Access Now's Submission to the United Nations Special Rapporteur on the promotion and protection of freedom of opinion and expression on Freedom of Expression in Challenging Times

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I. Introduction

1. Access Now welcomes the opportunity to provide relevant information to the United Nations (UN.) Special Rapporteur on the promotion and protection of freedom of opinion and expression for her upcoming UN General Assembly thematic report on Freedom of Expression in Challenging Times.[1] As an ECOSOC accredited organization, Access Now routinely engages with the UN in support of our mission to extend and defend digital rights of people and communities at risk around the world.[2]

2. This submission addresses the trends, challenges and threats to freedom of expression in relation to the war on Gaza and its broader consequences on online content moderation and the right to peaceful protest in the MENA region.

II. Online platforms' suppression and censorship of Palestine-related content

3. The Gaza war has placed a spotlight on the role and obligations of tech companies, particularly social media platforms, in situations of armed conflicts. In the wake of Hamas' attack on Israel on October 7, 2023, social media platforms quickly reacted by removing hundreds of thousands of content online.[3] As Israel commenced its military assault on Gaza, Palestinians, and people sharing pro-Palestinian content on social media, began reporting of being restricted, censored, and suppressed online. Large online platforms, such as Facebook, Instagram, and TikTok, suspended or restricted the accounts of Palestinian journalists and activists both inside and outside of Gaza, and arbitrarily deleted a considerable amount of content, including documentation of atrocity crimes and human rights abuses in the occupied Palestinian territories.[4]

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[1]UN Human Rights Council Special Procedures, Call for submissions to the thematic report of the Special Rapporteur on Freedom of Expression in Challenging Times, available online at: https://www.ohchr.org/en/calls-for-input/2024/call-submissions-thematic-report-special-rapporteur-freedom-expression

[2] Access Now, About Us, 2021, available at https://www.accessnow.org/. As a grassroots-to-global organization, we partner with local actors to bring a human rights agenda to the use, development, and governance of digital technologies, and to intervene where technologies adversely impact our human rights. By combining direct technical support, strategic advocacy, grassroots grantmaking, and convenings such as RightsCon, we fight for human rights in the digital age.

[3] Al Jazeera, *Even in time of genocide, Big Tech silences Palestinians*, December 12, 2023, available online at: https://www.aljazeera.com/opinions/2023/12/12/even-in-time-of-genocide-big-tech-silences-palestinians

[4] Mondoweiss, X post, October 10, 2023: https://x.com/Mondoweiss/status/1711706749294526682?s=20

4. Examples of censorship of Palestine-related content on social media platforms documented by Access Now, and other human rights organizations, show that it is rampant, systematic, and global in nature. For instance, Human Rights Watch (HRW) documented **1,049 cases of peaceful content** expressing support for Palestine, originating from more than 60 countries around the world, **being removed between October and November 2023 on Meta's platforms.**

5. Palestinian journalists, activists, and human rights defenders have been disproportionately suspended and censored across Meta's platforms, namely Facebook, WhatsApp, and Instagram. This censorship is catalyzed by Meta's Dangerous Individuals and Organizations (DOI) policy, which prohibits the glorification, support, and representation of designated groups and individuals on Meta's platforms. While the policy rightly aims at tackling online terrorist and violent extremist content, its vague and overly-broad interpretation of what constitutes "glorification" or "support" of such individuals and groups creates a sweeping net that ends up capturing peaceful content protected by the right to freedom of opinion and expression. As noted in the human rights due diligence report commissioned by Meta into its content moderation actions during the 2021 conflict in Israel/Palestine, the disproportionate over-moderation of Palestine-related content was largely due to "Meta's policies which incorporate certain legal obligations relating to designated foreign terrorist organizations."[5] The report particularly noted that Palestinians and people charing pro-Palestinian content were more likely to be seen as violating Meta's DOI policy "because of the presence of Hamas as a governing entity in Gaza and political candidates affiliated with designated organizations."[6] This in addition to the fact that the disproportionate majority of designated individuals and organizations come from Arabic and Muslim countries.[7]

6. Notably, Palestinian journalists experienced account suspension and content takedowns on Meta's platforms for reporting news in Arabic language about Gaza. For example, the editor of Palestinian radio station 24FM, Ihab Al-Jariri, documented how their Arabic content gets taken down on Facebook, while the same content in Hebrew and English remains.[8] 24FM's Facebook page was suspended twice and they continue to receive warnings for violating Meta's Community Guidelines for posting news.

7. Other illustrative examples of over-moderation of Palestine-related content include:
    a. Meta suspended the Instagram account of Gaza journalist and photographer Motaz Azaiza, who gained more than 18.5 million followers for reporting on the current war in

[5] Business for Social Responsibility, *Human Rights Due Diligence of Meta's Impacts in Israel and Palestine in May 2021*, September 22, 2022, available online at: https://www.bsr.org/reports/BSR_Meta_Human_Rights_Israel_Palestine_English.pdf
[6] Business for Social Responsibility, *Human Rights Due Diligence of Meta's Impacts in Israel and Palestine in May 2021*, September 22, 2022, available online at: https://www.bsr.org/reports/BSR_Meta_Human_Rights_Israel_Palestine_English.pdf
[7] The Intercept, Revealed: Facebook's Secret Blacklist Of "Dangerous Individuals And Organizations," October 12, 2021, available online at: https://theintercept.com/2021/10/12/facebook-secret-blacklist-dangerous/
[8] Al Jazeera, Palestinian content faces restrictions on social media platforms, October 19, 2023, available online at (in Arabic): https://youtu.be/viFQxbreKNc?si=5dwvOa8U9VjO3cYD

Gaza. While his account was reinstated, several of Azaiza's posts documenting Palestinian casualties in Gaza were flagged by Instagram for violating its policy on "adult nudity and sexual activity" and asked to be edited or removed. In the same vein, immediately after the bombing of Al-Ahli Arab Hospital in Gaza on October 17, 2023, which **killed 471 Palestinians and left another 342 injured**, Facebook and Instagram removed content documenting the explosion and showing bodies of casualties, under the same above mentioned policy. The automatic deletion of bystander content with evidentiary value in times of war not only violates people's ability to express themselves and freely access information, it also hinders current and future investigations into alleged war crimes and atrocities perpetrated in Gaza.

b. Meta rolled out a new notification discouraging users from following or sharing content from popular Palestinian accounts, including prominent journalists, with a "Are you sure" prompt for sharing news about Gaza, allegedly for "repeatedly post[ing] false information" or violating Meta's Community Guidelines.[9]

c. Meta manipulated its content classifiers to apply stricter standards to user-generated content from Palestine compared to the rest of the region and the world. As reported by the Wall Street Journal, Meta generally hides comments designated as hateful only when its content moderation systems are 80% certain that they violate the platform's policies. The threshold for these classifiers were lowered by half for content generated from the Middle East as "part of 'temporary risk response measures'."[10] The company lowered the threshold even further for user-generated content from Palestine where comments are automatically hidden if there is a 25% likelihood that they may violate Meta's community guidelines. Access Now documented a number of cases where comments were automatically hidden when talking about Palestine or using the Palestinian flag emoji. We also documented cases where users were banned from posting comments all together for a period of time.[11]

d. Under its DOI policy, Meta permanently banned the Arabic and English-language Facebook pages of Quds News Network, the largest and entirely volunteer-run Palestinian news outlet, which has over 10 million followers on Facebook. Other impacted Palestinian and international news outlets include, but are not limited to, Ajjyal Radio Network, BreakThroughNews, 24FM, Modoweiss, Palestinian Refugees Portal, as well as journalist accounts such as Faten Elwan, Saleh Al-Jafarawi, and

[9] See Ahmed Shihab-Eldin's Facebook post, November 18, 2023, available online at: https://www.facebook.com/ahmedshihabeldin/posts/895076695311292/?comment_id=637103655025019&reply_comment_id=1081570066206332&__rdr

[10] The Wall Street Journal, *Inside Meta, Debate Over What's Fair in Suppressing Comments in the PalestinianTerritories*, October 21, 2023, available online at: https://www.wsj.com/tech/inside-meta-debate-over-whats-fair-in-suppressing-speech-in-the-palestinian-territories-6212aa58

[11] Access Now, *It's not a glitch: how Meta systematically censors Palestinian voices*, February 19, 2024, available online at: https://www.accessnow.org/publication/how-meta-censors-palestinian-voices/

Ahmed Shihab-Eldin.

e. Many users have also experienced a significant drop in visibility, outreach and engagement on a wide-scale —a phenomenon popularly known as "shadowbanning" — for posting content about Palestine on X, Instagram, and Facebook. This includes limiting views on Instagram stories — particularly if users share news content from other pages.[12]

8. In addition to online censorship, online platforms have experienced an unprecedented proliferation of hate speech and racism (including Islamophobia, anti-semitism, and anti-Palestinian racism); incitement to genocide and violence against Palestinians; dehumanization; online harassment, doxxing and smear campaigns targeting Palestinian and pro-Palestinian activists; as well as state-sponsored disinformation and war propganda. The non-profit organization, Law for Palestine, has documented **over 500 instances of direct incitement to violence and genocide against Palestinians on social media, television interviews, and official statements from Israeli politicians, journalists, and public figures**.[13] This includes at least **56 cases of incitement by Israelis**[14] after the International Court of Justice ordered the State of Israel to take all measures within its power to prevent and punish the direct and public incitement to commit genocide against Palestinians in Gaza.[15]

9. Despite persistent calls from civil society, politicians, and the UN Special Procedures, for technology companies to transparently address the disproportionate and biased over-moderation of Palestine-related content, the censorship patterns described above largely persist. Similarly, warning calls from several UN bodies, including several Special Rapporteurs, the Working Group on Business and Human Rights, and the UN Committee on the Elimination of Racial Discrimination, social media companies have failed to address the proliferation of hate speech, genocidal rhetoric, and incitement to violence targeting Palestinians. Nine months into the war big tech companies have not produced or showcased any effort of conducting heightened human rights due diligence in order to identify, mitigate, and remediate the negative human rights impacts of their policies and actions per the UN Guiding Principles on Business and Human Rights. Such actions directly threaten the fundamental rights to freedom of expression, access to information, and non-discrimination, and stifle political participation online. Furthermore, online censorship, doxxing and attacks against Palestinians and pro-Palestinian activists impedes the public's ability to access reliable news and information, impedes journalists' ability to report and work effectively, and possibly

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[12] Mashable, *People are accusing Instagram of shadowbanning content about Palestine*, October 16, 2023, available online at: https://me.mashable.com/digital-culture/33687/people-are-accusing-instagram-of-shadowbanning-content-about-palestine
[13] Law for Palestine, *Database of Israeli Incitement to Genocide*, January 4, 2024, available online at: https://law4palestine.org/law-for-palestine-releases-database-with-500-instances-of-israeli-incitement-to-genocide-continuously-updated/
[14] Law for Palestine, *Database of Israeli Incitement to Genocide, Incitements since the ICJ Order to Cease Genocidal Acts and Incitement*, Updated on February 27, 2024, available online at: https://law4palestine.org/wp-content/uploads/2024/02/Final-Jan.-26-Statements-DB.pdf
[15] See the International Court of Justice's summary of the order of 26 January 2024, available online at: https://www.icj-cij.org/node/203454

present and future investigations into international crimes and human rights abuses committed since October 7.

III. State crackdown on pro-Palestinian activism and solidarity in the MENA region

10. In the wake of the war on Gaza, a wave of protests and campaigns supporting Palestinians' rights have swept across the Middle East and North Africa (MENA) region. These demonstrations are characterized by diverse participation and adopted a variety of forms to express solidarity. In response, several governments have rapidly clamped down on these protests and campaigns, fearing that such a movement could re-kindle demands for political and economic rights and alter the political status quo at home.

Bahrain

11. Security forces have arrested and harassed scores of participants in pro-Palestinian protests and campaigns, including children, which took place in various areas of the country in solidarity with the Palestinian people and demanding an end to the Manama-Tel Aviv normalisation deal.[16]

12. According to Euro-Med Monitor, the Bahraini Public Prosecution issued a decision to detain Hussein Rabie, Abbas Aqeel Hani, Muhammad Hussein Ahmed, Al-Sayyid Hussein Abbas Al-Alawi, Ali Hassan Al-Ekri, and Abdul Rahman Al-Husseini. These individuals were arrested on October 26, 2023, after security personnel suppressed a demonstration that took place on Sitra Island in solidarity with the Palestinian people.[17]

13. The same source confirmed that pro-Gaza rallies on November 2, 2023 were violently suppressed in the Sanabis and Karbabad areas, followed by an arrest and summons campaign resulting in 14 people being detained, while 20 others were summoned for investigation.[18]

14. On December 15, 2023, **at least 57 people, including at least 25 children,** were arrested in relation to the protests.[19]

Egypt

15. Similarly, many peaceful human rights activists and protesters in Egypt have been arrested for participating in demonstrations or campaigns expressing solidarity with Palestinians. Based on a list published by the Egyptian Commission for Rights and Freedoms (ECRF), **security**

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[16] Euro-Med Human Rights Monitor, *Arrests reported in Bahrain, the UAE, and Saudi Arabia over pro-Gaza rallies*, November 23, 2023. Available online at: https://euromedmonitor.org/en/article/5976/Arrests-reported-in-Bahrain,-the-UAE,-and-Saudi-Arabia-over-pro-Gaza-rallies

[17] Euro-Med Human Rights Monitor, *Arrests reported in Bahrain, the UAE, and Saudi Arabia over pro-Gaza rallies*, November 23, 2023. Available online at: https://euromedmonitor.org/en/article/5976/Arrests-reported-in-Bahrain,-the-UAE,-and-Saudi-Arabia-over-pro-Gaza-rallies

[18] Ibid

[19] Human Rights Watch, *Repression of Pro-Palestine Protests*, December 22, 2023. Available online at: https://www.hrw.org/news/2023/12/22/bahrain-repression-pro-palestine-protests

forces detained at least 72 people between October 20 and 24, 2024, who participated in nationwide pro-Palestinian mass protests in Cairo and Alexandria.[20]

16. On April 23, 2024, **at least 19 people were arrested, including 5 journalists,** for participating in a peaceful protest in Cairo in solidarity with women in Gaza and Sudan. Three of those arrested were released the following day without charge, while 16 others, including journalists, lawyers and human rights activists, were brought before the Supreme State Security Prosecutor's Office (SSSP) for investigation in case No. 1567 of 2024, and were charged with "joining a 'terrorist' group," pursuant to article 12 of Law No. 94 of 2015 on Counter-Terrorism. They were all released on conditional bail on the same day, with fines of up to EGP 10,000 (about USD $209) per person.[21] Weeks earlier, ten activists were arrested following peaceful pro-Palestine demonstrations outside the Cairo Journalists Syndicate.[22]

Jordan

17. Since October 7, 2023, the Jordanian authorities have escalated their crackdown on the rights to freedom of expression and assembly through the weaponization of its repressive Cybercrime Law and administrative detention procedure to stifle peaceful dissent and pro-Palestinian activism. Hundreds of people were arrested and prosecuted for taking part in protests in solidarity with Palestine or for their social media posts that are critical of Jordan's relationship and trade deals with Israel in light of the latter's war on Gaza.[23]

Saudi Arabia

18. Not enough information exists regarding the number of detainees who expressed their support for Palestine in Saudi Arabia. However, according to a Bloomberg report, Saudi authorities arrested a company executive involved in the kingdom's Vision 2030 economic transformation plan —a cornerstone of Crown Prince Mohammed bin Salman's agenda— for expressing views on the Gaza conflict deemed by authorities as incendiary.[24] According to the same report, people who called for the boycott of American fast food restaurants in the kingdom or said Israel should never be forgiven have been arrested.[25]

19. Showing solidarity with Gaza and praying for a free Palestine at holy sites in Saudi Arabia could also be a reason to be arrested or harassed. For example, British actor and presenter Islah

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[20] Human Rights Watch, *Dozens of Peaceful Protesters Detained*, November 1, 2023. Available online at: https://www.hrw.org/news/2023/11/01/egypt-dozens-peaceful-protesters-detained
[21] International Commission of Jurists, *End crackdown on peaceful protests*, May 2, 2024. Available online at: https://www.icj.org/egypt-end-crackdown-on-peaceful-protests/
[22] The New Arab, *How Egypt's crackdown on Gaza protests shows the fragility of Sisi's regime*, May 6, 2024. Available online at: https://www.newarab.com/analysis/egypts-crackdown-gaza-protests-shows-regimes-fragility
[23] Amnesty International, *End draconian crackdown against pro-Palestinian activism*, February 6, 2024. Available online at: https://www.amnesty.org/en/latest/news/2024/02/jordan-end-draconian-crackdown-against-pro-palestinian-activism/
[24] Bloomberg, *Saudi Arabia Steps Up Arrests Of Those Attacking Israel Online*, May 1, 2024. Available online at: https://www.bloomberg.com/news/articles/2024-05-01/saudi-arabia-steps-up-gaza-arrests-as-israel-ties-edge-closer
[25] Ibid

Abdur-Rahman was interrogated and detained for hours by Saudi authorities for wearing a keffiyeh while being on a pilgrimage trip.[26]

IV. Recommendations

For States:

- Immediately end their crackdown on pro-Palestinian activism;

- Stop the weaponization of and repeal repressive laws, such as cybercrime law, anti terrorism law and Penal code to stifle political dissent and public debate; and

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- Immediately release those arrested for exercising their right to freedom of expression and peaceful assembly.

For online platforms:

- Conduct heighted human rights due diligence to identify, mitigate, and remediate the negative impacts of their services, policies, and actions on human rights, especially in light of the International Court of Justice's ruling on the plausibility of a real and imminent risk of genocide against the Palestinian people in Gaza;[27]

- Address the over-enforcement of Palestine-related content, particularly for Arabic-language user generated content from the MENA region, including by overhauling content moderation policies and enforcement to align with international human rights law standards; providing transparency about the use of automation and machine learning to moderate or translate Palestine-related content, including sharing information on the classifiers programmed and used, and their error rates; and conducting independent audits into platforms' content curation actions and ranking and recommender systems and how it may be manipulated to 'shadowban' or suppress users' visibility and outreach;

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[26] Middle East Eye, *Saudi Arabia detains worshippers praying for Gaza in holy sites*, November 16, 2023. Available online at: https://www.middleeasteye.net/news/israel-palestine-war-saudi-arabia-detains-worshippers-praying-gaza

[27] See the International Court of Justice's summary of the order of 26 January 2024, available online at: https://www.icj-cij.org/node/203454

- Immediately combat the proliferation of harmful and illegal online content including hate speech, disinformation, incitement to violence, genocidal rhetoric, and all forms of racism and discrimination in line with international human rights standards; and

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- Ensure effective and swift remedy and redress to affected individuals including through providing easily accessible and transparent reporting mechanisms to appeal arbitrary content moderation decisions in a rapid matter and based on predictable timelines.



Access Now (https://www.accessnow.org) defends and extends the digital rights of individuals and communities around the world. As a grassroots-to-global organization, we partner with local actors to bring a human rights agenda to the use, development, and governance of digital technologies, and to intervene where technologies adversely impact our human rights. By combining direct technical support, strategic advocacy, grassroots grantmaking, and convenings such as RightsCon, we fight for human rights in the digital age.

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