

Mandates of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the right to education; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; the Special Rapporteur on trafficking in persons, especially women and children; the Special Rapporteur on violence against women, its causes and consequences; and the Working Group on discrimination against women and girls

REFERENCE:
AL OTH 20/2021

30 March 2021

Dear Mr. Yiming,

We have the honour to address you in our capacities as Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the right to education, Special Rapporteur on contemporary forms of slavery, including its causes and consequences; Special Rapporteur on trafficking in persons, especially women and children; Special Rapporteur on violence against women, its causes and consequences; and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 43/22, 44/15, 44/3, 42/10, 44/4, 41/17 and 41/6

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 56 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to your attention information we have received regarding the **alleged role of Omegle, a live video chat website based in the United States of America, in facilitating self-generated and live video streamed sexual activities and material online that depicts or otherwise represents children appearing to engage in sexually explicit conduct. Allegedly, Omegle has gained**

TikTok

popularity after videos tagged with “Omegle” in Tiktok, a China-based company, have reportedly been viewed more than 9.4 billion times worldwide. This application for mobile devices is downloadable via Apple and Google stores, companies based in the United States of America.

According to the information received:

The *Omegle*, Online Cam Communication Foundation Site, also known as *online cam video stranger talk site*, is reportedly an increasingly popular live video chat website that moderates and hosts strangers, including what appears to be prepubescent boys explicitly touching themselves in front of strangers.

The *Omegle*, reportedly founded by Omegle.com LLC, “[...] is a foundation platform of online stranger talk,” claiming to be the world’s largest free video online cam community, “where the strangers of the world [...] come to find their partner.”¹ “[...] if you are one of the lonely guys,” the website claims “who want to out their frustration then join this free online virtual world.”² The website lists the following services as their virtual chat site features: face-to-face virtual talk facility: no signal/login step; world largest strangers community; meet and chat free; best random and anonymous chat web; world best platform where all country strangers are live; make friendship with male, female, and gay, random strangers; talk to the guy who wants a partner like you.³ It further claims that *Omegle* is “the real foundation of online webcam video chat where real and true strangers waiting for their virtual partners. ... [a]nd using this talk intermediation they meet virtually in the world of the Internet.” “Thus the Internet has a large virtual world and missions of stranger guys enjoy their life after becoming part of this virtual world through sites like *Omegle*,” reads the summary of the Introduction to the website. “[...] You can go to the virtual world of *Omegle* chat site and talk to any female or male stranger. The features of stranger gender, country/region, and language filters are updated with an easy navigation bar. So go through filters to meet & chat with a handsome stranger,” the Introduction to the website subsequently reads.⁴

In this regard, we would like to bring to your attention the allegations we have received concerning sexual activities and material online depicting or otherwise representing children in *Omegle*. It is alleged that *Omegle* links up random people for virtual video and text chats, and claims to be moderated. The website is reported to have a reputation for unpredictable and shocking content.

In the course of gathering evidence and during the approximately 10 hours of online presence, a cyber investigative team was reported to have paired with dozens of under 18 years old children, some of whom appeared to be as young as seven or eight. During just one two-hour period, they were reportedly connected at random with 12 men masturbating, eight naked males and seven porn adverts. Children were reportedly seen engaging in sex acts moderated by the website thereby producing self-generated material of sexual content. The investigative team was reportedly randomly paired twice with what appeared to

¹ <https://omegletvs.com/>

² Ibid

³ ibid

⁴ <https://omegletvs.com/>

be young prepubescent boys masturbating live on the video chat. One of them reportedly identified himself as being 14 years old. These instances were reportedly not recorded but were swiftly seized and reported to relevant authorities. When inputted one generic keyword relating to adult material, the investigative team was paired even more frequently with people engaging in explicit activity. Furthermore, a parent of an eight-year-old girl was reported to have said that her daughter was nearly coerced into sexual activity with an older man on the website after having seen some videos go viral on TikTok about people being on the Omegle. She had reportedly explored the site and accessed it without any age verification. It is reported that the 8-year old was told she was beautiful, hot and sexy. She had reportedly told those behind the webcam that she was only eight years old but was asked to expose herself which she subsequently refused to do. She reportedly witnessed a man masturbating and another man wanting to play “truth or dare” with her.

It is reported that the website has recently increased moderation efforts by introducing a disclaimer stating that users should not be under 13 and if they are under 18, they should use the website only with a parental or guardian’s permission. It further instructs the users not to transmit nudity, sexually harass anyone, publicize other people’s private information, etc. The disclaimer goes on to advise that “[p]arental control protections (such as computer hardware, software, of filtering services) are commercially available that may assist [the users] in limiting access to material that is harmful to minors.” The disclaimer then suggests that users learn more about these features at <http://kids.getnetwise.org/tools/> “as well as a number of other Internet sites that provide information on this form of protection.”⁵ However, there is no age verification process in place and the link to the so-called parental control protection is not accessible. The disclaimer further claims that “Omegle video chat is moderated. However, moderation is not perfect. You may still encounter people who misbehave. They are solely responsible for their own behavior.”⁶ This information however does not appear on their original website nor is accessible through their *Privacy Policy* and *Disclaimer* features.

It is further alleged that the owner of the *Omegle* is reported to have said that the site was moderated and that his team did block users who “appear to be under 13” and that he had expanded monitoring efforts in 2020. He is further reported to have said that the website has generated reports that have led to arrests and prosecution of numerous predators without providing further evidence on this claim. The owner of Omegle has reportedly claimed that the website’s porn adverts were age-restricted without giving details on the age verification feature. He has reportedly described these explicit pornographic ads as “discreet” and said that showing them was a “classic ‘life gives you lemons’ situation”.

There are increasing concerns among global child protection groups about predators using Omegle to gather self-generated child sexual abuse material. There are also concerns that the speed in which child sexual abuse material is found, underscores the necessity of age verification on social media platforms.

⁵ <https://www.omegle.com/>

⁶ Ibid

The Internet Watch Foundation (IWF), a registered charity based organization known for detecting, reporting and removing online child sexual abuse imagery and child online sexual abuse hosted anywhere in the world, has reportedly found self-generated abuse material elsewhere on the Internet which has been created by predators who have captured and distributed footage from Omegle. Some of the videos detected, showed individuals self-penetrating on webcam, performing in a household setting often where parents were heard in the background. In 2020, the IWF said analysts actioned 68,000 reports which were tagged as including self-generated child sexual abuse content - a 77% increase on the previous year.

According to new research collected by data analyst Semrush, Omegle grew globally from about 34 million visits a month in January 2020 to 65 million in January 2021.

It is further reported that interest towards Omegle has spiked particularly in the USA, United Kingdom (UK), India and Mexico. In the UK alone, the traffic has reportedly increased by 61%, with 3.7 million visits in December 2020 from predominantly people under the age of 34, many of whom were reportedly teenagers. Omegle has reportedly been the subject of recent viral videos from popular social media influencers. On TikTok alone, videos tagged with “Omegle” have reportedly been viewed more than 9.4 billion times.

In this regard, reportedly, TikTok had now banned sharing links to Omegle; its safety teams had not found any harmful Omegle content on its platform but have committed to continue monitoring the videos.

In relation to the above-mentioned allegations, we are concerned that in the absence of a strong State response which includes preventive actions, regulations and sanctions for all those involved in moderating this online platform, it might lead to the global exposure of children to cyber sexual abuse and exploitation online, in violation of their fundamental rights such as the right to liberty and security, privacy, and the right to be free from physical, psychological and mental abuse. According to article 3 (b) of the Worst Forms of Child Labour Convention, 1999 (No. 182), the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances is considered a worst form of child labour. Worst forms of child labour amount to contemporary forms of slavery.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.

2. Please provide information as to what human rights due diligence steps, as set forth by the UN Guiding Principles on Business and Human Rights, have been undertaken by your company to identify, prevent, mitigate an account for human rights abuses caused by or contributed to your own activities, or directly linked to your operations, products or services by your business relationships (including abroad). This includes the adverse impact of the services describes in this letter regarding the online content hosting websites and applications.
3. Please provide information on measures taken by TikTok to protect children from sexual offenders seeking to connect with and solicit children for sexual purposes (“grooming”), to view and participate in online child sexual abuse via live video streaming, to distribute child sexual abuse material, including self-generated content produced out of “sexting”, and to commit the sexual extortion of children.
4. Please explain if and how TikTok ensures that reports of sexual extortion of children online, as well as other acts related to producing, distributing, disseminating, importing, exporting, offering, selling or possessing, for the purposes of sexual exploitation child sexual abuse material, including self-generated sexually explicit content, are shared with the relevant national authorities in a lawful manner, and if the provisions of international human rights law are fully respected.
5. Please indicate the steps that your company has taken, or is considering to take, to ensure operational-level grievance mechanisms, or cooperate in the provision of, effective remedies through legitimate processes to the affected victims. In particular, please provide information on effective access to child-friendly, widely available, easily accessible, child- and gender- sensitive and age-appropriate confidential psychosocial counselling and reporting mechanisms, such as online and telephone helplines to facilitate the disclosure of abuse by child victims of sexual abuse, but also to seek advice or help regarding self-generated sexually explicit content.
6. Please explain what measures have been taken to ensure that your company’s staff has adequate awareness, knowledge and tools to identify and report cases of sexual extortion of children online, as well as other acts related to producing, distributing, disseminating, importing, exporting, offering, selling or possessing, for the purposes of sexual exploitation child sexual abuse material, including self-generated sexually explicit content
7. Please explain what monitoring and evaluation systems TikTok has in place to ensure the effectiveness of actions taken to mitigate and prevent the allegations mentioned in this letter.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your company will be made public

via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please be informed that a letter on this subject matter has also been sent to the Governments of China, Mexico, India, United Kingdom, the United States of America and other companies involved in the abovementioned allegations.

Please accept the assurances of our highest consideration.

Mama Fatima Singhateh
Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material

Dante Pesce
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Elizabeth Broderick
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Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the UN Guiding Principles on Business and Human Rights (A/HRC/17/31), which were unanimously endorsed by the Human Rights Council in June 2011, are relevant to the impact of business activities on human rights. These Guiding Principles are grounded in recognition of:

- a. “States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- b. The role of business enterprises as specialized organs or society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- c. The need for rights and obligations to be matched to appropriate and effective remedies when breached.”

According to the Guiding Principles, States have a duty to protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises. States may be considered to have breached their international human law obligations where they fail to take appropriate steps to prevent, investigate and redress human rights violations committed by private actors. While States generally have discretion in deciding upon these steps, they should consider the full range of permissible preventative and remedial measures.

Furthermore, we would like to note that as set forth in the United Nations Guiding Principles on Business and Human Rights, all business enterprises have a responsibility to respect human rights, which requires them to avoid infringing on the human rights of others to address adverse human rights impacts with which they are involved. The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States’ abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. Furthermore, it exists over and above compliance with national laws and regulations protecting human rights.

The Principles 11 to 24 and Principles 29 to 31 provide guidance to business enterprises on how to meet their responsibility to respect human rights and to provide for remedies when they have cause or contributed to adverse impacts. Moreover, the commentary of the Principle 11 states that “business enterprises should not undermine States’ abilities to meet their own human rights obligations, including by actions that might weaken the integrity of judicial processes”.

The Guiding Principles have identified two main components to the business responsibility to respect human rights, which require that “business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; [and] (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts” (Guiding Principle 13).

Principles 17-21 lays down the four-step human rights due diligence process that all business enterprises should take to identify, prevent, mitigate and account for how they address their adverse human rights impacts. Principle 22 further provides that when “business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes”.

Furthermore, business enterprises should remedy any actual adverse impact that they cause or to which they contribute. Remedies can take a variety of forms and may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political or other attempts to influence the outcome (commentary to Guiding Principle 25).