Annex II: HRW Letter to Facebook

May 19, 2020

Mr. Mark Zuckerberg
Chairman and Chief Executive Officer
Facebook
1 Hacker Way
Menlo Park, CA 94025

Re: Requesting Access to Content Removed from Facebook

Dear Mr. Zuckerberg,

We write regarding the possibility of accessing specific material, some of which has apparently been removed from Facebook’s platform as terrorist or violent extremist content (TVEC), and to request your feedback on general questions related to the process of content takedowns on your platform. We are planning to release a short report in several weeks about how content takedowns may impede human rights inquiries and criminal investigations.

Human Rights Watch is an international nongovernmental organization dedicated to protecting the human rights of people around the world. We currently work to document human rights violations in some 90 countries. In order to document these abuses, we rely not only on first-hand testimony from victims and witnesses, but also on a range of other materials to substantiate any allegations, including photos and videos that are shared directly with our researchers or are posted online, most often on social media platforms. In the course of our work, we have had the opportunity to engage with Facebook on a range of issues related to online censorship and privacy, including through the Global Network Initiative.

Social media content, particularly photos and videos posted by perpetrators of human rights abuses, victims, witnesses, and others has become an important element not only in our work, but also in that of national and international judicial officials, including at the International Criminal Court (ICC) in The Hague. This content has also played a central role in supporting documentation work by media and other nongovernmental organizations.

At the same time, social media companies including Facebook have ramped up efforts to permanently remove material they categorize as TVEC from their platforms, which can include documentation of human rights abuses.
While we acknowledge that content removal may be appropriate in certain cases, we are concerned that Facebook’s definition of terrorism is overly broad, imprecise, and at odds with international humanitarian law. We are also concerned that, with Facebook permanently removing content, human rights workers and criminal investigators are losing access to potentially vital evidence of abuse. An added complexity since 2017 is that content removal is increasingly relying on automation without the benefit of human review. In these cases, investigators and others may never even know the content exists.

Our specific request pertains to Facebook content that we have included in Human Rights Watch reports since 2010 to substantiate human rights and laws of war abuses. We identified 1,152 pieces of content that we had originally accessed on Facebook, and which we linked to in our publications from 2010 to 2020. Between April 10 and 15, 2020, we were not able to access 227 of these pieces of content that substantiated specific abuses. Of those, 135 gave the error message: “Sorry, this content isn't available right now. The link you followed may have expired, or the page may only be visible to an audience you're not in.” Another 84 gave the error message: “This page isn’t available. The link you followed may be broken, or the page may have been removed.” Finally, 8 gave the error message: “Content not Found. The link you followed may be broken, or the page may have been removed.” We are unable to ascertain which of these pieces of content were taken offline by Facebook, taken offline by the user, or were inaccessible for some other reason.

Human Rights Watch is asking whether you can securely share with us for archival purposes the 227 pieces of content that we had used in reports to substantiate specific allegations of abuse that are no longer available, or provide the reasons as to why you cannot share them with us, by June 9, 2020. We would securely archive this content on our servers to retain as material relevant to human rights violations. In addition, we ask that you provide a reason each piece of content is no longer available to us, including reference to the specific clause of the community standard violated where relevant. In the Annex attached to this letter, we have included the original link to the missing or blocked content, the error message, and the link to the Human Rights Watch publication in which it was referenced.

These are all pieces of content that may prove relevant to future accountability efforts.

We reiterate the recommendations on notice, from the Santa Clara Principles, namely that Facebook should clearly explain to users why their content has been restricted, including the specific clause from the Community Standards that the content was found to violate and how the content was detected, evaluated, and removed (i.e. by users, automation, or human content moderators).

Following are our additional questions regarding the process of content takedowns on your platform, which we hope that you can address.

How content is flagged and taken down:

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• Is there a way for someone to know whether content is unavailable because Facebook removed it from its platform, the user who posted the content removed it, or it was not taken down but is unavailable only in a particular jurisdiction?
• How can someone appeal a removal if they are not the person who posted the material?
• If content is flagged as TVEC and taken down, and someone appeals, what is the process by which Facebook decides if the content is or is not TVEC in nature, and what criteria does it use?

Use of Automation:
• How does Facebook use algorithms to flag TVEC content for removal or review?
• How does Facebook use previous instances of TVEC content to train and refine these algorithms? Can you explain what other types of data (e.g. camera footage of firearms training) are used to train these algorithms?
• Is Facebook sharing training data with other companies?
• Are machine learning or other algorithmic systems being used to block TVEC from being uploaded in the first place that are not based on hashes and that can recognize unique content?
• If an individual successfully appeals to Facebook to reinstate content, does Facebook internally flag the hash associated with that content as content that should stay up? Does Facebook train its algorithms on data from successful appeals to correct against future erroneous takedown?
• Facebook has explained that its machine learning systems “automatically remove posts when the tool indicates with very high confidence that the post contains support for terrorism,” but that it continues to “rely on specialized reviewers to evaluate most posts.” Can you explain the criteria that inform the confidence threshold for automatic takedowns? Under what circumstances will content be flagged for human review?
• Facebook has explained that its “machine-learning classifiers...identify and examine a wide range of factors on a post and assess whether it’s likely to violate our policies.” Can you explain the factors relevant to the assessment of TVEC content?
• Do you conduct audits of automatic takedowns to determine whether content has been erroneously removed? If so, what have you learned from these audits, and how are these lessons integrated into your machine learning systems?
• Once Facebook’s machine learning systems flags a piece of content as possible TVEC, will the content still be accessible to users pending human review? Are there restrictions on its accessibility pending human review (e.g. preventing content from appearing on a News Feed)? Under what circumstances would the content be made inaccessible immediately after it is flagged?

Archiving:
• When content is removed, how long does Facebook retain it on its servers?
• Is the original embedded file metadata retained in content that is uploaded to your platform? If so, how long is it retained for?
• Are upload or process logs associated with user content retained? Are file validation logs retained?
• How is data verified for basic preservation purposes or for use in legal contexts (if content is subpoenaed)? Are md5 or SHA checksums used to ensure data integrity?
• What steps need to be taken by the following groups in order to secure access to taken-down content: law enforcement officers, internationally mandated investigators (including from the ICC and other UN-mandated inquiries), nongovernmental organizations, and journalists?

We would be grateful if you could respond to our request and questions in this letter by June 9, 2020.

Please direct your responses or any further questions to Belkis Wille.

Sincerely,

Arvind Ganesan
Director, Business and Human Rights
Human Rights Watch

CC: Miranda Sissions
Director of Human Rights Policy

Brian Fishman
Director of Counterterrorism and Dangerous Organizations Policy

Erin Saltman
Policy Manager, EMEA Counterterrorism & CVE
Annex

Facebook content Human Right Watch has cited in its documentation of rights abuses that is no longer available to us:

We ask that Facebook please provide us with the removed content, or with a justification as to why you cannot share it with us, by June 9, 2020. In addition, for the content that Facebook took offline, we ask that you please provide a reason for why Facebook removed each piece of content.

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