

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
CONSTITUTIONAL PETITION NO. 2022

IN THE MATTER OF THE ALLEGED CONTRAVENTION OF ARTICLES 2, 10,
19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 33, 36, 43, 46, 47, 50, 55, 159,
165, 238, 258 AND 260 OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF CONSTITUTION OF KENYA (PROTECTION OF RIGHTS
AND FUNDAMENTAL FREEDOMS) PRACTICE AND PROCEDURE RULES 2013

AND

IN THE MATTER OF THE ALLEGED CONTRAVENTION OF ARTICLES 19 AND
20 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

AND

IN THE MATTER OF THE ALLEGED CONTRAVENTION OF SECTIONS 3 AND
13 OF THE NATIONAL COHESION AND INTEGRATION ACT NO. 12 OF 2008

AND

IN THE MATTER OF THE ALLEGED CONTRAVENTION OF SECTIONS 3 AND
4 OF THE FAIR ADMINISTRATIVE ACTION ACT NO. 4 OF 2015

AND

IN THE MATTER OF ALLEGED CONTRAVENTION OF GUIDING PRINCIPLES
11, 12, 13, 14, 17, 18, 19, 22, 23, 29 AND 31 OF THE GUIDING PRINCIPLES
ON BUSINESS AND HUMAN RIGHTS IMPLEMENTING THE UNITED
NATIONS 'PROTECT, RESPECT AND REMEDY' FRAMEWORK

AND

IN THE MATTER OF THE ALLEGED CONTRAVENTION OF THE
INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF
RACIAL DISCRIMINATION

BETWEEN

1. ABRHAM MEAREG1ST PETITIONER
2. FISSEHA TEKLE2ND PETITIONER
3. THE KATIBA INSTITUTE.....3RD PETITIONER

VERSUS

META PLATFORMS, INC.....RESPONDENT

AND

1. AMNESTY INTERNATIONAL.....1ST INTERESTED PARTY
2. GLOBAL WITNESS.....2ND INTERESTED PARTY
3. KENYA HUMAN RIGHTS COMMISSION.....3RD INTERESTED PARTY
4. NATIONAL COHESION AND
INTEGRATION COMMISSION.....4TH INTERESTED PARTY
5. ARTICLE 19 EASTERN AFRICA.....5TH INTERESTED PARTY
6. KENYA NATIONAL
COMMISSION ON HUMAN RIGHTS.....6TH INTERESTED PARTY
7. LAW SOCIETY OF KENYA.....7TH INTERESTED PARTY

1ST PETITIONER'S SUPPORTING AFFIDAVIT

I, ABRHAM MEAREG of [REDACTED] Minnesota, USA do hereby
make oath and state as follows–

1. THAT I am an adult of sound mind therefore competent to swear this affidavit.
2. THAT I am an Ethiopian citizen.

*(Annexed to this Affidavit and marked AM 01 are copies of my birth certificate
and my Ethiopian passport).*

3. THAT I swear this affidavit in support of the Petition.

4. **THAT** I have brought this Petition in the public interest as it seeks to protect the public at large. My own family was ripped apart because of Facebook's woeful failure to address violence on its platform – and so have countless others. I bring this case so that no one need suffer again as my family have.
5. **THAT** the Petition addresses the way the Respondent has designed its application, Facebook, in a manner which promotes and prioritizes hateful, inciteful and dangerous content. Further, the Petition challenges the Respondent's failure to take the necessary steps to protect its users and the public from the harm caused by this content.

For purposes of the Petition, hateful, inciteful and dangerous content includes content that amounts to –

- (a) propaganda for war;
- (b) incitement to violence;
- (c) hate speech;
- (d) advocacy of hatred that constitutes ethnic incitement;
- (e) advocacy of hatred that constitutes vilification of others;
- (f) advocacy of hatred that constitutes incitement to cause harm; and
- (g) advocacy of hatred based on discrimination.

A. ABOUT FACEBOOK

6. **THAT** the Respondent is a multinational company whose products, particularly Facebook, WhatsApp, and Instagram, are used all over the world including Kenya.
7. **THAT** in the US, the Respondent is a publicly listed company under the regulation of the Securities Exchange Commission.
8. **THAT** according to the Respondent's annual financial report to the Securities Exchange Commission for the fiscal year ended 31st December 2021 (Form 10-K), the Respondent's revenue for the year 2021 was \$117,929,000,000 (\$117.929B).

(Annexed to this affidavit and marked AM 02 is a copy of the Respondent's Annual Report to the Securities Exchange Commission for the fiscal year ended 31st December 2021- Form 10-K).

9. **THAT** the Respondent owns the Facebook application. Facebook is an interactive site which allows users to share posts, images and videos (content)

with their friends and followers. Users can view and interact with content shared by other users as well.

10. **THAT** Facebook is currently available for use in every country apart from China, Russia and Iran. It is available in every African country. The Respondent draws revenue in every country where Facebook is available and is currently in use, including African countries.
11. **THAT** the Respondent draws its revenue from advertising i.e. displaying ads on Facebook, Instagram and Messenger. On the Facebook platform, adverts may be placed in the News Feed and Facebook Stories. Advertisers are charged per click or impression which means the more 'clicks' the ads get or the more people who see an ad, the more advertisers pay to the Respondent. The more time Facebook users spend on Facebook, the higher the chance that they will interact with more ads which translates to higher revenue for the Respondent.
12. **THAT** the Respondent has designed the Facebook platform to hold users' attention and keep them on the platform for long periods of time to maximize its revenue.
13. **THAT** one of the ways the Respondent achieves this is through its content promotion algorithm, which recommends to users content they are more likely to interact with.
14. **THAT** one of the consequences of the current algorithm design is that content which amounts to hateful and inciteful content is prioritized by the algorithm as it is likely to draw more interactions thus keeping users on the platform for longer.
15. **THAT** Facebook users share whatever they choose to on the Facebook platform. Their posts are not pre-approved by the Respondent before being published on the application.
16. **THAT** a lot of content published on the application is harmful, inciteful, dangerous and violent content which does not fall under the categories of protected speech in Kenya and under international law.
17. **THAT** content that promotes violence can and does translate to violence offline. This can be catastrophic especially for countries in conflict or facing inter-ethnic clashes.
18. **THAT** the Respondent has a duty to ensure that its platform is not used as a breeding ground for violence and that hateful, inciteful and dangerous speech is not published on its application.

19. **THAT** the Respondent further has a duty of care to protect Facebook users from being victims of hateful content shared on Facebook. This duty of care extends to those who may not be on the platform but whose lives could be shattered by the content shared on the platform.
20. **THAT** for social media platforms, this duty means they must invest in content moderation where the social media platform takes the positive step to pull down extreme content that has already been published.
21. **THAT** the Respondent has a set of rules known as 'Facebook Community Standards' which outline what is and isn't allowed on Facebook. These Standards are revised from time to time.

(Annexed to this affidavit and marked AM 03 is a copy of the Facebook Community Standards as obtained from the Respondent's website <https://transparency.fb.com/en-gb/policies/community-standards/> [24th November 2022] version).

22. **THAT** for instance, the Community Standards regulate the sharing of violence and criminal behaviour. Under this Standard, there is a rule against posting of violence and incitement. Specifically, the Standards state that threats that could lead to death, calls for targeted violence, calls to action and statements advocating violence against vulnerable groups are forbidden from Facebook. Once content is found to be violating this particular standard it is to be taken down from Facebook without question and without further interrogation.
23. **THAT** the Respondent has implemented some form of content moderation which is carried out by both the algorithm and human content moderators. Human content moderators are necessary for the moderation of hateful content as it is important to understand the context in which content is shared; at times it is the context that makes speech hateful. The Respondent's investment in content moderation is however woefully inadequate especially for countries the Respondent terms as 'Rest of World'.
24. **THAT** as per page 94 of the Respondent's Form 10-K (2021), the Respondent has a category of countries it refers to as 'Rest of World'. These includes all the countries in Africa, Latin America and the Middle East.
25. **THAT** the Rest of World countries accounted for up to 9% of the Respondent's revenue in 2021 i.e. \$10,592,000,000 (\$10B).
26. **THAT** despite making such a colossal amount from these countries, the Respondent underinvests in content moderation therein, opting to treat countries like United States and Canada (where they draw 44% of their revenue) preferentially.

27. **THAT** this preferential and discriminatory treatment has devastating effects for 'Rest of World' countries especially those countries that are vulnerable to war, conflict, ethnic cleansing and genocide as hateful speech exuberates conflict. These countries need more investments when it comes to content moderation yet receive even less than the bare minimum.
28. **THAT** the Respondent has also under-invested in human content moderation opting to outsource this crucial service to third party contractors in most parts of the world. Content moderators are often under paid and exposed to hostile working conditions including the lack of psychosocial support despite the work itself being traumatizing as they are exposed to unnatural amounts of hateful and violent content.

B. CONTENT MODERATION TAKING PLACE IN NAIROBI

29. **THAT** in February 2019, the Respondent announced that content posted in Somali, Oromo, Swahili and Hausa would be moderated from Nairobi where they had opened a content moderation centre. This announcement was confirmed by the Respondent's Head of Public Policy for Africa at the time, Ebele Okobi through her official email address (ebeleokobi@fb.com) in a public mailing list, KICTANet. The announcement was also covered by various journalists.

(Annexed to this affidavit and marked AM 04 are copies of emails sent by Ebele Okobi as displayed in the KICTANet mailing list and copies of various articles on the establishment of a content moderation centre for Facebook in Nairobi).

30. **THAT** currently, moderation of the following languages takes place in the content moderation centre in Nairobi; English as spoken in Sub Sahara Africa, Zulu, Tswana, Afrikaans, Swahili, Somali, Amharic, Tigray, Oromo and Hausa. Posts shared in the languages spoken in Kenya, Uganda and Rwanda are also moderated at the centre.
31. **THAT** Facebook users are given the option to report posts which they consider offensive to them. Next to each post is this sign '***'. When clicked, it reveals a menu with one of the options being 'Find support or report post'. Users are then given various options to choose which of the Community Standards has been violated by the offending posts.

(Annexed to this Affidavit and marked AM 05 is a copy of a webpage on the Respondent's website titled 'How to report things' giving a step-by-step guide on how users can report content).

32. THAT offending posts are then queued to a human content moderator who will be required to review whether or not that post violates Facebook Community Standards.
33. THAT it is the human content moderator who ultimately decides whether the impugned post will be deleted from Facebook for violating Facebook Community Standards or remain on the platform as being non-offensive.
34. THAT for posts and content shared in the languages listed above, the human content moderator who makes this decision is based in Nairobi and makes that decision in Nairobi.
35. THAT content moderation done in Nairobi has the potential of causing harm in the communities where those languages are spoken. A decision taken by a content moderator sitting in Nairobi not to take down hateful, inciteful and dangerous content has the potential to spark violence leading to loss of lives.
36. THAT I experienced this first hand with my family's own tragedy – but the problem is systemic and has caused violence to spread to many families.
37. THAT the cavalier manner in which the Respondent handles content moderation done in Nairobi is indeed causing harm to communities. In this sense, the Respondent is using Kenya to export harms to communities both inside and outside Kenya.
38. THAT this Honourable Court has the jurisdiction to hear how the Respondent's negligence and blatant disregard of the bill of rights in the Constitution of Kenya is causing harms not only in Kenya but also to other communities outside Kenya.
39. THAT I have brought this Petition with the ambition of justice and in the hope that this court will order the Respondent to take urgent steps to prevent further loss of lives.

C. MY PERSONAL EXPERIENCE

My Background

40. THAT I was born in Ethiopia and raised in Bahir Dar, Amhara, Ethiopia.
41. THAT I now reside in Minnesota, in the United States, having lived there since August 2022. Following my father's murder, I fled Ethiopia first to Paris, where I lived from 21st February 2022 to 9th August 2022 then moved to the US. I have made an application for asylum in the US which is pending.

(Annexed to this Affidavit and marked AM 06 is evidence of my application for asylum).

42. THAT prior to fleeing Ethiopia, I had enrolled as a PhD candidate in the Department of Peace and Development Studies at Haramaya University.
(Annexed to this Affidavit and marked AM 07 is a copy of a bonafide letter from Haramaya University).
43. THAT I have been a lecturer at Assosa University from 2012 to date. I became an Assistant professor at the same university in 2017.
(Annexed to this Affidavit and marked AM 08 is a copy of my Curriculum Vitae).
44. THAT I currently have two active Facebook accounts--
a. Abrham Meareg (ጉዳ ካሳ)- this is my personal account which I opened in March 2020. I often post about peace on my personal account.
b. Peace to Amhara and Tigray- a public account which I use for purposes of promoting peace.
(Annexed to this Affidavit and marked AM 09 are copies of the Facebook profiles for the 'Abrham Meareg (ጉዳ ካሳ)' and 'Peace to Amhara and Tigray' Facebook accounts).
45. THAT I use both accounts fairly often and I am conversant with the Facebook platform itself including the reporting procedure that is inbuilt in the application.
- Hate Speech and Incitement to Violence Content on Facebook***
46. THAT a vast number of people in Ethiopia rely on Facebook for their news and information. Many Ethiopians believe what they see on the platform is honest and true.
47. THAT Facebook shapes the conversations that take place in Ethiopian communities and in our public debate.
48. THAT Facebook has and continues to play a crucial role in the conflict that is ongoing in Ethiopia.
49. THAT content inciting violence and ethnic hatred is constantly being published and promoted on the Facebook platform. Only a few of the posts that contain such extreme speech are taken down by the Respondent.
50. THAT what we have seen in my community is that people readily act upon the incitement they see on Facebook. If a post calls for violence, there are those who are ready to carry arms and cause harm.
51. THAT being Tigrayan myself, I have noted that the hatred directed at Tigrayans is overwhelming. Sadly, hateful posts against Tigrayans have led to many immediate and long-term tragedies.

52. THAT it is no secret that there has been conflict in Ethiopia for some time now.
53. THAT as the situation on the ground in Ethiopia worsened, I noticed an increase in posts that contained graphic violence, hate and incitement on Facebook.
54. THAT I followed the instructions issued by the Respondent to report such posts that I came across in the hope that the sea of extreme content would decrease. Many of the reports I made to the Respondent were either rejected or ignored. What I understood from my interactions with the Respondent's platform is that the Respondent was not keen on taking down harmful posts.
55. THAT for example, the Facebook algorithm served me a gratuitous image of dead bodies on my Feed posted by a Facebook account by the name 'Raya Press' captioned (translated into English) "Some of the TPLF militants who came from the side of the border and were destroyed by the Amhara special forces." I reported this post on 11th July 2021 for displaying dead bodies hence being disrespectful to our culture and for promoting violence. I did not receive feedback from the Respondent about this post until 11th November 2021. I received an email titled 'Our Reply'. I was shocked to find that the message was blank. As at 2nd December 2022 the post is still on Facebook.

(Annexed to this Affidavit and marked AM 10 are copies of the post by Raya Press; the report I made to the Respondent and their Feedback sent to me on 11th November 2021).

56. THAT another post served to me by the algorithm was from the account 'Mehden Alemu' which stated (translated into English) 'if we don't like your eye colour we load [i.e., our weapons].'
- On 26th July 2021, I reported this post for inciting ethnic violence using Facebook's reporting procedure. On 2nd August 2021, I received a response from the Respondent that the post did not violate the Community Standards and recommending that I simply block this person. The post has 68 comments, 81 likes and reactions, and is still on the platform.

(Annexed to this Affidavit and marked AM 11 are copies of the post by Mehden Alemu, the report I made to the Respondent and their Feedback sent to me on 2nd August 2021)

57. THAT I have read and understood the Facebook Community Standards which forbid the posting and sharing of threats that could lead to death and other forms of 'high-severity' violence. According to the Respondent, these include statement of intent to commit high-severity violence and calls for violence where the target is identified by a symbol'.

(Annexed to this Affidavit and marked AM 12 is a copy of the Facebook Community Standards that were in force as at August 2021)

58. THAT it is apparent that the account Mehden Alemu was calling for violence based on eye colour which would violate the Facebook Community Standard on violence and criminal behaviour. Despite the post going against the Respondent's own standards, it was not pulled down, further showing the laxity with which the Respondent handles complaints of harmful content on Facebook.
59. THAT on 18th July 2021, an account in the name of the Prime Minister of Ethiopia Abiy Ahmed Ali was allowed by the Respondent to make posts that implicitly called for ethnic violence. He shared a post that stated (as translated into English): "We work to get the weeds up. But when we pull out the weeds, we take all possible care not to damage the wheat. In our country, weeding is done with a hammer. The children of Ethiopia are also doing it."
As at 2nd December 2022, the post has 57,000 likes. It has been commented on 8,900 times and shared 8,400 times.

I considered the reference to 'weeds' an obvious reference to non-Amharic ethnic groups in Ethiopia, and as such, I reported the post.

60. THAT this post violated the Facebook Community Standard against violence and criminal behaviour yet the Respondent rejected my report. I received a message saying it did not violate the Community Standards, and the post remains online.

(Annexed to this Affidavit and marked AM 13 is a copy of the post by Abiy Ahmed Ali, the report I made to the Respondent and their Feedback sent to me).

61. THAT these are just a few examples, but I saw many others fomenting hate – many of which expressed the view that ethnic Tigrayans living in other parts of Ethiopia were likely to be TPLF sympathisers, and should be targeted regardless of any actual political affiliation. These were pure calls to single people out for attack based on their ethnicity, and I was appalled to see such hate freely circulating on Facebook. I continued to try to report it – and I still do from time to time – but in general I have found reporting totally unsuccessful to stop the spread of hate.

D. HATE SPEECH AND INCITEMENT OF VIOLENCE AGAINST MY FATHER ON FACEBOOK

My Father's Background

62. THAT my father, Professor Meareg Amare Abrha, was an extremely well-respected university professor in Ethiopia.
63. THAT Professor Meareg Amare was born to a Tigrayan family in Adi-Tsehafi, Leto village, 10km outside of the city of Axum, which is where he attended primary and secondary school. He was a dedicated educator and an accomplished author.
64. THAT my father was the only professor in Analytical Chemistry at Bahir Dar University and indeed, one of only three Professors in Analytical Chemistry in the whole of Ethiopia. He was dedicated to his profession and excelled in his field, running one of the largest Ethiopian university labs, producing a significant volume of internationally respected research and results.
65. THAT in 1983, while Ethiopia was under Derg military dictatorship, thousands of educated people were tortured, jailed and murdered as they were viewed as threats. My father was one of the people who were tortured and jailed as an educated man. He was later exonerated and released in 1985. He hardly spoke about his ordeal in prison saying that he hoped to protect us by not sharing his experience of hate with us.
(Annexed to this Affidavit and marked AM 14 is a copy of my father's release documentation from prison indicating a full exoneration).
66. THAT as well as being an accomplished and respected academic, he was also a pillar of the community. He was a mentor to younger generations.
67. THAT most of all he was the most incredible father and committed family man. He was a devoted husband to our mother. When my siblings and I tried to talk our way out of trouble, he would listen quietly then calmly explain the flaws in our arguments.
68. THAT his loss has left an indescribable chasm in my life and all those within our family. I feel it like a physical hole in my back. I miss him every single hour of every single day. Since his passing, we have made for him a public online memorial on the platform known as Keeper. There we have shared more intricate details of his life. People who knew him have posted comments on how influential he was to them individually and to Ethiopia in general.

(Annexed to this Affidavit and marked AM 15 is a copy of the profile we created for him on Keeper).

69. THAT my father, Professor Meareg Amare Abrha was brutally murdered in November 2021 because the Respondent allowed hateful and inciting content to be published on its platform and refused to take it down when asked to do so. This content, which slandered and doxed my father, put his life at immediate risk. Despite my repeated complaints using the Respondent's reporting tool, the Respondent left these posts up on Facebook until it was far too late.
70. THAT the Respondent is responsible for my father's murder and for numerous other murders and harms experienced in my community.
71. THAT my father did not use Facebook – he viewed social media as a waste of time. He did not see, first-hand, the dangers being created online.
72. THAT he reasoned that he was not politically active and being a respected professor at a university, he would not be targeted by any online vitriol. None of us anticipated that the online environment created by the Respondent meant that any Tigrayan – and particularly one serving in a prestigious post in a major Amharic-region university – might have the Facebook mob turn on him at any point.
73. THAT as the environment both on Facebook and offline got more poisonous, ethnic Tigrayan staff at Bahir Dar University started to be targeted. On Friday, 20 August 2021, armed police came to our house and asked for my father. As it happened, he had left to care for family members in Addis who had tested positive for Covid. It was then, during his travel, that disaster struck.
74. THAT on 9th October 2021, the Facebook page 'BDU Staff', which has 35,000 'likes' and 50,000 'followers' on Facebook, posted a picture of my father. The accompanying caption stated–

"His name is Professor Meareg Amare Abreha. He is a Tigrayan. We will tell you about how he was hiding at Bahir Dar University and carried out abuses and went to America while moving his family to Addis. For we did not know this, consider us dead, not alive. AZ"

(Annexed to this Affidavit and marked AM 16 is a copy of the post posted by BDU Staff on 9th October 2021).

75. THAT the post was quickly engaged with. As at 2nd December 2022 it has 11 'shares', 135 'likes' and 40 comments.

76. **THAT** the comments below the post insulted and called for violence against my father. For example—
- a. *"What are you waiting for? You sleepy! How embarrassing you are! Why haven't you sucked his blood?"*
 - b. *"You sit idly by and talk while eating khat. If you are a true man, get organized and clean them. Do not forget that blabbering on Facebook only awakens them."*
 - c. *"We have to find out the Junta's accomplice who helped him escape. What assurance do we have that his collaborators at the chemistry department are not still paying his salary after helping him escape?"*
 - d. *"You still have a lot of snakes under your arms. They say a snake bites a fool twice, once before seeing it, and once when they show others how they were bitten BD [Bahir Dar] is the second Mekelle."*
 - e. *"How many Juntas there are at BDU."*
 - f. *"Amharas, beware of the Woyanes"*
 - g. *"You found him only after he sold you out."*
 - h. *"Nobody knew until now? We should have detained all the staff".*

(Annexed to this Affidavit and marked AM 17 is a copy of the comments shared under post published on 9th October 2021).

77. **THAT** on reading the said post and the comments underneath I was terrified. Despite the horror of the posts and comments being untrue and baseless, I was afraid of the posts culminating in harm against my father given the political climate in Ethiopia at the time.

78. **THAT** I reported the Facebook post to the Respondent using the Facebook report feature. I reported the post multiple times as the Respondent was not taking action quick enough.

(Annexed to this Affidavit and marked AM 18 is evidence that I reported the post).

79. **THAT** I received no response or feedback from the Respondent until 11th November 2021, over a week after my father's murder.

80. **THAT** the Respondent's response was that the post violated Community Standards and would be deleted.

81. Despite this, as of 8 December 2022 (as visible at AM 16) the post is still online.
(Annexed to this Affidavit and marked AM 19 is the Respondent's answer to me that the impugned post did violate their Community Standards).

Murder of Professor Meareg Amare

82. THAT my father was in Addis Ababa on 9th October 2021 the day the post by BDU Staff was published. I told him about the Facebook posts and comments.
83. THAT the next day (10th October 2021) another post appeared on the same Facebook Page. This one was even worse. It published my father's photo and slandered him further. It piled on the abuse and incitement with additional false detail. Worse still, it doxed him by setting out the precise neighbourhood of Bahir Dar in which he lived.
84. THAT this post claimed to set out "*the secret story of him [my father] doing bad to the people of Amhara*". Naming my father, and again sharing his photograph, this post included further, life-threatening lies, like—
- a. The professor who excavated a trench for Woyane;
 - b. That my father had hid in Bahir Dar university in the name of an intellectual while practically supporting Woyane and helping massacre people;
 - c. That my father had accumulated many properties through participating in different unethical deeds;
 - d. That my father owned heavy vehicles and gave his heavy machinery called an excavator to the Woyane to dig trenches before the terrorist TPLF's invasion of various parts of Amhara;
 - e. That my father had embezzled and stolen huge sums of money, including how he "had a contract signed with METEC and received 50,000,000 [Fifty Million Birr] only to fill the room with useless and trashy objects that are not even worth more than 10 million, made a shelf for chemicals and stole the rest of the money;
 - f. That with this money my father built a house in Kebele 13. (This was particularly harmful as it pinpointed would-be attackers to the precise small neighbourhood in which my father lived);

- g. That my father showed ethnic preference in his working life, and gave big instruments in the laboratory to the Tigrayan-born and left idle other intellectuals born from other [ethnicities];
- h. That my father was in America] and was attacking Ethiopia on social media.
(He was in Addis Ababa caring for relatives- not in the US).

(Annexed to this Affidavit and marked AM 20 is a copy of the post published by BDU Staff on 10th October 2021).

- 85. THAT Facebook users were urged to "wake up" and "give attention to all directions" and "remember those Amharas who were found to have been Woyane informants".
- 86. THAT this second post was 'liked' over 40 times and shared by many.
- 87. THAT these posts were a death sentence for my father.
- 88. THAT every claim in them was untrue yet their publication put my father's life in immediate and substantial danger.
- 89. THAT these posts and comments were not just words. These words, published on Facebook at this time in Ethiopia, were a call for violence.
- 90. THAT on seeing the post, I reported it to the Respondent using the Facebook report feature. As with the 9th October 2021 post, I reported the post repeatedly in a desperate attempt to get the Respondent to respond and protect my family. I never received any timely response to my reports.

(Annexed to this Affidavit and marked AM 21 is evidence that I reported the BDU Staff post from the 10th October 2021 and the Respondent's failure to respond).

- 91. THAT the Respondent's response was horrifically and woefully inadequate.
- 92. THAT eventually, the 10th October 2021 post was taken down – but by then it was far too late. The content had been acted upon and my father had been brutally murdered.
- 93. THAT later on I reported the entire BDU Staff page as a general purveyor of sectarian sentiment and hate to Facebook. After all, their doxing had killed my father. This report, too, was rejected.

(Annexed to this Affidavit and marked AM 22 is evidence that I reported the BDU Staff Page to the Respondent and no action was taken).

(Annexed to this Affidavit and marked AM 23 is evidence that the BDU Staff Facebook page is still live as at 2nd December 2022).

94. **THAT** my father returned to Bahir Dar shortly thereafter. On 10th October 2021, he went to Bahir Dar Special Zone Police and Security Office to enquire whether he was in any way wanted by law enforcement on criminal suspicion. They assured him that he was not wanted in any way, and sent him home.
95. **THAT** on 11th October 2021 he went to Amhara Regional State Police Commission to inquire the same and similarly they assured him that law enforcement officers were not looking into him for criminal activity.
96. **THAT** my father was a brave man, and he refused to hide because of a couple of hateful Facebook posts. He strongly believed his years of commitment to the community, as a teacher and scientist, meant he had earned widespread respect, and that he would be safe. I bitterly regret that he was wrong.
97. **THAT** the Respondent's approach to content moderation painted a target on my father's back. Their failure to invest in proper content moderation, and in safety software design, ensured the posts which targeted him were not immediately removed. Indeed, my experience of Facebook suggests that hateful posts tend to be promoted by its algorithm recommending such posts to as many people as possible for maximum interaction. This, as I have said, means more ad revenue to the Respondents.
98. **THAT** on 3rd November 2021, my father was followed home from the university by a group of men on motor bikes.
99. **THAT** just as my father was parking his car outside the family home and trying to enter the house's gate, he was attacked.
100. **THAT** a group of men wearing Amhara Special Forces uniforms approached him. The lead perpetrator had covered his face with a traditional cloth which we call *shirit*. They fired their guns into the sky, and then at the fence and gate of the family home.
101. **THAT** my father was shot twice at short range, in the right shoulder and the right leg.
102. **THAT** some of the assailants later took his car and drove it away. The others remained with him.
103. **THAT** those who remained stood around my father who was bleeding on the ground. They chanted the same words that had been circulating on Facebook about him; 'Junta'.

104. THAT the men told those who had witnessed the shooting not to help my dying father. If they did, they would be killed too.
105. THAT the nearest hospital was less than 300 meters away from where my father lay.
106. THAT he died, lying on that ground, seven hours later.
107. THAT every day I am haunted by the excruciating pain and suffering he must have felt during those hours.
108. THAT my mother, who had been at church, heard the gunshots. Unfortunately, gunshots were not uncommon in the city at the time.
109. THAT she received a call telling her she needed to go to the police station, from where she was escorted home.
110. THAT on arriving at home, she saw my father lying on the ground. His killers were still standing around his body. He had not been moved.
111. THAT at first my mother thought he had passed out or been injured; she rushed to him and tried to wake him, kissing him. Her dress became drenched in his blood.
112. THAT when she realised he was dead, she begged the men to shoot her too, so she could die with my father.
113. THAT calling her a 'junta' also, they told her to keep crying, that she wasn't worth a bullet and refused to shoot her also.
114. THAT eventually she was taken back to the police station.
115. THAT my father's body was taken to the hospital, and he was later buried in an unmarked grave. He was given no last rites and no funeral.
116. THAT from November – February 2022, two Fano fanatics occupied our family home. Then in February 2022, the house was seized and occupied by the Amhara Special Forces.
117. THAT in November 2022, shortly after the crime, my mother fled to Addis. She has never been able to return. She now lives in insecure rental accommodation.
118. THAT no one in the family can return to our home.
119. THAT to this day, my mother screams in her sleep every night.
120. THAT the Ethiopian Human Rights Commission (EHRC), an independent government body whose mandate is to promote human rights in Ethiopia helped us in fact-finding on how our father was murdered. They prepared a report detailing his death.

121. THAT the EHRC report confirmed that our father was murdered on 3rd November 2021 by "unknown armed assailants". They shared with us a photograph of his unmarked grave where he was buried without even a coffin. We were comforted a little as the report appeared to locate the unmarked grave of our father, and from where we hope one day to reclaim his body for a proper Christian burial.

(Annexed to this Affidavit and marked AM 24 is a copy of the EHRC's investigative report into our father's murder and enclosing a photograph of his unmarked grave.)

(Annexed to this Affidavit and marked AM 25 is a copy of my father's death certificate.)

Role of Facebook in my Father's Murder

122. THAT my father was killed because posts published on Facebook identified him, accused him falsely, leaked the address of where he lives and called for his death.
123. THAT my father, a person who was not involved in politics of any kind became the victim of a greedy multibillion company that has refused to invest in bare minimums such as content moderation while profiting off harmful content shared on its site.
124. THAT had the Respondent invested in content moderation, the moment I reported the posts published on BDU Staff on 9th October 2021 and 10th October 2021, they should have been taken down immediately.
125. THAT further had the Respondent designed its platform better, such content would never have seen the light of day in the first place as it is extreme speech that is banned in all democratic countries.
126. THAT instead, the Respondent has designed its platform in such a way that it benefits from such content going viral. Further, since Kenya and Ethiopia are considered 'Rest of World' countries, the Respondent is not interested in tweaking its algorithm to protect vulnerable communities like mine even in times of war.
127. THAT I am aware that the Respondent's content moderation centre in Nairobi there are only a mere 25 personnel who moderate content posted in Amharic, Tigrinya and Oromo. This number is insulting considering there are some 85 languages spoken in Ethiopia. Which means there are no personnel whatsoever to moderate the remaining 82 languages. The 25 moderators are also overburdened with translating all Amharic, Tigrinya and Oromo content. It is

little wonder my report was not dealt with until over a month later, and that one of the two slanderous posts is still online.

128. THAT considering the Respondent earned a revenue of \$117.929B in 2021, such neglect is not only flippant but also characteristic of discrimination based on ethnicity and place of origin. Communities in the United States and Canada are not subjected to such dehumanizing treatment.

E. HATEFUL, INCITEFUL AND DANGEROUS CONTENT ON FACEBOOK SHARED AROUND THE TIME OF PROFESOR MEAREG'S MURDER

129. THAT horrifically, my father's case is not an isolated one. Around the time of the posts and his death, Facebook was saturated with hateful, inciteful and dangerous posts.
130. THAT many other tragedies like ours have taken place.
131. THAT on 2nd November 2021, a state of emergency in Ethiopia was announced by Prime Minister Abiy on Facebook.
132. THAT posts spreading hatred and calling for violence against Tigrayans went viral. I set out below a mere handful that I accessed through my Facebook account to give this Honourable court some examples to consider.
133. THAT a post from an account by the name Gashaw Mersha posted on 30th October 2021, stated—

"From now on our stick will rest on the informant as much as it is on the invader...! No need to beg. It will be implemented from tomorrow onwards...!"

This post was shared almost 1,000 times, received 7,800 'likes' and gathered 650 comments. This post constitutes incitement to violence against those who had been labelled 'informants' such as my father was. As at 2nd December 2022, the post remains on Facebook.

(Annexed to this Affidavit and marked AM 26 is a copy of the post published by Gashaw Mersha).

134. THAT another post published on 30th Oct 2021 by Yalelet Wondye specifically mentions Tigrayans in Bahir Dar, where our family lived. It says that in the regional capital, Bahir Dar, there are over 46,000 families and relatives of the Tigrayan 'terrorists'. It calls these innocent families 'spotters' or spies, and says even if it tastes bitter, to be aware of this fact, and that a "community that does not listen to counsel or learn from suffering will be destroyed!!" Because this is an influential poster of over 60,000 Facebook followers, this post was also viral, generating over 1,300 'engagements'. As of 8th December 2022, it is still

possible to access this post inciting collective punishment of Tigrayans in Bahir Dar.

(Annexed to this Affidavit and marked AM 27 is a copy of the post published by Yalelet Wondye).

135. THAT a post on 31st October 2021 from an account called 'Leaked News አፈትላኪ ዜናዎች', with a following of 364,925 depicted two Tigrayans, an older woman and a younger man, alleging conspiring in a 'terrorist' plan. The accompanying text read: "Terrorists caught red handed! Do not trust people, it is a bad time! Amhara, don't be a fool. Be twice as cruel as they are towards us." This post remains online as at 2nd December 2022.

(Annexed to this Affidavit and marked AM 28 is a copy of the post published by Leaked News አፈትላኪ ዜናዎች).

136. THAT a mere two days before my father's murder, the account 'ኢሳት ምን አለ', which translates to 'ESAT What's New' – from the ESAT (Ethiopian Satellite Television) which has 28,000 'likes' and 29,000 'followers' - posted the following: "Why do we tolerate the renegade Tigrayans among us while we are dying? Raise your machete, axe, or gun and ignite the campaign against renegade Tigrayans in the respective areas. Ignite the massacre to a point no Tigrayan survives." This call for massacre remains online as at 8th December 2022.

(Annexed to this Affidavit and marked AM 29 is a copy of the post published by 'ኢሳት ምን አለ', ESTA What's New).

137. THAT the day before my father's murder, on 2nd November 2021, the account of 'ጥርሶ ጎበዜ' ('Too good') told Facebook users "Do not capture Junta, do not shelter a snake under your arms and feed it! Remove them!!!. This post remains online as at 8th December 2022.

(Annexed to this Affidavit and marked AM 30 is a copy of the post published by 'ጥርሶ ጎበዜ' ('Too good').

138. THAT these examples demonstrate that Facebook today is lethal by design. Its profit-driven algorithm and weak moderation allow the spread of extreme content that constitutes propaganda for war, incitement to violence, hate speech, advocacy of hatred that constitutes ethnic incitement, advocacy of hatred that constitutes vilification of others, advocacy of hatred that constitutes incitement to cause harm and advocacy of hatred based on discrimination.

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