

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on minority issues and the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967

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8 September 2021

Mr. Zuckerberg,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on minority issues and Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, pursuant to Human Rights Council resolutions 43/4, 44/15, 43/8 and 1993/2A.

We wish to express our appreciation for the constructive dialogue on wide range of issues relating to our mandates we regularly have with the human rights team of Facebook, led by Ms. Miranda Sissons.

In this connection, we would like to bring to your attention information we have received concerning a **large number of account and content restrictions against users of Facebook, Instagram and WhatsApp, which started in the days following the recent conflict between Israel and Palestine.**

On 6 and 7 May 2021, Facebook and Instagram reportedly blocked a considerable number of posts, hashtags and livestreams related to protests against planned evictions of Palestinian families from their homes in the neighbourhood of Sheikh Jarrah. We understand that on 8 May, Instagram posted on social media a note indicating that an automatic update on their systems for information sharing had been executed on 6 May affecting adversely the content that users sought to re-share. The post noted that the technical glitch had been detected and solved on the same day but had a particular significant impact in some countries. The volume of content restrictions was however not made public.

On 12 May 2021, additional content restrictions were faced by Palestinian users and advocates, which reportedly resulted from the wrongful classification by Facebook of the Al Aqsa Mosque – Islam’s third-holiest site – as a “dangerous organization”, a label utilized to classify content that promotes or glorifies groups, leaders, or individuals involved in terrorism. Furthermore, concerns were raised that some content about the conflict that had been re-shared on the platforms often had warning attached to it, suggesting potential bias against Palestinians. It was also brought to our attention that Facebook has removed numerous posts containing the word “Zionist”, despite its frequent use in political debates. Specific concerns were raised that the content restrictions may have been connected to concerns channelled directly to the company by the Israeli Ministry of Justice’s Cyber Unit. We

Facebook

understand that in the weeks following these incidents, Facebook and Instagram re-established a number of pages and content and changed some of their algorithms.

Around the same time, some concerns were also brought to our attention that multiple attacks from organized extreme right-wing Israeli groups had been shared on Facebook, some of them amounting to advocacy of hatred that constitutes incitement to violence against Palestinian communities living inside Israel and in Palestine. According to the information we received, some of the content inciting violence and hatred was removed by platforms after complains were submitted by civil society organisations.

Subsequently, we received reports that on or around 13 July 2021, the Arabic language page of Palestinian Shehab news agency was removed from Facebook (while the English language version remained online). The page had approximately 7.5 million users at the time. It appears that the Facebook page of the group had also been removed in 2015.

Before making some observations about the information that was brought to our attention, we would first like to acknowledge the challenges that Facebook and other social media companies face in the context of such difficult times. While acknowledging the importance of preventing advocacy to violence and discrimination, we are concerned that the approach taken by Facebook in relation to the recent events in Israel and Palestine was however insufficiently grounded into international human rights norms and standards and resulted in severe restrictions to freedom of expression, not in line with Article 19 of the International Covenant on civil and political rights (ICCPR).

Under international human rights law, Article 19 (2) of the International Covenant on Civil and Political Rights (ICCPR) protects “the right to freedom of expression,” which includes the “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.” Article 19 (3) of the ICCPR further specifies that restrictions on the right to freedom of expression must be “provided by law”, and necessary “for respect of the rights or reputations of others” or “for the protection of national security or of public order (ordre public), or of public health and morals”.

We welcome the adoption by Facebook of a Corporate Human Rights Policy, which makes a direct reference to human rights including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. In this context, we strongly urge Facebook to apply the United Nations Guiding Principles on Business and Human Rights and integrate integrate human rights standards, into all stages of its operations. In practice, this means that all content restrictions on the right to freedom of expression on the platform should pursue a legitimate aim as prescribed under international human rights law and be necessary and proportionate to achieve the legitimate aim. The human rights due diligence process, conducted in line with the UN Guiding Principles, could allow Facebook to achieve this goal.

Following international human rights standards Facebook should ensure a robust protection of freedom of expression, including speech that may be offensive, distasteful or unacceptable to some. We urge Facebook to protect the space for expression of ideas and information, including by allowing the expression of

controversial or unpopular ideas. In particular, we urge the company to adopt the model definition of hate speech and incitement, in line with Articles 19 (3) and 20 of the ICCPR and the standards spelled out in the Rabat Plan of Action when addressing advocacy of national, racial or religious hatred that may constitute incitement to discrimination, hostility or violence (A/HRC/22/17/Add.4). We also urge to adopt the model definition of incitement to terrorism advanced by the mandate of the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism¹

According to the information we received, the companies did not provide an explanation for the deletion or suspension in the majority of cases. Where reasons were given to users, they included hate speech, violation of community standards and requesting proof of identity, among others. Facebook should ensure that any use of its policy relating to hate speech and incitement is clearly defined and publicly available to ensure that it does not lead to unnecessary or disproportionate interference with freedom of expression (See General Comment No. 34 of the UN Human Rights Committee, para. 46). Facebook should publish its entire list of designated Dangerous Individuals and Organisations and put in place due process standards empowering users to understand how assessments are made and appeal decisions regarding the inclusion of individuals or organisations. We are concerned that poorly defined concepts or overly broad application may result in the suppression of minority or dissenting views (See e.g. A/HRC/31/65). Further, we would like to underscore the need for transparency, procedural fairness and effective means for an individual to challenge a decision once made.

We welcome that Instagram promptly and publicly reacted about the technical glitch it faced, but we would like to underline the need for enhanced transparency, due diligence, accountability and remediation to ensure human rights are not unduly interfered. When faced with problematic requests, companies should seek clarification from the relevant authorities and provide users with full transparency about the volume and type of private requests they receive. Further, companies have the responsibility to take every measure at their disposal to resist the implementation of requests that are likely to contravene their human rights responsibilities under the UN Guiding Principles.

We are mindful that such conflicts present considerable challenges for any company, but we would like to underscore the need to protect the right to information, which is critical for the public to know about specific incidents and for human rights groups to document and report on human rights violations. We would urge every social media company to do a human rights impact assessment that includes a thorough analysis of local contexts where vulnerable groups live, such as minorities or people living under occupation as well as in situation of armed conflict. We draw your attention in particular to the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises clarifying the practical measures that States and business enterprises should take to prevent and address business-related human rights abuse in conflict and post-conflict contexts, focusing on heightened human rights due diligence and access to remedy, A/75/212). To that end, multi-stakeholder engagement with civil society and other international and regional actors is critical to ensure the voices of those already marginalised are not further suppressed.

¹ A/HRC/16/51, Practice 8

Concerning attacks by extreme right-wing Israeli groups which advocated hatred that constitutes incitement to violence, we recall that statements which encourage or promote racism or intolerance against individuals on the basis of protected characteristics, including religion, race, nationality or ethnicity, is unacceptable under human rights law. We would urge you to exercise human rights due diligence to stop these attacks on your platforms, in line with the UN Guiding Principles and the requirements of Article 20 of the ICCPR.

We would like to thank you for your continued engagement with our mandates. We share these observations with the hope to pursue our dialogue on the best ways to advance international human rights norms and standards pertaining to freedom of opinion and expression, especially in a context where your company works to assess and improve its content review operations in conflict situations. We would be happy to provide you and your teams with further information about our work on these issues and to engage in a dialogue with you on these issues.

In light of the above-mentioned internationally-recognised norms and standards, and in keeping with our mandates to investigate freedom of expression challenges worldwide, we are sending the following questions, on which we would welcome receiving detailed responses from your company:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information as to the measures, including human rights due diligence, that your company has taken in line with the Guiding Principles to identify, prevent, mitigate and account for adverse human rights impacts caused by your company's products and services, or to which they may have contributed or be directly linked.
3. Please provide information on the number of accounts and amount of content that have been restricted in relation to the Israel-Palestine conflict since 6 May 2021. Please also provide information about accounts and content which were eventually reinstated.
4. Please provide information about the strategies that Facebook has adopted to prevent or mitigate account or content removal requests that are inconsistent with international human rights standards, including when removal requests come from governments.
5. In relation to the events described in this communication, did Facebook consider options other than removing content and accounts to protect the right of users to freedom of expression? Did Facebook inform the affected individuals of the measures taken against their accounts or posts?
6. Please provide information about specific measures taken to address instances of advocacy of hatred that constitutes incitement to violence and discrimination on the platforms.
7. Please provide information on any action taken by your company to prevent recurrence of the kind of allegations specified in this letter, and to provide access to remedy for victims.

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.

Yours sincerely,

Irene Khan

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Surya Deva

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