Human Rights Watch's Submission to the United Nations Special Rapporteur on Freedom of Opinion and Expression

July 2024

Human Rights Watch is pleased to have the opportunity to offer input for the United Nations special rapporteur on freedom of opinion and expression's upcoming thematic report on freedom of expression in challenging times.

This submission provides an overview of relevant research published by Human Rights Watch, which we are submitting as input into the special rapporteur's report. The overview below does not represent a comprehensive analysis of Human Rights Watch's outputs, nor does it attempt to address all the questions posed in the special rapporteur's call for submissions. Rather, it serves as high-level summaries of our findings, which we wish to highlight for the special rapporteur.

Human Rights Watch's submission centers on the following issues concerning freedom of expression and armed conflicts documented in our research on and related to the Israel-Gaza hostilities since October 7, 2023: **1)** Suppression of pro-Palestinian speech and peaceful protests; **2)** Safety of journalists and press freedom in Gaza and Lebanon; **3)** Role, responsibilities, and responses of social media companies to respect freedom of expression in relation to the hostilities; **4)** Communications blackouts and internet disruptions in Gaza.

1) Suppression of Pro-Palestinian Speech and Peaceful Protests

Since the outbreak of unprecedented violence in Israel and Palestine, Human Rights Watch has documented various governments' responses domestically to the hostilities, in particular, demonstrations of solidarity with Palestinians. We have documented restrictions by governments on freedom of expression, access to information, and peaceful protests in relation to the hostilities, which undermine the fundamental human rights to freedom of expression and assembly.

In October 2023, Human Rights Watch reported on responses from European governments to the hostilities that are having harmful effects on human rights in Europe. Human rights concerns include inadequate responses to growing reports of antisemitism and anti-Muslim racism; the use of immigration policies that risk discrimination against people perceived to be Arab, Palestinian, or Muslim; and bans and other restrictions on peaceful pro-Palestinian protest and expression in various countries including Germany, France, Austria, Hungary, and Switzerland. To respond more effectively to structural and other forms of racism and discrimination, governments should collect disaggregated data on race and ethnicity. Authorities in Europe should ensure that they carry out policing and security functions without discrimination and protect everyone's rights. The need to counter violence based on hatred and to protect people should never be used to justify state discrimination or abusive immigration measures. Bans on protests should be a last resort.

In May 2024, Dr. Abu Sittah, a prominent British-Palestinian surgeon, was denied entry to Germany, France, and the Netherlands to talk about what he witnessed in Gaza due to a Schengen-wide entry ban imposed by Germany. Even though his reported travel ban was overturned on May 14, the ban risked hindering his ability to provide information about crimes in Gaza to citizens and to other judicial authorities and bodies across Europe. The attempts to prevent him from sharing his experience risked undermining Germany's commitment to protect and facilitate freedom of expression and assembly and to nondiscrimination.

In Bahrain, authorities arrested and harassed scores of participants in pro-Palestine protests across the country in December 2023, including children as well as people who engaged in online pro-Palestine advocacy. Many children were held for weeks to months without adequate access to their families or to lawyers. Children should not be detained except as a last resort and for the shortest appropriate time. Bahraini authorities' suppression of pro-Palestinian speech is the most recent example of authorities' systemic suppression of freedom of expression, assembly, and belief.

In Jordan, authorities have arrested and harassed scores of Jordanians who participated in pro-Palestine protests across the country or engaged in online advocacy since October 2023, bringing charges against some of them under the widely criticized and repressive cybercrimes law which was passed in August 2023. Jordanian authorities should not use a regional crisis as a pretext to further restrict the rights of Jordanians to express themselves peacefully and abuse vague provisions of the cybercrimes law.

In the United States, as pro-Palestine protests spread across university campuses in April 2024, some universities, including Columbia University, the University of Texas at Austin, and Emory University, reportedly responded with mass suspensions, evictions from university housing, and arrests of students, faculty, legal observers, and journalists covering these events. In Texas, Governor Greg Abbott deployed the Texas Department of Public Safety, the same heavily militarized troopers used under Operation Lone Star, to break down the encampments. Human Rights Watch urges US universities to respect students' rights to assembly and free expression and to investigate and address allegations of acts of discrimination, antisemitism, and Islamophobia on the merits in a case-by-case basis, through fair and transparent processes.

In Israel, authorities have reportedly cracked down on freedom of expression for Palestinian citizens of Israel through a range of punitive measures. Adalah, a human rights organization in Israel described the arrests, interrogations, and indictments it documented as "widespread and coordinated" efforts to repress expression of dissent against the Israeli government's attack on Gaza.

In April 2021, Human Rights Watch found that the Israeli government's systematic oppression of millions of Palestinians, coupled with inhumane acts committed as part of a policy to maintain the domination by Jewish Israelis over Palestinians, amount to the crimes against humanity of apartheid and persecution.

2. Safety of Journalists and Press Freedom

According to the Committee to Protect Journalists, the period since October 7, 2023 is the deadliest period for journalists and media workers globally since the organization began gathering data in 1992. Human Rights Watch documented that two Israeli strikes that killed Reuters journalist Issam Abdallah and injured six other journalists from Reuters, Al Jazeera, and Agence France-Presse in south Lebanon on October 13 were apparently deliberate and constitute a war crime. Evidence indicates that the Israeli military knew or should have known that the group of people they were firing on were civilians. Israel's key allies – the United States, the United Kingdom, Canada, and Germany – should suspend military assistance and arms sales to Israel, given the risk they will be used for grave abuses.

The attack was additionally investigated by the United Nations Interim Forces in Lebanon (UNIFIL); however, its findings have not been made public. UNIFIL should release its findings in line with the UN's commitment to transparency.

In January 2024, Human Rights Watch along with other civil society organizations sent a letter to US President Joe Biden urging him to publicly call on all parties to the armed conflict to respect the right of journalists to report on the hostilities, ensure journalists' safety, allow all journalists seeking to evacuate from Gaza to do so, abjure the indiscriminate and deliberate killing of journalists, promptly and thoroughly investigate all attacks on journalists, and hold accountable individuals found to be responsible for them.

On May 24, 2024, the International Court of Justice issued legally binding provisional measures requiring Israel to "ensure and facilitate the unimpeded access to Gaza" for UN-mandated investigative bodies, as part of South Africa's case alleging that Israel is violating the Genocide Convention of 1948.

3) Role, Responsibilities, and Responses of Social Media Companies to Respect Freedom of Expression

In the wake of the hostilities between Israeli forces and Palestinian armed groups, Meta's content moderation policies and systems have silenced voices in support of Palestine on Instagram and Facebook. Human Rights Watch's December 2023 report documented a systemic and global pattern of suppression or undue removal of protected speech including peaceful expression in support of Palestine and public debate about Palestinian human rights. The report is not a comparative analysis of overall censorship of political statements and viewpoints. Rather, it documents cases of censorship received by Human Rights Watch from over 60 countries around the world in response to a call for evidence of any type of online censorship and of any type of viewpoint related to Israel and Palestine since October 7.

In reviewing the evidence and context associated with each reported case, Human Rights Watch identified key patterns of censorship, each recurring in at least a hundred instances, including: 1) removal of posts, stories, and comments; 2) suspension or permanent disabling of accounts; 3) restrictions on the ability to engage with content – such as liking, commenting, sharing, and reposting on stories – for a specific period, ranging from 24 hours to three months; 4) restrictions on the ability to follow or tag other accounts; 5) restrictions on the use of certain features, such as Instagram/Facebook Live, monetization, and the recommendation of accounts to non-followers; and 6) "shadow banning," defined as the

significant decrease in the visibility of an individual's posts, stories, or account, without notification, due to a reduction in the distribution or reach of content or disabling of searches for accounts.

In cases where removal or restrictions on content and accounts were accompanied by a notice to the user, Meta's most widely cited reasons were Community Guidelines (Instagram) or Standards (Facebook) violations, specifically those relating to "Dangerous Organizations and Individuals" (DOI), "Adult Nudity and Sexual Activity," "Violent and Graphic Content," and "Spam."

In hundreds of cases documented by Human Rights Watch, the slogan "From the river to the sea, Palestine will be free" as well as comments such as "Free Palestine," "Ceasefire Now," and "Stop the Genocide," were repeatedly removed by Meta's platforms under "spam" Community Guidelines or Standards without appearing to take into account the context of these comments. These statements and the context in which they are used are clearly not spam nor appear to violate any other Facebook or Instagram Community Guidelines or Standards. For instance, the words in each of these statements on their face do not constitute incitement to violence, discrimination, or hostility. In dozens of cases, the content removal was accompanied by platform restrictions on users' ability to engage with any other content on Instagram and Facebook, at times for prolonged periods.

Over time, users who reported cases to Human Rights Watch said this led them to change their online behavior or engagement to adapt to and circumvent restrictions, effectively self-censoring to avoid accruing penalties imposed by the platform. In addition, most people who reported cases to Human Rights Watch said it was their first time experiencing restrictions on Meta's platforms since they joined years earlier.

In over 300 cases documented by Human Rights Watch, the user reported and provided evidence of being unable to appeal the restriction on their account to the platform, indicating that the "Tell Us" button either did not work or did not lead anywhere when clicked, and the "Think that we've made a mistake?" option was disabled or unavailable. This left the user unable to report possible platform violations and without any access to an effective remedy.

Human Rights Watch shared its findings with Meta and solicited Meta's perspective. In response, Meta cited its human rights responsibility and core human rights principles as guiding its "immediate crisis response measures" since October 7.

We found that the problem stems from flawed Meta policies and their inconsistent and erroneous implementation, overreliance on automated tools to moderate content, and undue government influence over voluntary content removals. For years, digital rights and human rights organizations from the MENA region, in particular 7amleh, have been documenting and calling Meta's attention to the disproportionately negative impact of its content moderation on Palestinians. Given that Human Rights Watch and others have brought to the attention of the company in the past, we found that the company is failing to meet its human rights due diligence responsibilities.

Meta should ensure that decisions to take content down are transparent, consistent, and not overly broad or biased. Meta should permit protected expression on its platform, firstly by making its DOI policy consistent with international human rights standards. It should also audit its "newsworthy allowance" policy to ensure that it does not remove content that is in

the public interest and should ensure its equitable and non-discriminatory application. It should also conduct due diligence on the human rights impact of temporary changes to its recommendation algorithms it introduced in response to the ongoing hostilities.

4) Communications Blackouts and Internet Disruptions in Gaza

Shortly after October 7, 2023, Israeli authorities announced a complete siege on Gaza, cutting off electricity and other basic necessities, acts of collective punishment that amount to war crimes. Around this period, telecommunications services in Gaza began experiencing widespread disruptions. On November 15, 2023, Human Rights Watch reported on communications blackouts in Gaza resulting from Israeli authorities' actions, which included damage to core communications infrastructure, cuts to electricity, fuel blockades, and apparently deliberate shutdowns through technical measures. Deliberately shutting down or destroying the telecommunications system causes disproportionate harm to civilians relative to the anticipated military advantage. Intentional, blanket shutdowns or restrictions on access to the internet violate multiple rights, including the right to freedom of expression and access to information, and can be deadly during crises. Prolonged and complete communications blackouts can provide cover for atrocities and breed impunity while further undermining humanitarian efforts and putting lives at risk.