

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 ARE 1/2023
(Please use this reference in your reply)

9 March 2023

Excellency,

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.

In this connection, we would like to bring to your attention information we have received **concerning the reported use of Telegram, a social media company headquartered in Dubai, the United Arab Emirates, 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 is reported that said pro-military 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 a 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 line with human rights standards 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.

While we do not wish to prejudge the accuracy of the information received, we wish to express serious concern at the fact that the services of Telegram, an instant messaging platform by a company based in the United Arab Emirates, 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. We are concerned that, in the absence of a strong State response including where the company is based, such as preventive actions, regulations and sanctions for all those involved, Telegram may continue to be used as a platform to disseminate calls to violence, “hate speech”, and discrimination, which may amount to violations 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 is to prevent women from fully enjoying their human rights and fundamental freedoms without distinction or discrimination based on sex, as required by the UDHR. We are also highly concerned that Telegram has not taken action against accounts that have used Islamophobia and anti-Muslim rhetoric to attack pro-democracy activists and human rights defenders.

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.

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 information about measures and policies that your Excellency's Government has put in place to protect against human rights abuses by business enterprises domiciled in its territory, including Telegram Messenger LLP, to respect human rights throughout its operations. This includes conducting effective human rights due diligence to identify, prevent, mitigate and account for how they address their impacts on human rights throughout their operations (including abroad), as set forth by the UN Guiding Principles on Business and Human Rights.
3. Please indicate the steps that your Excellency's Government has taken, or is considering taking, to ensure effective access to domestic judicial mechanisms for victims of business-related human rights abuses.
4. Please indicate the steps that your Excellency's Government has taken or is considering taking to ensure that business enterprises such as Telegram Messenger LLP provide effective, operational-level grievance mechanisms, or cooperate in the provision of effective remedies through legitimate processes to the affected victims if they have contributed to adverse human rights impact.

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 Telegram.

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, Excellency, 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

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Ana Brian Nougères
Special Rapporteur on the right to privacy

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 on International Law

In connection with the above-alleged facts and concerns, we would like to draw your attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

In particular, we would like to highlight the United Nations Guiding Principles on Business and Human Rights, which were unanimously endorsed by the Human Rights Council in resolution A/HRC/RES/17/31 in 2011. 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 of society performing specialized functions, required to comply with all applicable laws and to respect human rights; and
- c) “The need for rights and obligations to be matched to appropriate and effective remedies when breached.”

It is a recognized principle that States must protect against human rights abuses by business enterprises within their territory. As part of their duty to protect against business-related human rights abuse, States are required to take appropriate steps to “prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication” (guiding principle 1). In addition, States should “enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights...” (guiding principle 3). The Guiding Principles also require States to ensure that victims have access to effective remedy in instances where adverse human rights impacts linked to business activities occur.

We would like to remind your Excellency’s Government that the United Nations Guiding Principles on Business and Human Rights clarifies that the business enterprises have an independent responsibility to respect human rights. However, States may be considered to have breached their international human rights obligations where they fail to take appropriate steps to prevent, investigate and redress human rights abuses 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.

In a report to the Human Rights Council (A/HRC/41/41), the Special Rapporteur on freedom of peaceful assembly and of association recalled that the General Assembly has also called upon all States to “ensure that the same rights that individuals have offline, including the rights to freedom of expression, of peaceful assembly and of association, are also fully protected online, in accordance with human rights law”. The Special Rapporteur went on to state in the same report that “States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful

assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards,” and that in the digital age “the positive obligation to facilitate the exercise of the rights to freedom of peaceful assembly and of association includes efforts ‘to bridge the digital divides, including the gender digital divide, and to enhance the use of information and communications technology, in order to promote the full enjoyment of human rights for all’. The obligation to protect requires that positive measures be taken to prevent actions by non-State actors, including businesses, that could unduly interfere with the rights to freedom of peaceful assembly and of association.”

The Special rapporteur on the rights to freedom of peaceful assembly and of association noted that international human rights norms should guide digital technology companies’ governance and further recommend them “to prevent or mitigate the adverse human rights impacts of their involvement” (A/HRC/41/41, para 14 84). In the same report, he called them to “integrate early warning systems within business processes to identify human rights risks, and respond in a timely fashion (...); support the research and development of appropriate technological solutions to online harassment, disinformation and propaganda, including tools to detect and identify State-linked accounts and bots (A/HRC/41/41, para 86 (b)).

In his recommendations in the abovementioned report, the Special Rapporteur on freedom of peaceful assembly and of association put forward that “States should duly implement their duty to protect against abuses of the rights to freedom of peaceful assembly and of association by business enterprises by taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication. This includes adopting and enforcing laws and policies that focus on creating mandatory requirements for digital technology companies to exercise due diligence to identify, prevent, mitigate and account for how they address any human rights impacts of their business services and products, as well as for robust transparency and remediation mechanisms. These laws should be adopted only after a fully inclusive and participatory consultation process with all stakeholders.”

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.