express their views thereby chilling the right to freedom of expression in Ethiopia.

A major takeaway from the report is that while the right to freedom of expression and protection of personal information in Ethiopia are important rights requiring protection especially in the digital age, their various intersections also require urgent attention of the Ethiopian government. Such attention is seen in need for thorough legal reforms and the implementation of rights-respecting policies with respect to the use of digital technologies in Ethiopia.