

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
CONSTITUTIONAL PETITION NO. ~~F541~~/ 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, 46, 47, 48, 50, 159, 165, 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 6, 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, 15, 17, 18, 19, 21, 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 MEAREG.....1ST PETITIONER
2. FISSEHA TEKLE.....2ND PETITIONER
3. 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

2ND PETITIONER'S SUPPORTING AFFIDAVIT TO THE PETITION

I, FISSEHA TEKLE of P.O. Box 1527 – 00606 NAIROBI, Kenya 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 currently residing and working in Kenya.

(Annexed to this Affidavit and marked FT01 are copies of my passport and national identity card).

3. THAT I make this statement in support of the Petition.
4. THAT I have brought this Petition on my own behalf, on behalf of class described in paragraph 6 of the Petition, and in the public interest.

5. **THAT** I am a Legal Advisor at Amnesty International. I was a Regional Human Rights Researcher at Amnesty International covering Ethiopia and Eritrea for seven years prior to my current position.
6. **THAT** for years, I have investigated and reported on human rights abuses. In recent years, my focus has been Ethiopia.
7. **THAT** the Respondent amplifies viral hate and incitements to violence in Ethiopia.
8. **THAT** I have witnessed the Respondent fail to properly moderate content on Facebook, and particularly so in Africa. This has not only affected me personally, but numerous other people.
9. **THAT** the Respondent chooses not to invest in African content moderation, with disastrous and devastating consequences for countries like mine.
10. **THAT** this discriminatory approach is deliberate.
11. **THAT** in some parts of Ethiopia, Facebook has fanned the flames of conflict. Its software design and the Respondent's refusal to invest in human content moderators stokes the fires of ethnic tensions.

Background

12. **THAT** I am Ethiopian having grown up and lived in Addis Ababa until 2015. I was born in the city, attended school and university there.
13. **THAT** although it is no longer safe for me to return, Ethiopia is, and always will be, my home.
14. **THAT** I miss Ethiopia and my family in Ethiopia terribly.
15. **THAT** I file this petition not only on my behalf and on behalf of the class defined in paragraph 6 of the Petition, but also in the public interest, to fight for all those who have suffered irreparable harm because of the Respondent's business model and the communities that have been destroyed in the process. The class I represent is defined in detail in paragraph 6 of the Petition.

16. **THAT** I have filed this suit in Kenya as it is where I live, the events described in this affidavit took place in Kenya, and moderation of Facebook content, posted by users in most Sub-Saharan countries, takes place in Nairobi.
17. In addition, content posted by users anywhere in the world, in the following languages, is moderated by the Respondent in Nairobi–
- a. English as spoken in South Saharan countries;
 - b. Swahili
 - c. Amharic
 - d. Tigrinya
 - e. Afan Oromo
 - f. Zulu
 - g. Tswana
 - h. Afrikaans
 - i. Somali
 - j. Hausa

18. **THAT** the cause of action for this Petition therefore arose in Kenya within the jurisdiction of this Honourable Court.

Education and Expertise

19. **THAT** I have always worked to achieve justice and to help victims of human rights violations.

20. **THAT** prior to joining Amnesty International, my academic studies and professional career spanned law, international human rights and international justice.

21. **THAT** my first job was assistant judge.

22. **THAT** in 2003, I moved into academia. I worked as an Assistant Lecturer at Hawassa University for three years.

23. **THAT** in 2006, I moved to civil society. I joined the Action Professionals' Association for the People (APAP), a not-for-profit, non-partisan and indigenous non-governmental organisation. I was employed as their Project Officer. I was involved in human rights education, research and legal aid activities.

24. **THAT** in 2004, I set up the Organization for Social Development. The OSD works for social justice in Ethiopia, in particular on corporate social responsibility.

25. **THAT** from August 2012, I worked as a freelance consultant. I conducted research, devised strategies, and planned and conducted assessments for civil society organisations, including Oxfam and the Ministry of Justice.

26. **THAT** in 2015, I was appointed as a Human Rights Researcher at Amnesty International. I moved to Nairobi to take up this role on a full-time basis.

(Annexed to this Affidavit and marked FT02 is a copy of my curriculum vitae).

My Role at Amnesty International

27. **THAT** Amnesty International (the 1st Interested Party) is a non-governmental organization which fights human rights abuse worldwide. It is completely independent

of all governments and corporations. It is equally independent from all political ideologies, economic interests, and religions. No state is beyond Amnesty International's human rights scrutiny.

28. **THAT** through detailed research and campaigning, the 1st Interested Party works to bring justice and redress for victims and survivors of human rights abuses, including victims of unlawful killings, torture, unlawful detention
29. **THAT** the geographical scope of my role at Amnesty International is the Horn of Africa. However, due to the abundance of work needed on Ethiopia, most of my work has concerned my home country.
30. **THAT** although the responsibilities and tasks involved in my job are varied, the overriding aim is the independent documenting and reporting of human rights violations.
31. **THAT** practically, this involves the collection of testimonies from victims, drafting internal and public reports, and explaining my findings to the public as well as regional, national and any other bodies who have the power to prevent human rights abuses.
32. **THAT** due to the human rights reports I have produced on Ethiopia, I have become the face of Amnesty International's work on Ethiopia.

My Use of Facebook & the Threats, Harassment and Harms Suffered

33. **THAT** I created a Facebook account in 2007 by the name Fisseha M Tekle (ፍሰሃ ጥክሌ).
(Annexed to this Affidavit and marked FT03 is a copy of my Facebook profile).
34. **THAT** due to my work for human rights, I have been the target of online vitriol posted by various Facebook users. I will detail some of these posts in this affidavit.
35. **THAT** on 30th May 2020, a post by an account with the username Miky Amhara - with over 125,000 followers - falsely claimed I am Tigrayan, I am "Adwa-born" and "accustomed to sucking Amhara blood".
36. **THAT** the post went on to allege that to me "the death of the Amhara is not a matter of humanitarian affair, instead it is a medicine to heal [my] inferiority". Although I

cannot tell how many thousands of people viewed this post or read it, it was engaged with over 3,200 times.

- i. It attracted over 2,300 'likes', 222 comments and 549 shares.
- ii. An example of one of the comments made: "[I] will certainly make Amnesty International a factory of lies and trickery in Ethiopia because [I am] from Adwa".

(Annexed to this Affidavit and marked FT04 is the profile of the Facebook user Miky Amhara and FT05 is a copy of the post published by Miky Amhara on 30th May 2020; and a certified translation of the same to English).

37. THAT on 27 February 2021, an account with the username Muktarovich Ousmanova - with over 220,000 followers - posted a picture of me alongside the insult: "Jib Agech". This word means hyena jaw and is a cultural slur depicting the ugliest kind of human.

- i. This post received over 2,100 engagements, 1,500 of which were 'likes', 196 comments and 146 shares.
- ii. Comments on the post called me a "junta", a "woyane", - used to identify me as Tigrayan / a member of the TPLF - "the highest leadership of the Junta", the "son of a prostitute", "a descendent of beggars and renegades", "Ethiopia's enemy", with "Judas ancestry", a "child of satan" who is "fed from" the "Junta's pot".
- iii. These posts are a threat to my life. As the 1st Petitioner's tragic experience evidence, posts such as these were regularly acted upon, with deadly consequences.
- iv. Some comments were more direct in their threats, for example: "[m]ay your life be short" and I "will vanish like a thin air soon!!"

(Annexed to this Affidavit and marked FT06 is the profile of the Facebook user Muktarovich Ousmanova and FT07 is a copy of the post published by

Muktarovich Ousmanova on 27th February 2021, the comments below it and a certified translation of the same to English).

38. **THAT** there are several other posts of this nature targeting me. Generally, these posts falsely allege–

- a. I am a Tigrayan from Adwa hired by the Interested Party;
- b. My wife and I were born in Adwa;
- c. I suck Amhara blood;
- d. I compromised the 'Beyond Law Enforcement' report and I cannot accurately investigate abuses and injustices against Amharans;
- e. I look like a hyena, a rat and a crocodile;
- f. I was sent abroad by the Tigray's People Liberation Front (TPLF) to work undercover at the 1st Interested Party, as a spy;
- g. I am Sebhat Nega's son-in-law (TPLF founder and long-serving politician) and an ardent member of TPLF;
- h. The reports published by the 1st Interested Party were paid for by TPLF;
- i. The reports published by the 1st Interested Party are biased and are a work of fiction by myself;
- j. I am a baby junta;
- k. I am not impartial in my reporting of human rights violations;
- l. I am destroying the credibility of the 1st Interested Party;
- m. I am tarnishing Ethiopia's image;
- n. The Ethiopian government should take action against me;
- o. I am TPLF's servant; and
- p. Ethiopians should fight against me.

(Annexed to this Affidavit and marked FT08 – 78 are copies of hateful posts targeted towards me published by various accounts and certified translations to English)

39. **THAT** these comments and posts are not mere words; they are inciting. Calling any Ethiopian a member of the TPLF is a call for violence. These posts make me a target for physical attack.
40. **THAT** I am not naïve to the fact I will receive criticism for the work I do as a researcher for the 1st Interested Party. However, these comments and posts, in the political climate of Ethiopia are not that. These comments and posts are a serious threat to my life and the lives of my family members.
41. **THAT** being accused of being a TPLF spy or sympathiser puts me and my family at real risk of violence and attack. These posts on Facebook have meant it is not safe for me to return to Ethiopia.
42. **THAT** for some time, members of my immediate family were also not able to return to Ethiopia.
43. **THAT** the Facebook algorithm brings toxic content into my feed.
44. **THAT** I made whatever available changes I could to try and protect myself from content posted on Facebook, for example, I switched off tagging which meant I could not be tagged in posts. I also avoid posting personal information on my page only using it for my work.
45. **THAT** however, these measures are insufficient. It reduces the amount of content I see but it does not prevent the inciting posts and comments being spread widely on Facebook's platform about me.
46. **THAT** since the posts remain online, people who have access to me can send me vile content directly.
47. **THAT** my friends and family keep me informed about some of the content which targets me, when it comes up on their Facebook Feeds.

48. **THAT** the social media vitriol against me has made its way to the offline world.
49. **THAT** For example, my family members in Addis have told me about multiple conversations in which people, having read posts like those above on Facebook, claim I am a TPLF agent.
50. **THAT** similarly, my family members have received multiple calls from friends who have repeated the allegations I am a TPLF supporter and/or married to the daughter of a high-ranking TPLF official.
51. **THAT** being an Ethiopian I do not take such things lightly. There have been too many examples of online vitriol motivating violence offline, as is tragically best explained by the 1st Petitioner in his supporting affidavit to this Petition.

The Role of Facebook in Ethiopia

52. **THAT** Facebook plays a determinative role in Ethiopian society. Content on Facebook forms and impacts the public square and public opinion in the country.

(Annexed to this Affidavit and marked FT79 is a copy of the Datareportal Data Report Study 'Digital 2022: Ethiopia' as evidence of this)

53. **THAT** for many Ethiopians, Facebook is synonymous with the internet. It is their news outlet.
54. **THAT** it has been evident to me from the outset of the war, that Facebook is playing a crucial role in the violence taking place in Ethiopia.
55. **THAT** a report conducted by the Bureau of Investigative Journalism (TBIJ) and the Observer titled "Facebook 'lets vigilantes in Ethiopia incite ethnic killing'", authored by Jasper Jackson, Lucy Kassa and Mark Townsend, shows the Respondent allow users to post content inciting violence, despite being aware such content directly fuels divisions, hatred and violence.

(Annexed to this Affidavit and marked FT80 is a copy of the report titled Facebook 'lets vigilantes in Ethiopia incite ethnic killing')

56. **THAT** the platform is awash with posts and videos depicting and encouraging violence. Vast swathes of extremely harmful content are published every minute of every day with communities being torn apart as a result.
57. **THAT** the content appearing on a person's Facebook newsfeed is not random. Facebook is a heavily curated space which is dictated, in the main, by Meta's algorithms.
58. **THAT** these algorithms, in conjunction with human content moderators, dictate which posts, images and videos are amplified, which are published, and which are not.
59. **THAT** Facebook's algorithm suggests pages and individuals a user might want to connect with or follow.
60. **THAT** it also presents users with advertisements on their newsfeed, many of which in Ethiopia are of a political nature. Some of these advertisements contain hateful, inciteful and dangerous content.
61. **THAT** I set out below two examples and annex several more which are clearly inciting violence.
62. **THAT** on 31st August 2021, Facebook published and promoted an advertisement from Misbah Kedir which read as follows: *"Worthless thieves! TPLF/ Woyane, we don't care whatever you want to call yourselves. But you are thieves. You call yourselves freedom fighters? Anti-Ethiopians, [you are] known for your cruel deeds, cowards, who rob the properties of the poor including flour and dough – you are thieves! We cannot wait to see your end!"*
63. **THAT** on 14th December 2021, Facebook published and promoted an advertisement from the same advertiser which read as follows: *"We will not exult excessively when victory comes, nor will we panic if victory eludes us, we will not rest until we bury Woyane!"*

(Annexed to this Affidavit and marked FT81 and FT82 are copies of these adverts)

64. **THAT** the Facebook Feed (previously News Feed) is a feature that was introduced in 2006. It is a personalized highlight for each user on what people in their circle have recently done. Posts by pages and users they follow or with which they have mutual connections are brought to the Feed which refreshes itself regularly. Ads from third parties and boosted posts by other Facebook users are also displayed on the Feed.

(Annexed to this Affidavit and marked FT83 is a copy of a blog post by Ruchi Sanghvi who was the product manager for the Feed at the time published on the Facebook blog on 5th September 2006 announcing the introduction of the Feed)

65. **THAT** a key metric which influences algorithms on Facebook is what Meta refers to as the 'Meaningful Social Interactions' metric, or MSI. This metric prioritises content that has gained large numbers of interactions – comments, likes, shares and so on.

66. **THAT** On 12 January 2018, the founder and CEO of the Respondent, Mark Zuckerberg through a Facebook post issued an announcement that the Respondent was going to change the focus of the Facebook algorithm to promote more 'meaningful social interactions'.

(Annexed to this Affidavit and marked FT84 is a copy of the announcement by Mark Zuckerberg published on Facebook on 12th January 2018 as accessed on 15th November 2022.)

67. **THAT** on the same date, Adam Mosseri, the Head of News Feed at Facebook at the time stated the new approach to the Facebook algorithm would:

- a. Prioritise posts that spark conversations;
- b. Predict posts a person may want to interact with and show those posts higher in the Feed;
- c. Prioritise posts that inspire back-and-forth discussion in the comments. Posts that generate conversation between people would be shown higher in the Feed;
- d. Prioritise posts that people want to share or react to;

e. News starting conversations on important issues would also be prioritized.

(Annexed to this Affidavit and marked FT85 is a copy of the announcement by Adam Mosseri published on the Facebook Business website on 12th January 2018 as accessed on 15th November 2022)

68. **THAT** content that is heavily interacted with is crucial to Meta's ability to attract advertisements to Facebook. This is the Respondent's business model.

69. **THAT** in their annual report to the United States Securities Exchange Commission (Form 10-K) - year end 31 December 2021 - the Respondent declared they had generated majority of their revenue from selling advertisements.

(Annexed to this Affidavit and marked FT86 is a copy of Respondent's Form 10-K)

70. **THAT** increased engagements on the Facebook platform directly increases the Respondent's income. The Respondent relies on advertising revenue.

71. **THAT** undoubtedly therefore MSI is essential to the Respondent's profits.

72. **THAT** this is extremely dangerous. The same algorithm which will amplify a heavily engaged with post announcing an engagement, or a new baby, will similarly amplify a heavily engaged with post that incites violence, promotes ethnic tension, or depicts horrific acts of war. Examples of such posts are rife on Facebook.

73. **THAT** in contrast, voices advocating for peace are deprioritized.

74. **THAT** because MSI is crucial to its revenue, the Respondent considers the impact on MSI when considering mechanisms to make their platform safer, even choosing not to take such measures if the 'trade-off' is lower MSI.

75. **THAT** while some accurate information is no doubt published on the Facebook platform and some non-violent political discussions take place, the platform in Ethiopia has become a conduit for the spread and amplification of violence.

76. **THAT** this unfortunate reality is due to a series of decisions made by the Respondent not to prioritize content moderation with regards to countries like Ethiopia, Kenya and others whose content is moderated in Nairobi.

77. **THAT** being a publicly owned and publicly traded company, the Respondent is regulated by the U.S. Securities and Exchange Commission (SEC) whose goal is to protect investors.
78. **THAT** as part of its enforcement efforts, the SEC has created the Office of the Whistleblower to receive assistance and information from whistleblowers about possible security law violations.
79. **THAT** as the SEC is a public office, reports by whistleblowers are public information.
80. **THAT** in 2021, an anonymous whistleblower disclosure was made to the SEC in 2021 titled 'Facebook misled investors and the public about the negative consequences of its algorithms, which claim to prioritize meaningful social interactions or 'MSI' (e.g. reshares of friends' posts) but which actually promote virality of polarizing misinformation and hate speech'.
81. **THAT** this whistleblower later identified herself as Frances Haugen, a data engineer, data scientist and former lead product manager in the Civil Integrity Department at Facebook, and later in the Counter Espionage Facebook Team from 10th June 2019 to 19th May 2021. Her attorneys filed eight complaints with the SEC's Office of the Whistleblower.
82. **THAT** this disclosure was widely reported on by journalists all over the world. One such example is a publication titled 'Facebook Whistleblower Frances Haugen Releases her 8 Damning Reports to the SEC' made by Tom McKay on 5th October 2021 on GIZMODO.

(Annexed to this Affidavit and marked FT 87-FT 95 is a copy of the article by Tom McKay and the SEC letters)

83. **THAT** the SEC letters highlight a broad range of documents gathered by Frances Haugen which expose various concerning facts and severe failings by the Respondent including–

- a. The Respondent had clear knowledge of its failings to counter hate speech, violence and incitement on its Facebook Platform.
- b. The Respondent was aware that its mitigation strategies to prevent coordinated social harm in countries across the world was “not enough”.
- c. The Respondent had clear knowledge of which countries were most ‘At Risk’ for harmful content across the world, with Ethiopia ranking in ‘Tier 1’ of this prioritization, but that such a ranking did not lead to measures being implemented to increase safety in these most at risk countries.
- d. The Respondent could identify harmful ‘bad actors’ and harmful networks of users. They had identified specific examples in Ethiopia, such as the internally named ‘Rising Lucy’ and ‘Queero’ networks.
- e. The Respondent had detailed and extensive knowledge of the factors leading to harmful and dangerous content on its platform, including knowledge that it did not have language coverage of its classifiers to detect harmful content in many countries across the world, including Ethiopia, where it was documented that there was virtually no coverage of local languages.
- f. That Facebook’s classifiers in their algorithm to detect hate speech were not functional in languages spoken in At Risk Countries, for example, Myanmar.
- g. That the Respondent did not have an adequate third-party fact-checking system. In many countries the Respondent had no third-party fact checking partners.
- h. The Respondent had a vast array of mechanisms within their portfolio, supported by detailed data and internal experiments to show effectiveness, to reduce harmful content on its Facebook platform.
- i. That the available mechanisms for making the Facebook platform safer went far beyond the ‘false choice’ of either removing content or leaving it on the

platform. The Respondent had the ability to make a huge number of different changes to its algorithm which would reduce harmful content.

- j. That such mechanisms were used effectively in countries such as the United States.
- k. The Respondent had the ability to identify which of its users were most at risk of harmful content on its Facebook platform.
- l. The Respondent knew that there were safety risks associated with its commercially driven 'MSI' metric. For example, the Respondent knew that MSI led news publishers and political actors to post more divisive and sensationalist content in order to get visibility and that that outrage, and misinformation were more likely to be viral.
- m. The Respondent was aware of what changes needed to be made to MSI to deprioritize harmful content and had the technological capability to do so.
- n. The Respondent had evidence that making changes to reduce 'virality' of content would lead to a significant reduction in harmful content.
- o. The Respondent had knowledge, and had conducted several experiments, which evidenced that its 'recommender' systems directed users to more extreme, more polarizing content.
- p. The Respondent was aware that its failure to curb high-risk misinformation on its platform stirs up ethnic tension.
- q. The Respondent knew that possible changes to its system would help in reducing misinformation and hate.
- r. The Respondent knew that online messages can lead to offline violence.
- s. That there were consistent, urgent calls from the Respondent's internal staff to make changes to make the Facebook platform safer, connecting the harms on Facebook to their core product mechanics, highlighting the power of decisions

made by the Respondent on global politics and political crises, and noting that such powerful decisions were often made without proper oversight.

- t. The Respondent's internal staff repeatedly recommended the creation of a 'firewall' to protect decisions about content from political influence and the pressures of senior staff at the Respondent.
- u. The Respondent's internal staff doubted whether senior management at the Respondent were conducting good-faith efforts to fix the problems caused by its Facebook platform.
- v. That the Respondent weighed the impact of implementing safety mechanisms against commercial metrics and priorities, such as MSI, which were referred to as the Respondents' 'true preferences'.
- w. That the Respondent had evidence and recommendations that MSI must be subject to constraints and guardrails.
- x. That when the Respondent had made changes which would impact on MSI for safety reasons, such changes were often only temporary.
- y. That there was a refusal by the Respondent to implement safety measures which would significantly impact MSI. Such refusal came on at least one occasion from the Respondent's CEO, Mark Zuckerberg.
- z. That, due to safety concerns, the Respondent deployed a system of 'hybrid-MSI' to India and Myanmar with noted positive response.
- aa. That the Respondent was hesitant to invest in 'crisis response'.
- bb. That many of the Respondent's safety mechanisms would need significant investment (due to a lack of language coverage) to make them applicable in countries such as Ethiopia.
- cc. That the process of making such safety mechanisms available required a vast number of 'labels' to be created by human staff who spoke the relevant local language.

- dd. That the Respondent recognised they did not have enough human content moderators from 'less-represented countries'.
- ee. That the Respondent knew that in some countries, removal of harmful content such as hate speech was done in over 99% of cases by human content moderators.
- ff. That despite the Respondent having evidence of the vital importance of human content reviewers, they were extremely concerned about the cost of them.
- gg. That the Respondent even considered reducing the already insufficient investment in crucial human content moderation due to cost concerns.
- hh. That the Respondent had knowledge of cost savings with human content moderators achieved by 'off-shoring' them outside the US.
- ii. The Respondent dedicated 87% of their misinformation budget to the US with only 13% going to Rest of World countries.
- jj. The Respondent does not invest fully in safety mechanisms around elections equally – it divides countries in to 'Election Tiers' and only provides the full suite of protections to the top Tier countries, which did not include Ethiopia or Kenya.
- kk. The Community Standards and the Facebook complaints mechanism are not available in every language despite Facebook being available in the countries where those languages are spoken.

84. **THAT** the Respondent's CEO confirmed in a Facebook post that indeed the documents referred to in the SEC disclosure are Facebook documents which means they are in the Respondent's possession.

(Annexed to this Affidavit and marked FT96 is a copy of the Facebook post by Mark Zuckerberg published on 6th October 2021).

85. **THAT** Frances Haugen testified in front of the US Congress. She gave a statement dated 4 October 2021.

(Annexed to this Affidavit and marked FT97 is a copy of France Haugen's statement to the US Senate Sub-Committee on Consumer Protection, Product Safety, and Data Security dated 4th October 2021 and available on the US Senate website at <https://www.commerce.senate.gov/services/files/FC8A558E-824E-4914-BEDB-3A7B1190BD49>)

86. **THAT** she also testified in the UK, and EU, Australian, the Netherlands, Irish, and Norwegian Parliaments, and the French Senate and National Assembly, and engaged with lawmakers internationally.

(Annexed to this Affidavit and marked FT98 is a copy of an announcement published on the UK Parliament website available at <https://committees.parliament.uk/committee/534/draft-online-safety-bill-joint-committee/news/157979/facebook-whistleblower-frances-haugen-to-give-evidence-to-uk-parliament/> dated 11th October 2021 titled 'Facebook whistleblower Frances Haugen to give evidence to UK Parliament' as evidence of her testifying in the UK Parliament)

87. **THAT** the Respondent is fully aware their platform is being used as a tool to incite violence and opt to do nothing about it even where there are known solutions that can be employed.

88. **THAT** in their Notice of Annual Meeting and Proxy Statement for a Shareholder Meeting, held on 26 May 2021, lodged with the SEC, the Respondent's shareholders:

- a. expressed concerns that Facebook was being co-opted for dissemination of disinformation and violent extremism which has led to many instances of human suffering and death;

- b. chastised the Management and the Board of the Respondent for failing to take effective action to stem abuse of the platform which was resulting in a series of negative impacts worldwide;
 - c. acknowledged that it is possible to alter Facebook algorithms to de-prioritize harmful content and had indeed done so in preparation for the 2020 U.S Presidential election;
 - d. expressed concerns the Respondent were intent on reversing the changes made to the algorithm, employed in preparation for the 2020 U.S. Presidential elections, even though successful; and
 - e. resolved the Respondent's Board ought to prepare a report to assess the benefits and drawbacks of maintaining the enhances actions put in place during the 2020 election cycle to reduce the platform's amplification of divisive content.
89. **THAT** the Respondent's Board opposed this proposal, terming it as unnecessary even though it acknowledged there was amplification of inciting, false, divisive, and hateful, content and that this amplification was harmful to the community. They determined a focus of taking down content rather than deprioritizing such content in the first place. *(Annexed to this Affidavit and marked FT 99 is a copy of the Respondent's Annual Meeting & Proxy Statement 2021).*
90. **THAT** Ethiopia is not the first country in which Facebook has played a catalytic role in violence, where online content has resulted in real incidences of violence.
91. **THAT** Myanmar is another example. The Human Rights Council established an independent fact-finding mission on Myanmar to look into the situation of Kachin, Rakhine and Shan States.
92. **THAT** the report found the following:
- a. Facebook was a useful instrument for those seeking to spread hate in a context where for most users, Facebook is the Internet.

- b. Facebook's response was slow and ineffective.
- c. The mission was inhibited in examining the extent to which Facebook posts and messages have led to real-world discrimination and violence because Facebook failed to provide country-specific data about the spread of hate speech on its platform. The mission could therefore not assess the adequacy of Facebook's response.

(Annexed to this Affidavit and marked FT 100 is a copy of the Human Rights Council Report of the independent international fact-finding mission on Myanmar).

- 93. **THAT** the Respondent chooses not to take steps to protect people in my situation in Kenya and in Ethiopia. They put their revenue above the lives of Ethiopians.
- 94. **THAT** this cannot be allowed to continue.

Moderation of content on the Facebook platform

- 95. **THAT** the Respondent has refused to hire desperately needed staff to moderate and manage the incitement of violence and hate speech on Facebook in Ethiopia.
- 96. **THAT** as of today, I understand Facebook currently employs 25 moderators to consider content about Ethiopia i.e. 25 people for a country of over 117 million, at least 10% of whom – according to Facebook itself – have an account on the platform.
- 97. **THAT** this is woefully inadequate.
- 98. **THAT** additionally, I understand these content moderators work in appalling, inhumane working conditions which are the subject to another legal challenge under the Kenyan Constitution.
- 99. **THAT** Billy Perrigo at Time Magazine investigated the situation and published his conclusion in an article titled 'Inside Facebook's African Sweatshop' where he details the deplorable conditions under which Facebook content moderators are forced to work. Specifically, he revealed–
 - a. Union busting
 - b. Facebook content moderators were lured to Kenya under false pretences.

- c. They are subjected to poor pay. He states Kenyan Facebook content moderators are among the lowest-paid workers for the platform anywhere in the world.
- d. There is a woeful lack of psychosocial support for this inherently dangerous work.
- e. As a result, moderators in Kenya suffer mental illnesses such as PTSD, anxiety and depression.
- f. These unfair working conditions mean moderators are being expected to make impossible decisions within a very small window of time.

(Annexed to this Affidavit and marked FT 101 is a copy of the Time Magazine article titled 'Inside Facebook's African Sweatshop').

- 100. **THAT** the horrible working conditions of Facebook content moderators in Kenya make it impossible for them to do their job to the standard required.
- 101. **THAT** the content moderators have brought a constitutional Petition, being ELRC Constitutional Petition No. E071 of 2022; Daniel Motaung v Sama, Meta & Another, detailing the treatment they received at the Respondent's behest and seeking remedies including a change of policy on how the Respondent carries out content moderation in Kenya.

(Annexed to this Affidavit and marked FT102 is a copy of the ELRC Constitutional Petition No. E071 of 2022 as filed).

- 102. **THAT** not only are the number of content moderators insultingly low and the working conditions horrendous, there is also a reckless lack of language coverage amongst the moderators.
- 103. **THAT** for instance, there are about 80 languages spoken in my country, yet the content moderators who are currently hired as Facebook content moderators in Kenya speak only three of those languages.

104. **THAT** most appallingly, until November 2021 a full year after the start of the conflict, there was not a single content moderator who spoke the local language at the centre of the war, Tigrinya. Moderators who did not speak the language, were expected to moderate inciteful, hateful and dangerous posts in Tigrinya and other local languages.
105. **THAT** the number of content moderators the Respondent chooses to employ is a business decision. So too is the decision about the pay provided, the benefits received, the psychological support (or lack of) provided and their working conditions in general.
106. **THAT** the Respondent consistently shows preferential treatment to users in the US and Canada as that is where they earn most of their revenue (see Form 10-K). This is despite the US and Canada comprising only 10% of Daily Active Users of Facebook.
107. **THAT** there is little investment in Rest of World countries (See Form 10-K).
108. **THAT** in countries like Kenya and Ethiopia where multiple languages are spoken, the Respondent has failed not only to invest in content moderators who speak the local languages but also in teaching the algorithm to flag content in local dialects.
109. **THAT** in addition, the 1st Respondent has not translated all parts of the platform, in particular the complaint system, to local languages.
110. **THAT** in Ethiopia, the Community Standards are available, and only in part, in three of our about 80 languages: Amharic, Tigrinya, Afaan Oromo.
- (Annexed to this Affidavit and marked FT103 – FT106 are copies of the Community Standards in Amharic, Tigrinya and Afaan Oromo and evidence there is no other Ethiopian language available).*
111. **THAT** the terms of service and privacy policy are only available in one of our 80 languages: Amharic.
112. **THAT** the same is true of Facebook's content reporting guidelines, but like with community standards, this is also incomplete.
113. **THAT** the Facebook language, settings only gives the option of changing the language of the application to Amharic.

114. **THAT** the situation is similar for Kenyan languages. Only Swahili is available as a Facebook language setting and the documents are only partly translated.
115. **THAT** these decisions by the Respondent have real life consequences.
116. **THAT** choosing not to employ Facebook content moderators in all local languages and dialects is a breach of their duty of care to Facebook users.
117. **THAT** the Respondent is aware of the harm their business decisions are causing to countries, yet they choose to do almost nothing. Instead, they continue to prioritise making money while they watch countries like mine, burn.
118. **THAT** Respondent's employees confirm that the Respondent has the knowledge of what needs to be done and fails to take any action.
119. **THAT** one such employee, Sophie Zhang documented her experience trying to get the Respondent to do the right thing. She tried to persuade Facebook to stop causing harm. She chose to speak out about her frustrations and the management's constant dismissal of her pleas.
120. **THAT** she spoke to Craig Silverman, Ryan Mac and Pranav Dixit about her experience in an article titled "'I Have Blood on My Hands': A Whistleblower Says Facebook Ignored Global Political Manipulation'. She told the journalists: "I've found multiple blatant attempts by foreign national governments to abuse our platform on vast scales to mislead their own citizenry and caused international news on multiple occasions. I have personally made decisions that affected national presidents without oversight and taken action to enforce against so many prominent politicians globally that I've lost count."

(Annexed to this Affidavit and marked FT 107 is a copy of the article written about Sophie Zhang)

121. **THAT** the Respondent is clearly unwilling to invest in the desperately needed human reviewers required to keep Facebook in Ethiopia safe and are unwilling to take the

necessary technological steps to keep Ethiopia safe, despite knowing and documenting how 'dire' the situation is.

Evidence of widespread harmful speech in Ethiopia and Kenya

Ethiopia

Inciting and Hateful Posts

122. THAT it is not possible to document every instance of hateful or inciteful content on the Facebook platform. Instead, I highlight some examples to demonstrate the potency Facebook has in the Ethiopian conflict.
123. THAT the 1st Petitioner has documented his horrific experience for this Court.
124. THAT I set out below two similarly shocking examples of Facebook posts that clearly led to brutal and cruel killings.
125. THAT an account by the name of Gashaw Mersha - with 68,000 followers - posted on 23 December 2020: *"following the law of animals is a natural right! Self-defence is an international law!"*.
126. THAT the post was shared over 150 times and within hours, gunmen surrounded the village of Bikuji Kebele in Metekel, Benishangul-Gumuz and massacred over 100 people as reported by Associated Press News on 23 December 2020. To date, the post remains online on the Facebook platform.

(Annexed to this Affidavit and marked FT 108 is the profile of Gashaw Mersha, FT 109 is Gashaw Mersha's post on 23rd December 2020 and FT 110 is the news article by AP News)
127. THAT an account by the name of Northern Patriot Tewodros Kebede Ayo published a post on 30 August 2021 accusing the Qimant community of supporting the opposition. He called them *"snitches"* and singled out the residents of Aykel. He said: *"The punishment has been imposed ... the clean-up continues."*

128. **THAT** Two days later, between 1st and 2nd September 2021, a dozen Qimant in Aykel were dragged from their homes and butchered to death. This was reported by Simon Allison and Samuel Gebre in the Mail & Guardian in an article titled 'Facebook fails to curb the spread of hate speech in Ethiopia'.

(Annexed to this Affidavit as FT 111 is a report on this post as published in the Mail & Guardian)

129. **THAT** another example is that of Gebremichael Teweldmedhi. Jasper Jackson, Lucy Kassa, Kathleen Hall and Zecharias Zelalem at the Bureau of Investigative Journalism ("TBIJ") captured the ordeal he went through after conducting interviews with his relatives. This was reported in a piece titled 'Facebook accused by survivors of letting activists incite ethnic massacres with hate and misinformation in Ethiopia'.

130. **THAT** Gebremichael was a Tigryan jeweller in Gonder, Amhara. He was murdered, his body later found in a mass grave. He was not political and did not engage with the hatred or violence rife in Ethiopia at the time. His family is clear he died because of "so-called activists ... spreading hate on social media". The investigative piece also reveals other examples where the Respondent allowed inciting posts which caused unimaginable harm to families.

(Annexed to this Affidavit and marked FT 112 is a copy of the Bureau of Investigative Journalism article titled 'Facebook fails to curb the spread of hate speech in Ethiopia')

131. **THAT** the same piece highlights the ordeal experienced by Hadush Gebrekirstos, a 45-year-old in Addis who was arbitrarily detained by police who heard him speaking Tigrinya. His body was found two days later, about 200m from the police station. His relatives were clear in their account to TBIJ: he died because of the hatred spread on Facebook, describing the situation on Facebook as "total lawlessness".

132. **THAT** that is an accurate description, it is lawless. At the time of writing, every single one of the posts described below remains online and available to be read on the Facebook platform.

133. **THAT** an account by the name Solomon Bogale - with over 86,000 followers - urged people to “cleanse” the Amhara territories of the “*junta lineage*”, and to “cleanse the race of the Junta” via post published on 23 October 2021.

(Annexed to this Affidavit as FT 113 is the Facebook profile of Solomon Bogale, and FT 114 is the Facebook Post of Solomon Bogale dated 23rd October 2021, and a certified English translation of the same.)

134. **THAT** an account by the name Dejene Assefa - with over 128,000 followers - posted this on 30 October 2021 “*The war is with your long-time neighbour, the person who grew up with you, but who in partiality to his own ethnicity has classified you and your people as enemies.*” ... “*The war is not only with the invading Junta from Tigray, but with the spy and a spotter next to you who desires your death and is eager to drink your blood.*”... “*Clear and control these trojan horses and chameleons in your bosom*”. This post was shared over 1,100 times and received 2,800 ‘likes’.

(Annexed to this Affidavit as FT 115 is the Facebook profile of Dejene Assefa and FT 116 are the Facebook Post of Dejene Assefa of 30th October 2021, and a certified English translation of the same.)

135. **THAT** an account by the name of Girma Seifu Maru - with over 55,000 followers - shared a post on 4 November 2022: “*Do not doubt that the junta that you do not report today will have you killed or shoot and kill you tomorrow. Wake up “Addis Ababe”.*”

(Annexed to this Affidavit as FT117 is the Facebook profile of Girma Seifu Maru and FT118 are the Facebook profile of Girma Seifu Maru, the Facebook Post of Girma Seifu Maru dated 4 November 2021, and a certified English translation of the same.)

136. **THAT** a Facebook Page named ‘DireTube’ - with 3 million likes - posted on 5 November 2021: “*The cancerous tumour that has grown inside the belly of Judas, TPLF has been removed from the shoulders of our Ethiopia*”. The post was shared 89 times and received over 700 ‘likes’.

(Annexed to this Affidavit as FT 119 is the Facebook page 'DireTube' and FT 120 are: the Facebook Post by DireTube dated 5 November 2021, and a certified English translation of the same)

137. THAT an account by the name Yonatan TR - with nearly 130,000 followers - posted on 15 November 2021: *"The day after TPLF's funeral, the tiring path toward nation-building will begin by struggling to clean TPLF leftovers"*. Over 1,500 people 'liked' this post, and 50 users shared it.

(Annexed to this Affidavit as FT 121 is the Facebook profile of Yonatan TR and FT 122 are the Facebook Post by Yonatan TR dated 15 November 2021, and a certified English translation of the same.)

138. THAT an account by the name Abayneh Kassie Dn - *ጥባይነህ ካሄ - ዲን* - with over 163,000 likes - posted on 22 November 2021: *"Let alone an invader the only way to prevent disease is by cleansing"*. This post received 619 'likes', 11 'heart' reactions and nine 'laughing' reactions.

(Annexed to this Affidavit as FT 123 is the Facebook profile of Abayneh Kassie Dn - ጥባይነህ ካሄ - ዲን, and FT 124 are the Facebook Post by Abayneh Kassie Dn - ጥባይነህ ካሄ - ዲን, dated 22nd November 2021, and a certified English translation of the same.)

139. THAT an account by the name Natnael Mekonnen - with nearly half a million followers posted - on 18 November 2021: *"This racist minority group has deployed children, adults and old people without distinction to destroy us!"*. This post received 6,400 'likes' and 46 'love' responses.

(Annexed to this Affidavit as FT 125 is the Facebook profile of Natnael Mekonnen and FT 126 are: the Facebook Post by Natnael Mekonnen dated 18th November 2021, and a certified English translation of the same)

140. THAT an account by the name Fitsum Berhane - with 60,000 followers - posted on 2 September 2021: *"Let me stand and watch you when you are hungry. Let me live in the light when you are in darkness. When your sister is raped and your brother is shot*

dead and his corpse is thrown to the cliff while you are suffering, let me be happy with your suffering.” This post has been shared 119 times.

(Annexed to this Affidavit as FT 127 is the Facebook profile of Fitsum Berhane and FT 128 are the Facebook Post by Fitsum Berhane dated 2nd September 2021, and a certified English translation of the same)

141. THAT an account by the name Muhammed Tilahun - with over 1,900 friends and 306 followers - posted on 10 July 2021 calling for weaponized starvation: *“All this food aid is going to end up in the hands of the TPLF via our region. Therefore, do what needs to be done without any hesitation and without giving in to pressure from any quarter.”*

(Annexed to this Affidavit as FT129 is the Facebook profile of Muhammed Tilahun and FT130 are the Facebook Post by Muhammed Tilahun dated 10 July 2021, and a certified English translation of the same.)

142. THAT an account by the name Kassahun Yilma - with 27, 000 followers and over 2000 friends - posted on 4 December 2021: *“Before it's too late...When you hold these captured wild beasts in one place like this you may be shocked to find that one of your own Prosperity/OLF has released them. Do what needs to be done beforehand. Let us remind you that the security members of the government who released undercover Woyane cells have recently been arrested. Don't compound expenses and risks.”*

(Annexed to this Affidavit as FT131 is the Facebook profile of Kassahun Yilma and FT132 are the Facebook Post by Kassahun Yilma dated 4 December 2021, and a certified English translation of the same.)

143. THAT an account by the name Mesay Mekonnen – with 176,000 followers - posted on 30 October 2021: *“It is not too late. It is necessary to intern everyone of Tigrayan descent, even if they have no connection with TPLF, in temporary camps.”* It received over 2,800 ‘likes’ and was shared 683 times.

(Annexed to this Affidavit as FT133 is the Facebook profile of Mesay Mekonnen and FT134 are the Facebook Post by Mesay Mekonnen dated 30 October 2021, and a certified English translation of the same)

144. THAT an account by the name Asaye Derby - with over 182,000 followers - posted on 4 December 2021: *"the captured masses must be sent out to help the farmers with the harvest after having "beast" tattooed on their foreheads. End feeding locusts at home!"* The post received 6,500 'likes' and was shared 393 times.

(Annexed to this Affidavit as FT135 is the Facebook profile of Asaye Derby and FT136 are the Facebook Post by Asaye Derby dated 4 December 2021, and a certified English translation of the same)

145. THAT an account by the name Daniel Kibret - with over 250,000 followers - on 22 December 2021 called on users to: *"bury them deep / Because if they are resurrected / They bring endless troubles."* This post was shared 258 times and 'liked' over 6,900 times.

(Annexed to this Affidavit as FT137 is the Facebook profile of Daniel Kibret and FT138 are the Facebook Post by Daniel Kibret dated 22 December 2021, and a certified English translation of the same.)

146. THAT an account by the name Tekeste H Mariam - posted on 2nd December 2020: *"Any Tigrayan women married to an Amhara man, divorce your marriage immediately and abandon your children."*

(Annexed to this Affidavit as FT139 is the Facebook profile of Tekeste H Mariam and FT140 are the Facebook Post by Tekeste H Mariam dated 2 December 2020, and a certified English translation of the same)

147. THAT an account by the name Robel Samuel - with 454 followers - posted on 2nd August 2020: *"My Amhara, if you want your peace get ready for war!!!"*, even stating that *"Unity while you are being murdered, patience while you are being slaughtered is a joke. Organized self-defence is also your religious duty"*.

(Annexed to this Affidavit as FT141 is the Facebook profile of Robel Samuel, and FT142 are the Facebook profile of Robel Samuel, the Facebook Post by Robel Samuel dated 2 August 2020, and a certified English translation of the same.)

148. THAT an account by the name Tigray Press - with 76,000 followers - on 3 September 2020 posted a map showing Ethiopia defined into clear regions, stating: *"Ethiopia's peace, development, democracy, national unity, equality of the people will be sure only when the country has this map. If you don't remove the cancer and throw it away, you won't live!"*.

(Annexed to this Affidavit as FT143 is the Facebook page 'Tigray Press', and FT144 are the Facebook page 'Tigray Press', the Facebook Post by Tigray Press dated 3 September 2020, and a certified English translation of the same.)

149. THAT there are also examples of posts inciting violence against Oromos including

- an account by the name Lalibela Achefer Daily Bdr with 1,627 followers - posted on 18 April 2021: *"Naked truth! 2: know that your killers are Oromos and Abiy Ahmed. Kill Oromos you find everywhere. Kill him first before he kills you first"*, on 12 March 2021: *"We have assigned ourselves to the Oromos in Kemisse. It will be a place for those evicted from Wollega. Enough!"* and on 7 April 2021: *"If time, place and situations allow, all Oromos (Galla) are killers and blood suckers"*.
- an account by the name የአርበኛው ልጅ አማራውያን – with 272 followers and 778 friends – posted on 2 November 2020: *"My Amhara, we do not need to travel to Wollega to find our killer. Cleanse the Galla in Kemissie and Shoa out of Amhara. Then you find the killer in your hand. Justice is in our hands, we won't beg."*
- an account by the name Samrawit Alemu – posted on 4 October 2022: *"To kill the beast Oromo that are killing innocents is to be righteous. Get up, kill the beast Oromo, save innocents!"*
- an account by the name Daniel Amharaw – posted on 31 March 2021: *"Galla out of Ethiopia"*

- an account by the name Tariku Belay – with over 1,800 followers – posted on 1 November 2021: *“All Oromos are Galla, OLFites, all Tigrayans are TPLFites. All Prosperity Party supporters are OLF's servants. Bitter truth.”*

(Annexed to this Affidavit as FT145 – FT156 are the Facebook profiles and posts discussed in paragraph 149 above and certified English translations of the same.)

150. **THAT** posts inciting violence against Amharas include:

- an account by the name Gidey Tsehay – posted on 25 August 2021: *“kill Amharas, remove”*
- an account by the name ጎንደር ሳተናው ነበልባል– posted on 7 November 2021: *“It is now time for the Neftegna in Oromia to be buried. Get up Qweeo, clean Oromia from Neftegnas.”*

(Annexed to this Affidavit as FT157 – FT160 are the Facebook profiles and posts discussed in paragraph 150 above and certified English translations of the same.)

151. **THAT** it is abundantly clear, content on Facebook is out of control, and deeply harmful and dangerous to those living in Ethiopia.

152. **THAT** on 9 November 2021, the Respondent through Mercy Ndegwa, Public Policy Director for East Africa, and Mark Smith, the Director, Global Content Management issued a statement on the situation in Ethiopia titled ‘An Update on Our Longstanding Work to Protect People in Ethiopia’. The following was apparent from their statement–

- a. The Respondent could only review content shared in four languages spoken in Ethiopia (to remind this honourable Court, Ethiopia has up to 85 languages); and
- b. The Respondent were aware that there was widespread hate speech being shared on their platform.

(Annexed to this Affidavit and marked FT161 is a copy of the statement made by Mercy Ndegwa and Mark Smith titled ‘An Update on Our Longstanding Work to Protect People in Ethiopia’)

153. **THAT** the Respondent possesses the tools needed to prevent hateful, inciteful and dangerous content from being published, shared and amplified. This was evidenced in January 2021.

154. **THAT** on 6 January 2021, there was an attack on the U.S. Capitol that disrupted a joint session of the U.S. Congress in the process of affirming the presidential election results.

(Annexed to this Affidavit and marked FT162 is a copy of the Statement of Steven Sund, Chief of Police, United States Capitol Police Regarding the Events of January 6, 2021)

155. **THAT** within a few hours of the Capitol Hill crisis in Washington DC, the Respondent implemented its 'Break the Glass' (BTG) procedure.

156. **THAT** the BTG procedure is a series of algorithmic changes designed for crisis situations whereby the most dangerous, violent, and inciting posts on the platform are removed, muted, and prevented from further distribution.

157. **THAT** in this sense, BTG constitute safety measures taken to contain the situation where there is risk of escalation of violence. The BTG procedures applied in the US included, to mention but a few—

- c. Turning on mandatory post approval for civil groups to ensure admins were held accountable for their groups;
- d. Freezing comments on posts in groups that started having a high rate of inciting, violence comments and hate speech;
- e. Filter delegitimizing entities from recommendations;
- f. Preventing groups and pages from changing their names to delegitimizing terms so that the Respondent could slow down abusive audience building;
- g. Setting up a special re-review queue for high-risk content from user reports which would address the content moderation capacity challenge;

- h. Reducing the criteria for disabling comments in group threads that started having too much hate speech or violence and incitement;
 - i. Changes to the ranking algorithm to give priority to content that was not abusive;
 - j. Demoting content that was likely to contain English hate speech, Spanish hate speech, graphic violence and incitement.
158. **THAT** the BTG procedures applied in the US had a real and significant impact on the events that unfolded.
159. **THAT** yet despite having the tools available, and the knowledge of their positive impact, to date, almost two years into the Ethiopian conflict, the Respondent has not implemented their full BTG procedures in relation to Ethiopian content.
160. **THAT** this discriminatory approach is horrific.
161. **THAT** the Respondent treats Ethiopians lives differently to those of Americans. This disregard for African lives cannot be allowed to continue.
162. **THAT** so severe is the situation in Ethiopia now that implementing the full BTG procedures would no longer be adequate. Far more substantive measures are required.

The urgent need for action

163. **THAT** the situation in Ethiopia remains dire.
164. **THAT** violence and extra-judicial killings are everyday experiences for many who live there.
165. **THAT** Facebook is partly responsible for the violence in my country. It is the mechanism being used to incite hatred and brutal violence, in a harrowing echo of the Rwandese Radio Télévision Libre des Mille Collines (RTLM).
166. **THAT** the Respondent has systemically failed to remove inciting and hateful content from its Facebook platform.

167. **THAT** instead, the Facebook algorithm promotes the sharing and furtherance of content containing hate speech, incitement, violence and even propaganda for war.
168. **THAT** the Respondent has failed to take any meaningful steps to change their software. They have failed to take any urgent steps to employ more content moderators ensuring their salary, benefits and working conditions are of the highest standard, given the fundamental nature of their work for the company.
169. **THAT** as recently as **June 2022** an investigation carried out by the 2nd Interested Party showed that Facebook approved multiple rounds of adverts inciting genocide in English and Amharic.

Actions that Meta has failed to take regarding content on Facebook in Ethiopia

170. **THAT** there is no doubt the Respondent has the ability and financial resources to make Facebook safer. Yet, to date the company has chosen not to do so.
171. **THAT** it is clear the Respondent can–
- a. Hire thousands more content moderators, specialising in Ethiopian content, speaking the 85 languages currently spoken in Ethiopia, properly invest in this skilled workforce, bring them in-house, provide them with proper mental health support as well as the same pay and benefits as those already working for Facebook directly;
 - b. Offer proper translation of its application and the Community Standards so that users using local languages understand what content is forbidden;
 - c. Enforce the Facebook Community Standards in a fair manner;
 - d. Implement the full suite of 'Break the Glass' measures in relation to African content immediately and especially to Ethiopia which is in conflict.
 - e. Demote inciteful, hateful and dangerous content and immediately stop the promotion of inciteful, hateful and dangerous posts;
 - f. Train its algorithm to detect inciteful, hateful and dangerous content;

- g. Stop the algorithmic preference for videos which leads to the repeated publication and promotion of horrific and disturbing videos like that of individuals being burnt alive. An example of this was reported by Emmanuel Akinwotu in The Guardian in an article titled 'Video of armed men burning man alive in western Ethiopia sparks outrage'

(Annexed to this Affidavit and marked FT163 is a copy of article published in The Guardian titled 'Video of armed men burning man alive in western Ethiopia sparks outrage')

- h. Address crucial short-cuts that content moderators are being forced to take, such as being told to review only the first and last fifteen seconds of each video published on the platform, which allows many vile videos to remain on Facebook.

- i. Thoroughly overhaul its safety measures for adverts.

172. **THAT** the Respondent has had an abundance of opportunities to change its priorities and invest to make its platform safer.

173. **THAT** it is clear the Respondent will not change and will not protect the safety of its users in Ethiopia, or indeed any other African country, unless it is forced to do so.

174. **THAT** my decision to file this Petition in Kenya is based on the following–

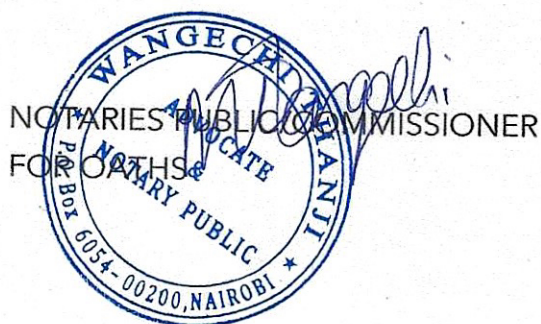
- a. I currently reside and work in Kenya. All the posts cited in this Petition about me are visible to all Facebook in Kenya.

- b. I have read the Constitution of Kenya, especially the Bill of Rights and understand that its purpose is to preserve the dignity of individuals and communities. To promote social justice and the realisation of the potential of all human beings.
- c. As pleaded by my co-petitioner and me, content moderation by the Respondent takes place in Kenya. The decisions made not to take down content that is harmful to myself, my co-petitioners, Kenyans, Ethiopians et al are made in Kenya which means that the cause of action arose within the jurisdiction of this Honourable Court.
- d. I understand this Honourable Court has the power to intervene where Kenya is being exploited by a company like the Respondent to export human rights violations to vulnerable countries like Ethiopia.
- e. This Court has the jurisdiction to consider this petition and the power to grant the orders sought.

175. **THAT** I pray that this Honourable Court to step in to ensure these changes happen without further delay.

SWORN at NAIROBI
 By the said **FISSEHA TEKLE**
 This 14th day of December 2022
 BEFORE ME


 DEPONENT



DRAWN AND FILED BY-

NZILI & SUMBI ADVOCATES

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