

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 the promotion and protection of the right to freedom of opinion and expression; 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 and girls, its causes and consequences and the Working Group on discrimination against women and girls

Ref.: AL OTH 10/2023
(Please use this reference in your reply)

13 March 2023

Dear Ms. Pappas,

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 the promotion and protection of the right to freedom of opinion and expression; 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 and girls, 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, 43/4, 51/15, 44/4, 50/7 and 50/18.

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 59 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 write in reference to the joint communication of 30 March 2021 addressed to your company regarding the alleged role of Omegle in facilitating self-generated and streaming live video sexual activities and material

TikTok

online that depicts or otherwise represents children appearing to engage in sexually explicit conduct and it being shared on TikTok (Ref: [AL OTH 20/2021](#)). We appreciate your comprehensive reply dated 28 May 2021, which we carefully reviewed. We have also examined replies received from the Governments of [China](#), [Mexico](#), [United Kingdom of Great Britain and Northern Ireland](#), [United States of America](#) in order to further consider the situation.

Given the vital role you play, we would like to thank you and accept your invitation for a virtual tour to learn more about your platform and all the work you do to keep the community safe. Such a tour would provide us with invaluable opportunities to directly hear from you, come to an assessment of the situation, and offer concrete recommendations.

We wish to remind TikTok that any child safety policies and plans should aim at the constant improvement of the well-being of all children, consistent with international human rights standards, as well as focus on empowering children and enhancing their livelihoods and participation in decision-making processes.

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.

We would welcome any additional information and recent developments that you may have on the following matter. We would also like to take this opportunity to pose follow-up questions to your response to continue our dialogue on this important matter:

1. Please provide further information on “the vast majority of content referencing Omegle that did not endanger children or otherwise violate TikTok’s safety policies” mentioned in your response to our previous communication AL OTH 20/2021. In this context, we remind your company about its responsibilities to not only apply its own safety policies, but also respect international human rights law and standards.
2. Please provide information on what measures have been taken to consistently update and further strengthen TikTok’s regulation, content moderation processes and procedures for identifying and removing child sexual abuse materials, as well as integrity efforts that may be relevant, including any public human rights assessments carried out by your company (internally or by third parties) in the development of products/services, and internal or external bodies that are tackling these issues, in line with international human rights law.
3. Please provide further 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 and 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 in other countries).

4. Please provide further information regarding the steps that your company has taken, or is considering to take, to ensure operational-level grievance mechanisms, and/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, and also to seek advice or help regarding self-generated sexually explicit content.
5. Please provide further information on what steps have been taken or will be taken “in the coming months ... to roll out additional resources in your app to support survivors of sexual assault”, as reported in your response dated May 28, 2021.
6. Please indicate how TikTok trains content moderators to review online content and to trace malicious accounts and child sexual abuse materials online.
7. Please explain what monitoring and evaluation systems TikTok has in place to ensure the effectiveness of actions taken to mitigate and prevent child sexual abuse materials that are not tagged under #Omegle.

We stand ready to provide you with any technical support and cooperation in operating in conformity with international human rights standards.

This communication and any response received from you will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with you to clarify the issue/s in question.

Please accept, Ms. Pappas, 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

Pichamon Yeophantong
Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Farida Shaheed
Special Rapporteur on the right to education

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
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Tomoya Obokata
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Reem Alsalem
Special Rapporteur on violence against women and girls, its causes and consequences

Dorothy Estrada-Tanck
Chair-Rapporteur of the Working Group on discrimination against women and girls

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 caused 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).

In the 2018 report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (Working Group) to the General Assembly, the Working Group noted that the Guiding Principles clarify that all business enterprises have an independent responsibility to respect human rights, and that in order to do so they are required to exercise human rights due diligence to identify, prevent, mitigate and account for how they address impacts on human rights. Human rights due diligence is a way for enterprises to proactively manage potential and actual adverse human rights impacts caused or contributed to through its own activities, or which may be directly linked to its operations, products or services by its business relationships. In addition, this involves (b) Integrating findings from impact assessments across relevant company processes and taking appropriate action according to its involvement in the impact; (c) Tracking the effectiveness of measures and processes to address adverse human rights impacts in order to know if they are working; and (d) Communicating on how impacts are being addressed and showing stakeholders – in particular affected stakeholders – that there are adequate policies and processes in place.