

Mandates of the Special Rapporteur on the situation of human rights in Myanmar; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the right to privacy; 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 12/2023
(Please use this reference in your reply)

9 March 2023

Dear Mr. Durov,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in Myanmar; Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the right to privacy; 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 49/23, 44/15, 43/4, 50/17, 43/16, 46/16, 50/7 and 50/18.

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.¹ Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including businesses) 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 the 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 **concerning the reported use of Telegram's services as a vehicle for the dissemination of "hate speech" and incitement to violence against pro-democracy actors in Myanmar.**

Pro-military accounts, including those belonging to ultra-nationalists, have reportedly migrated to Telegram, a messaging platform headquartered in Dubai in the United Arab Emirates (UAE). It has been reported that these accounts are exploiting content moderation rules of Telegram to distribute disinformation and hateful content, following bans by other social media platforms. These accounts, two of which have over 140,000 followers

collectively, also incite and encourage violence and physical abuse against individuals for expressing their desires for a return to democracy. Cross-posting allows channels to feed off one another, spreading disinformation and actively promoting violence and discrimination.

The accounts, most of which have male-presenting profiles, target pro-democracy activists, human rights defenders, celebrities, including women, as well as ordinary civilians for any perceived association with the pro-democracy movement. Posts from these accounts have incited violence against individuals for simple acts such as changing their profile pictures to a pro-National Unity Government template. There have been instances of public channels offering payment for assassinations, with one account offering USD 280 for killing social media users who accuse a person of being a military informant.

The accounts routinely share private information about their targets, in so-called doxxing attacks. The accounts post targets for doxxing and encourage followers to investigate or share the target's personal information. Doxxing campaigns have a chilling effect, resulting in self-censorship and frightening pro-democracy actors and human rights defenders into silence.

Of particular concern are those pro-military Telegram channels that are specifically targeting women pro-democracy supporters. They are releasing sexually explicit images of women targets and use hateful, sexualized and discriminatory rhetoric aligned with ultranationalist narratives in an attempt to discredit them. Ultranationalist groups have been spreading anti-Muslim rhetoric and have uploaded posts about women with pro-democracy views of sleeping with Muslim men as way in which to tap into discriminatory rhetoric to shame the targets. Hundreds of sexual videos and images and hundreds more sexually abusive posts have been found to have been disseminated through Telegram channels, targeting women for their pro-democracy views. In at least two cases, women were arrested after being doxxed for their pro-democracy views, with Telegram users celebrating or claiming credit for their arrest.

Qualitative analysis of 220 hateful posts indicated that at least 50 per cent of them had doxxed women in retaliation for their political views, with 28 per cent explicitly calling for or encouraging punishment of or physical violence against targeted women. Although the analysis conducted is limited to public posts and does not include private groups and messages, reported attempts to silence women through shame and humiliation allegedly had a chilling effect, with women indicating that they are censoring themselves in public discussions and retreating from public life, which indicates that the targeting of women is likely a wider problem.

There is also evidence that pro-military Telegram accounts are working in coordination with the Myanmar military or may even be proxy accounts on behalf of the Myanmar military. For instance, one channel that apparently frequently identifies pro-democracy protestors for arrests regularly campaigned for the military political party, the Union Solidarity and Development Party, and is a frequent contributor to the military's official television channel and a pro-military tabloid. After a doxxing attack,

information indicates that some accounts in question alert Myanmar security forces of the targets' actions, and subsequently celebrate news of their arrest.

During the Day of Silence protest on the anniversary of the military coup, 1 February 2022, civil society groups observed that a doxxing campaign escalated with accounts posting images and addresses of businesses that had closed, alleging that they were participating in the Silent Strike. Hundreds of business owners were arrested on that day alone. Information further indicates that on 27 January 2022, a few days prior to the strike, the military had started to pre-emptively arrest individuals, many of whom had been doxxed on Telegram a few hours before their arrest. Telegram users then celebrated the arrests by posting photo evidence of the arrests.

According to the information received, Telegram has taken down some accounts in January 2023. However, at least one of the most offending channels is reportedly already back online. Although Telegram has taken down accounts that are in violation of its terms of service in the past, we have been informed that backup channels continue to surface, amassing tens of thousands of followers in a matter of weeks. The ability of these accounts to resurface appears to indicate that Telegram is not responding quickly enough to prevent new accounts from being created by abusive users previously removed from the platform.

Without wishing to prejudge the accuracy of the allegations, we wish to express deep concern that Telegram's services appear to have been weaponized by pro-junta supporters to silence pro-democracy actors and human rights defenders and that Telegram is being used as a conduit for human rights violations and abuses.

While Telegram's Terms of Services *prima facie* prohibit "promoting violence on public channels, bots and chats", we are troubled by Telegram's approach to content moderation, which appear to be allowing pro-military channels to continue to disseminate violent posts against actors for their political views in violation of its own terms of services.

Equally, we are concerned by significant gaps in the Terms of Service of Telegram, as they do not appear to prohibit posts that promote hateful rhetoric, thereby not encompassing posts threatening release of sexual images, misogynistic threats and anti-Muslim rhetoric.

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/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 United Nations Guiding Principles on Business and Human Rights to identify, prevent, mitigate and account for adverse human rights impacts caused by your company's services, or to which they may have contributed or be directly linked.
3. Please provide information as to the steps your company has taken, or is considering, to ensure a sustainable and systematic approach to removing abusive actors in violation of your Terms of Services in line with international human rights law.
4. Please provide information as to the steps your company has taken, or is considering, to expand your Terms of Services to encompass harmful and hateful and discriminatory content in line with international human rights law and standards, including the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.
5. Please provide information as to the steps your company has taken, or is considering, in publishing transparency reports regarding Telegram's enforcement efforts against harmful users.
6. Kindly explain what measures have been taken to ensure that your company's staff are equipped with adequate awareness, knowledge and tools to identify and report human rights abuses, particularly those described in this letter.
7. Please provide any grievance mechanism or channel that your company has for victims or others to guarantee their right to privacy and report alleged misuse or breach of your technology, including breach of Terms of Services, and how your company responds to allegations received via this channel.

This communication and any response received from your company 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.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please be informed that a letter on the same subject has also been addressed to the Government of the United Arab Emirates.

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 your

company to clarify the issue/s in question.

Please accept, Mr. Valeryevich Durov, the assurances of our highest consideration.

Thomas Andrews
Special Rapporteur on the situation of human rights in Myanmar

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

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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

The use of Telegram as a platform to disseminate calls to violence, “hate speech”, and discrimination may violate the victims’ rights under of article 3 of the Universal Declaration of Human Rights (UDHR), which guarantees everyone’s right to life, liberty and security of the person. The use of Telegram’s services to post personal information of individuals without their consent, including their location and explicit sexual content, is a violation of their human dignity and the right to privacy, protected under article 12 of the UDHR. The chilling effect of these pro-junta posts targeting individuals for their political views is also impacting individuals’ fundamental rights to freedom of expression and peaceful assembly and association in Myanmar, as protected under articles 19 and 20 of the UDHR.

By targeting women based on their gender and political views, authors of male-presenting profiles perpetuate and exacerbate the consequences of online gender-based violence against women, which prevent women from fully enjoying their human rights and fundamental freedoms without distinction or discrimination based on sex, as required by the UDHR.

Further, we would like to refer to the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed in 2011 by the Human Rights Council in its resolution (A/HRC/RES/17/31) after years of consultation with governments, civil society and the business community. The Guiding Principles have been established as the authoritative global standard for all States and businesses to prevent and address business-related adverse human rights impacts.

Under international human rights law, and the UN Guiding Principles on Business and Human Rights, companies have a responsibility to respect all internationally recognised human rights throughout their activities and operations. In order to identify, prevent, mitigate and account for how they address their human rights impacts, companies are expected to conduct regular and ongoing human rights due diligence in consultation with relevant stakeholders. In this regard, we urge your company to carry out the necessary due diligence and make public the results (guiding principle 21). To fulfill their responsibility to respect human rights, business enterprises should have in place:

- (a) “A policy commitment to meet their responsibility to respect human rights;
- (b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute” (guiding principle 15).

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

finer), 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 a report to the Human Rights Council (A/HRC/41/41), the Special Rapporteur on freedom of peaceful assembly and of association stated that in “the digital age, the exercise of the rights of peaceful assembly and association has become largely dependent on business enterprises” and that online platforms and social media companies “wield significant power over how both the right to freedom of peaceful assembly and the right to freedom of association are enjoyed and exercised, particularly in countries where the “offline” exercise of the rights to freedom of peaceful assembly and of association is heavily curtailed.” The Special Rapporteur also stated his belief that the “international human rights law framework should govern digital technology companies’ responses to government requests, content moderation and engineering choices, including computational curation of content. This means that standards of legality, necessity and legitimacy should be applicable to companies’ decisions that affect peaceful assembly and association rights.”

In a report to the General Assembly (A/76/258), the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has observed that in the digital age, the spate of online violence, hate speech and disinformation often compel women to self-censor, limit what they post or leave platforms and that social media platforms have failed to respond adequately to the risks and dangers of online violence, hate speech and disinformation that women confront in the digital space. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has reminded social media companies that digital spaces are owned and managed by private actors, but they are public spaces accessed by millions of people and as such, taking into account the nature of their business, social media platforms should be guided by international human rights standards in their content moderation. Furthermore, in line with the United Nations Guiding Principles on Business and Human Rights, as a matter of due diligence companies should carry out regular human rights and gender impact assessments to identify and mitigate systemic risks affecting women and gender nonconforming people. In addition, guided by international human rights standards and the principles of gender equality, they should take the same coordinated approach to make digital spaces safe and gender inclusive. Policies on safety from online violence should be developed and made available, with full transparency in relation to algorithms, practices and decision-making processes, in an accessible, non-technical jargon in local languages.

In addition, in a report to the Human Rights Council on online violence against women and girls from a human rights perspective, the Special Rapporteur on violence against women and girls, its causes and consequences urged internet intermediaries to uphold human rights principles online and adopt transparent complaint mechanisms as well as provide clear and comprehensive content moderation policy to protect women and girls from online and ICT-facilitated violence (A/HRC/38/47). In the same report, the Special Rapporteur also stressed the need to establish user-friendly and accessible safeguards, such as providing terms of service and reporting tools in local languages.

The Working Group on discrimination against women and girls in its report on public and political life (A/HRC/23/50), has stated that the Internet has become a site

of diverse forms of violence against women, in the form of pornography, sexist games and breaches of privacy. For women who engage in public debate through the Internet, the risk of harassment is experienced online and has recommended States to ensure gender-responsiveness in the promotion and protection of human rights on the Internet.

Further, the Working Group on discrimination against women and girls in its report on girls' and young women's activism (A/HRC/50/25), has stated that digital gender-based violence and harassment add a further layer of challenges to girls' and young women's activism. Digital technologies may be used to blackmail, control, surveil, coerce, harass, humiliate or objectify girl and young women activists, including by death threats. As a result, many victims of these practices limit their online activities, leading to self-censorship, endure stigma in their families and communities, or flee online spaces altogether. In this regard, the Working Group has recommended States, private companies and all stakeholders concerned to take appropriate measures in facilitating safe and inclusive online platforms for girls' and young women's activism and ensure the accountability of service providers for facilitating accessibility by creating effective regulatory frameworks, including for content moderation and reporting mechanisms, sanctioning perpetrators and providing reliable information to address online gender- and age-related discrimination and violence.