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Chapter 4.2
Hate Speech

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A. Context

Short Explanation of Hate Speech and the ICT Sector

The question of how to address certain forms of speech considered harmful has been the source of long-running global discussions. In particular, the rapid development of ICT platforms, such as the Internet and social media, has enabled wider and instantaneous dissemination of a wide range of content. It is inevitable that some of this content may be national/xenophobic, involve religious and racist hatred that incites discrimination, hostility and violence or even propaganda for war. While international human rights law and many national constitutions around the world provide for a presumption of freedom of expression, there are some legitimate, permitted restrictions of freedom of expression under international human rights law and standards (See Chapter 4.1 on Freedom of Expression). Some countries prioritise freedom of speech over most countervailing interests, even when the speech is filled with hatred. Under international human rights law and in many countries, hate-filled speech forfeits some or all of its free-speech protection in favour of protection for the dignity or equality of those who are attacked. Hate speech is not protected by international human rights law; it is prohibited and frequently punishable under national criminal law.

Hate Speech in Myanmar

In Myanmar, freedom of expression is a sensitive and complex issue. Long-running inter-communal tensions appear to be amplified by new-found expression on the Internet, which is finding a growing audience online. This issue has become particularly evident in

attacks against Muslims, women and LGBT people on popular social media websites. [283] The increasing anti-Muslim rhetoric has been particularly prevalent since the outbreak of inter-communal violence between Muslims and Buddhists in Rakhine State during 2012. While there are not many user-generated platforms currently operating in Myanmar, there are currently over three million users of Facebook, the most popular social media platform, and 12 million users of Viber, the most popular messaging app[284], with the market likely to dramatically expand.

The well-known activist Nay Phone Latt, himself imprisoned under the previous government and now leader of the free speech organisation Myanmar ICT Development Organisation (MIDO)[285] and the anti-"hate speech" campaign Panzagar,[286] has expressed concern that "hate speech" (see below) is damaging new-found freedom of expression in Myanmar. He is concerned that the Government will try to tackle it by creating new laws that may result in further restrictions on freedom of expression. In an April 2014 interview with Myanmar magazine *Irrawaddy* Nay Phone Latt said:

> *"I don't want to ask the government to control hate speech because if they control the hate speech, they will want to control all [opinions]. So it can harm freedom of expression. I prefer to monitor hate speech and report about that than limiting it through law."[287]*

This highlights the difficulties faced in finding the right balance between protecting those who are subject to hate speech and discouraging governments from extending restrictions to other types of speech a government might find offensive, such as criticism. The risk in opening the door to such restrictions may be particularly high in countries like Myanmar with a history of suppression of free speech. Civil society is justifiably concerned about giving up new and hard fought freedoms of expression.

What is said online does have the potential to spill over into real world violence. In July 2014, riots broke out in Mandalay following unconfirmed reports circulated online that a Buddhist woman was raped by Muslims.[288] Such reports proved to be false, but one Muslim and one Buddhist were killed during the violence. While President Thein Sein has publicly condemned the violence, and committed to take action against those who allegedly perpetrated it,[289] the authorities have not done enough to prevent and quash inter-communal violence and violence against Muslims. After the 2012 violence in Rakhine State, international human rights groups reported that the security forces stood by and did not adequately protect Muslims against Buddhist violence, nor did they sufficiently condemn such actions.[290] While some parts of Myanmar civil society are taking action to promote interfaith harmony,[291] they have received anonymous threats via SMS on their phones.

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[283] Inter-communal violence between Buddhists and the Muslim Rohingya minority broke out in Rakhine State during 2012, killing 250 people and displacing almost 140,000 people, most of them Muslims. Al Jazeera English "Facebook in Myanmar Amplifying Hate Speech?" (14 June 2014).
[284] DVB, Viber Leads the Apps for Myanmar Activists, But Is It Safe To Share? (10 August 2015).
[285] See: http://myanmarido.org/en
[286] See: https://www.facebook.com/supportflowerspeech
[287] San Yamin Aung, The Irrawaddy *Hate Speech Pours Poison Into The Heart* (9th April 2014)
[288] Thomas Fuller, New York Times, *Mandalay's Chinese Muslims Chilled By Riots* (12th July 2014)
[289] The Republic of the Union of Myanmar, President Office, *President U Thein Sein Appreciates Communal Unity in Mandalay*, (7 July 2014)
[290] See for example, Human Rights Watch, *All You Can Do Is Pray* (April 2013) p 10 and 15; and p 83 for government response to the violence.
[291] Samantha Michaels, Irrawaddy, *In Burma, Mixed Reactions to Suu Kyi's BBC Statements* (25 Oct 2013)

What is needed is a clear and unequivocal signal from the Government and all political parties condemning incitement to violence and other forms of hate speech and the violence itself. If powerful or influential figures use public addresses, the official press and other avenues to signal the unacceptability of speech that incites violence, hostility, or discrimination by anyone in the country this can already be an important step in limiting such speech with tools already available.

It is feared that the elections could see a rise in hate speech. There are reports that the Government of Myanmar intends to work with Facebook to remove posts which can incite violence [292]. Achieving the correct balance between addressing hate speech and restricting free speech is always challenging. There have been combined efforts in other countries by governments, business and civil society to reduce the spread of inciteful speech during elections that might provide important lessons learned.[293]

Rather than making sweeping restrictions on content or seeking to block whole ICT services that carry such messages, the Government should pro-actively use the power of ICTs to counter rumours with fact and promote messages of non-violence.   These signalling actions have not yet been taken and should be a pre-cursor to be tested in the country before any further, more serious steps to restrict freedom of expression are considered.

Hate Speech under International Human Rights Law

Defining 'Hate Speech'

'Hate speech' [*a-moun sagar*] is now a well-used phrase in Myanmar (and globally), but it is not a term recognised in international human rights law. *The International Covenant on Civil and Political Rights* (ICCPR)[294] sets certain restrictions on the right to freedom of expression but does not use the term 'hate speech' (see the discussion below on Articles 19 and 20 of the ICCPR). 'Hate speech' has become a vague term that often encompasses both expression that can be restricted under international law, and legitimate, even if offensive, expression that cannot. It is not always easy to distinguish where freedom of expression ends and legitimate restriction on expression begins. What is considered hate speech in one country may not be considered hate speech in another; it may be region or culture-specific, rooted in a country's history. Hate speech often reflects deep-rooted societal tensions and attitudes, but the lack of an internationally agreed definition of 'hate speech' has made it difficult to clarify how such acts should be dealt with in the real world, including in the digital realm. The term 'hate speech' is, unsurprisingly, not defined in Myanmar's legal framework.

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[292] 'Provocative Facebook posts may be banned ahead of Myanmar elections', Burma Times, 25 August 2015

[293] The disputed 2007 Presidential election in Kenya resulted in an outbreak of post-election violence that left over 1,000 people dead and over 600,000 people displaced. Inquiries into the violence acknowledged the role of SMS messages and blogs in exploiting tensions between ethnic communities and inciting violence. In the run up to the 2013 elections, concerns of another outbreak of violence and fears over the potential of SMS to simultaneously send messages that incite violence led the major telecommunications operator and others to agree on protocols on sending political bulk SMS during the elections. See Table 30 case study and IHRB, "Corporate Responses to Hate Speech in the 2013 Kenyan Presidential Elections: Case Study: Safaricom"

[294] ICCPR, Article 19. Myanmar has not signed the ICCPR but has been consistently urged to do so and will be asked to explain its position on the Covenant at its forthcoming review in the UN Human Rights Council under the Universal Periodic Review procedure tentatively scheduled for 20 July 2015. The ICCPR provisions are based on similar provisions of the *Universal Declaration of Human Rights*.

Permitted restrictions on expression in International Human Rights Law

Freedom of expression does not only protect popular or uncontested sentiments. It also protects views that are unpopular, or may shock, offend, or disturb. This is the nature of freedom of expression: someone may express an opinion others disagree with, but they nonetheless have a right to say it, except in certain narrowly defined circumstances. When it comes to determining what speech should be restricted in order to protect the rights of others, international human rights law provides a very high threshold that must be met before the expression can be legitimately restricted[295] or even prohibited in order to protect a wide space for all kinds of expression.

The former UN Special Rapporteur on the Promotion and Protection of Freedom of Opinion and Expression, Frank La Rue, summarises this in a 2012 report:

> *"The right to freedom of expression implies that it should be possible to scrutinise, openly debate and criticise, even harshly and unreasonably, ideas, opinions, belief systems and institutions, including religious ones, as long as this does not advocate hatred that incites hostility, discrimination or violence against an individual or a group of individuals."[296]*

As such, expression that is "*any propaganda for war*" or "*advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence…*"[297] should proactively be prohibited by law according to Article 20 of the ICCPR. Incitement is also recognised as a crime in other international human rights treaties. The UN *Convention on the Prevention and Punishment of the Crime of Genocide* (1948) criminalises a "*direct and public incitement to commit genocide.*"[298] The *International Convention on Elimination of All Forms of Racial Discrimination* (1966) requires states to criminalise the dissemination of ideas based on racial superiority and assisting or financing racist activities.[299] One unfortunate omission, however, concerns gender which is not specifically considered in these instruments. Nor is advocacy of hatred that incites violence towards women provided for in the *International Convention on the Elimination of all Forms of Discrimination against Women* (1976).

National Legal Framework

The 2008 Myanmar Constitution does not prohibit incitement to hatred, as is the case in many domestic legal frameworks around the world. It does have constitutional protections against discrimination: Article 348 of the 2008 Constitution guarantees that discrimination by the Union against any citizen is prohibited on the grounds of race, birth, religion, official position, status, culture, sex and wealth. However, the internationally recognised grounds

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[295] Harmful speech can also be restricted under articles 18 and 19 of the ICCPR on the grounds respect for the rights of others, public order, or even sometimes national security if the restrictions meet the tests set out under Article 19 (see Chapter 4.1 on Freedom of Expression for an explanation of the tests).
[296] UN General Assembly, "Promotion and Protection of the Right to Freedom of Opinion and Expression. Note by the Secretary General". (10th August 2011), A/66/90, Para 30.
[297] *ICCPR*, Article 20. Hatred, by itself, would not be subject to restriction. It is only when advocacy of national, racial or religious hatred constitutes incitement to discrimination, hostility or violence that it must be restricted under international law.
[298] *UN Convention on the Prevention and Punishment of the Crime of Genocide* (1948) Article III(c).
[299] Article 4(a): *"Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof."*

of discrimination based on colour, language, political or other opinion and national origin are not prohibited. Moreover, Article 349 applies only to Myanmar citizens.

Several laws in Myanmar provide for broad and vague restrictions of the right to freedom of expression and peaceful assembly (see Chapter 4.1 on Freedom of Expression) that could be used to block such incitement. These are, however, problematic because they can also be used to restrict far wider types of expression. There are widespread concerns globally that governments use prohibition on incitement to prohibit much wider types of expression, using often vaguely defined national laws that opens the door for arbitrary application of these laws. [300] Sections 295(A), 298, 504, and 505 of the *Myanmar Penal Code*, covers "[a]*cts or words which intentionally cause outrage or wound religious feelings"* and "[s]*tatements or insults which intentionally provokes a breach of the peace or causes public mischief*." While these provisions have some overlap with Article 20 of the ICCPR, they cover a much wider set of issues than incitement to hatred and therefore are not sufficiently targeted to meet the legal tests set out in international human rights law to be considered legitimate restrictions of freedom of expression. [301] Phrases like "*causing public mischief*" can be used to justify suppression of politically problematic speech i.e. the type of speech that is protected under international human rights law to ensure open and vibrant democratic debate. The right to freedom of expression is intended to protect speech that may create "*outrage*" among some, to ensure governments do not become the sole arbiter of opinion and expression.

B. Field Research Findings

Methodology

In February-March 2015 IHRB/MCRB undertook qualitative research on social media in Myanmar by conducting a short monitoring survey. While by no means a comprehensive study, it aimed to provide a snapshot of the current atmosphere on social media in Myanmar to gain some contextual understanding of this relatively new issue of hate speech and provide useful observations and recommendations as part of this broader ICT SWIA. This short study drew on the authoritative work of Professor Susan Benesch of the Dangerous Speech Project. [302]

The 'Dangerous Speech' Framework

Academics have noted particular characteristics of speech that rise dramatically before an outbreak of mass violence. There have been efforts to test the direct correlation between such speech and subsequent acts, whatever the means of communication. [303] While such

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[300] OHCHR, "Rabat Plan of Action on the Prohibition of Advocacy of National, Racial or Religious Hatred that Constitutes Incitement to Discrimination, Hostility or Violence" (2012), para 15. See also, OHCHR, "Concept Paper on OHCHR's Expert Workshops on the Prohibition of Incitement to National, Racial or Religious Hatred" (2011).

[301] Article 19(3) of the *ICCPR* provides any restrictions must pass a three-part, cumulative test: be provided for in national law which is clear and accessible to everyone (principle of legal certainty, predictability and transparency); have a legitimate aim or purpose i.e. one of the purposes set out in Article 19.3 (principle of legitimacy); and must be necessary and proportionate to the legitimate aim pursued, meaning that the restrictions must the least restrictive means required and justifiable (principles of necessity and proportionality).

[302] See: http://www.dangerousspeech.org/

[303] See David Yanagizawa, "Propaganda and Conflict: Theory and Evidence from the Rwandan Genocide" (2012). A statistical study shows that killings were 65-77% higher in villages that received the Radio Television

examples of speech may not necessarily fall under the restrictions set out in the ICCPR, the development of the Internet and the use of social media provide a platform that can amplify this kind of speech. Attempts are underway to predict the likelihood of certain speech catalysing real world violence in certain situations.

The Dangerous Speech Framework aims to find patterns in speech common before an outbreak of violence by identifying speech which targets members of a particular group, and which may have the potential to catalyse an outbreak of violence by encouraging people to condone or take part in violent acts. The framework's guidelines are based on five variables[304], used to assess the potential impact of a particular speech.

The most dangerous speech would be one for which all five variables are present:
- A powerful speaker with a high degree of influence over the audience;
- The audience has grievances and fear that the speaker can cultivate;
- A speech act that is clearly understood as a call to violence;
- A social or historical context that is propitious for violence, for any of a variety of reasons, including longstanding competition between groups for resources, lack of effort to solve grievances, or previous episodes of violence;
- A means of dissemination that is influential in itself, for example because it is the sole or primary source of news for the relevant audience.

Questionnaires

MCRB and IHRB developed a questionnaire based on these variables, drawing on an existing questionnaire developed by Professor Susan Benesch and the Kenyan organisation Ushahidi, which ran the Umati [305] project monitoring dangerous speech before and during the Presidential elections in Kenya in 2013.

A mother-tongue Burmese-speaking researcher helped develop the questionnaire[306] for the Myanmar context and conducted research on social media websites in Myanmar. The researcher was asked specifically to search for examples of what they believed to be 'hate speech' and apply the questions outlined in the questionnaire to them. The researcher collected 42 examples of 'hate speech' over a two month period (February and March 2015), which were then analysed.

Reporting the Results

Studying hate speech presents an ethical dilemma: re-publishing examples may perpetuate the sentiments in the message. We have taken the decision not to re-publish statements and photographs here. The presentation of results below summarises the findings.

Libre de Milles Collines (RTLM) signal. Two RTLM executives were convicted of incitement to genocide in 2007. See also Koigi Wa Wamwere, *Negative Ethnicity: From Bias To Genocide* (2003), Seven Stories Press, New York. Pp103-105, which describes anonymous leaflets circulated in Nazi Germany propagating hatred against Jews. More recently, leaflets were circulated provoking ethnic hatred during the break up of Yugoslavia, during the violent end to apartheid in South Africa instigating violence between the Xhosas and Zulus and have also been circulated in Kenya warning certain communities to leave their homes or be killed.
[304] See: http://www.dangerousspeech.org/guidelines
[305] See: http://www.ihub.co.ke/umati
[306] MCRB, IHRB, DIHR, "SWIA Questionnaires" (May 2015).

Key Observations
Human Rights Implicated: Right to freedom of expression, opinion and information; Right to privacy

- All examples on Burmese social media were **written in Burmese**, with one exception.
- 88% of examples contained language **directed primarily at the Muslim community**.
- **12% of these fitted the criteria of the most dangerous forms of speech**:
  - There were several examples of a powerful or influential speaker who capitalised on a fear of the audience, including calls to action such as violence against a community where there have been previous episodes of inter-communal violence.
  - These examples were shared widely on social media, potentially reaching millions of users.
  - However, while this could be considered an influential means of dissemination, social media is not the sole or primary source of news in Myanmar.
- **All of the samples suggested the audience faced danger from Muslims**, either a threat that Muslims are becoming too dominant in society, or that they are spoiling the integrity of Myanmar, for example by marrying Buddhist women.
- **38% of samples included a call to action**, either to discriminate (e.g. by avoiding Muslim-owned shops and businesses), hostility (e.g. that Muslims should be denied citizenship or ethnic minorities should be driven out of the country) and actual calls to kill Muslims.
- **The researcher considered 30% of samples to have fake profile names** and were therefore anonymous or not identifiable. For example, several user names were recognisable as names of characters in Burmese novels, or translated into English as phrases like "*a beautiful evening*". Some user names had more intimidating translations, for example "*the person who guards ethnicity*" or phrases intended to be insulting to Muslims.
- **Around 10% of samples compared Muslims to certain animals.** The Dangerous Speech Framework includes, as part of the variable on 'speech', referring to people as other than human (e.g. vermin, pests, insects or other animals) as an attempt to de-humanise the victim and one indicator of violence.
- **17% of samples used language or symbols specific to Myanmar**, such as images of someone or something being stepped on, considered an insult in Burmese Buddhist society, or using the style of Buddhist teaching or proverb in a derogatory way to Muslims.
- **The posts that were shared most widely** were quotes by well-known Burmese figures, links to news articles or alleged accounts of killings of Buddhists by Muslims (all unconfirmed), or calls to boycott Muslim-owned shops and businesses.
- **The posts that received the most reaction/response were those made by a politician or religious leader.** One politician alleged a Muslim had set a school on fire, which was shared 1,300 times. The same politician advocated the burning of a mosque if it was built in a particular area, and received over 1,000 positive responses. A religious leader's post encouraging people not to give housing to Muslims received 1,300 positive responses and was shared 830 times.
- **When influential figures, such as a politician or religious leader, made statements against Muslims, supporting comments by normal users were the most violent** of the samples, including calls to kill Muslims.
  - In the recorded examples, explicit calls to kill Muslims were posted as comments

> in response to a religious leader's post containing allegations that a Muslim man had raped a Buddhist woman.
>
> - Another call to kill Muslims was a comment on a widely shared news article, believed to be fake, that a Burmese soldier had been killed by a Muslim.
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> - Most of the examples of posts by normal users had few followers or reactions and were not shared widely. However, **the most popular post** of all the examples in the study was **a normal user sharing the alleged restrictions the country of Japan places on Muslims entering and living in the country**, which is untrue**.** This was shared over 18,000 times.
>
> - Even where the user was not a well-known figure, **content relating to current events in Myanmar received the most reaction,** such as the Presidential revocation of 'white cards',[307] a temporary identification card, from displaced and stateless Muslims applying for citizenship, or advising women to be wary of Muslims during Thingyan (the Buddhist Water Festival in April).

Conclusion of Field Research Observations

The observation provoking the most serious concern from this short monitoring study is the impact of people in positions of influence, such as politicians or religious leaders, making statements that may incite violence, hatred, or discrimination. These public statements appear to encourage other users to repeat the sentiments, and even go further, such as issuing calls to kill people. This is particularly worrying as Myanmar approaches elections, because they have the potential to incite violence.

C. Hate Speech: Recommendations for ICT Companies

- **Identify the potential impacts a company may have**: For example, decisions taken by ICT companies on how to tackle hate speech have the potential to impact the right to freedom of expression by:
  - Providing access to platforms that allow user-generated hate speech content to flourish;
  - Making their own internal decisions to remove content
  - Responding to government requests to block access to certain websites or remove particular content that may be hate speech or may be other types of permitted speech that the government has chosen to label as hate speech.
- **Understand the legal framework:** As outlined above and in Chapter 4.1 on Freedom of Expression, the legal framework that could be applied to online communications contains vague and undefined terms. While these vague terms could be used to block access to national, racial or religious hatred in line with Article 20 of the ICCPR, those same provisions are so broadly worded that they could result in legitimate content being removed or blocked as well. The Government or other groups' (such as religious or ethnic groups) may request or require that companies restrict freedom of expression that does not fall within the permitted restrictions under Article 19 or the prohibitions under Article 20. In such cases, an ICT company will find it challenging to

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[307] Radio Free Asia, Myanmat Authorities Step Up Collection of Temporary Identification Cards (6 April 2015).

meet its responsibility to respect human rights under the UN Guiding Principles, and may finding itself potentially contributing to government or non-state actors' abuses of individuals' human rights. Likewise, because the government does not have precise laws prohibiting hate speech, ICT companies may permit the transmission or hosting of expressions that would be considered incitement to national, racial or religious hatred.

▪ **Understand the local context:** It is important that ICT companies understand the context in which they are working and have processes in place to deal with Government and others' attempts to restrict freedom of expression. They need to be able to assess whether the requests are legitimate and do not amount to censorship and to understand what may be hate speech and therefore appropriately prohibited or deleted on platforms or services. Moreover, many services that can be accessed in Myanmar are provided by international companies which are not based in the country, and they may not even have offices or staff on the ground. They may therefore not have experience of the country or be aware of cultural and political sensitivities or have the appropriate language capabilities to screen content posted on their site. Additional measures will need to be taken to ensure a realistic and systematic understanding of the local context, such as obtaining independent expert advice. (See Chapter 4.1 on Freedom of Expression).

Different players in the ICT value chain will have different responsibilities:

Operators/Telcos/Internet Service Providers (ISPs)

▪ **Put in place processes to deal with Government requests**: Companies that provide Internet access may be asked by the Government to block access to whole websites due to the perceived spread of hate speech. [308] This reportedly happened in Myanmar during the riots in Mandalay in 2014. A high-ranking police officer said in an interview that the government had ordered the blocking of a popular social media website to stop the spread of "*unverified news*", which coincided with a curfew imposed on Mandalay residents. [309] The reason for blocking the website was to prevent the spread of further rumours fuelling violence. However, as noted above, because Myanmar laws are often vague and not aligned with international human rights law, such requests may also cover legitimate expression that should not be blocked or taken down. It is currently unclear how requests for blocking websites are made to ISPs in Myanmar, either by law enforcement agencies directly or a request made through the regulator. It is also unclear under what circumstances requests to block whole websites can be made as there is little legislation covering this area and therefore ISPs appear to be voluntarily blocking websites. In other countries, the most common reason for blocking websites is related to child exploitation, terrorism or copyright infringement.

▪ **Develop clear processes for blocking websites**: In the example of the Government request above, the order to block this particular website would have been made to the operator or ISP providing Internet access. Blocking whole websites may prevent

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[308] Facebook's Government Requests Report noted that in the period July-December 2014, the company "restricted access to 5 pieces of content reported by the President's Office based on sections 295(A), 298, 504, and 505 of the *Myanmar Penal Code*, which covers "*Acts or words which intentionally cause outrage or wound religious feelings"* and "*Statements or insults which intentionally provokes a breach of the peace or causes public mischief.*" https://govtrequests.facebook.com/country/Myanmar/2014-H2/
[309] Global Voices "Blocking Facebook: A Hot New Trend in Southeast Asia?" (11 July 2014). Original article in Burmese at http://burma.irrawaddy.org/interview/2014/07/04/61420.html.

certain people from spreading rumours, but it also prevents everyone else from seeking, receiving and imparting information and prevents authorities using it to disseminate factual information, counter rumours and appeal for calm. This may set a worrying precedent for blocking websites in the future that the government simply does not like. It is important that processes are put in place that make clear under what circumstances websites can be blocked, and how a request is made to an ISP. Requests to block from the Government of Myanmar should be made in writing; be accompanied by a court order/judicial authorisation that sets out the legal justification for the request and be time-bound.ISPs must check that requests are made in accordance with the law, and have the opportunity to clarify or request further information if needed.

'Over the Top' Services

- **Put in place processes to deal with requests from Government and users**: It is unlikely that an over the top company, such as social media sites, search engines, and blogging platforms, will be notified of or involved in a decision by the Government to cut off access to their whole service, as in the case of ISPs. They are more likely to receive requests from governments or users to remove particular pieces of offending content. Companies usually take the decision to remove content based on their own Community Standards or Terms and Conditions, which often set out what can and cannot be said on their platforms. Freedom of expression may be adversely impacted if the company's standards are not aligned with international human rights law and/or it does not properly assess the human rights impacts of the takedown request from the government or users. An example is removing content that merely expresses ideas and opinions the Government or others object to but that does not fall into a category of speech that can legitimately be restricted. However, content that falls into the category of incitement can, and should be, blocked.

- **Make Terms of Service accessible**: As most over the top companies set their own policies about which content can and cannot be posted, it is important that these Terms of Service are aligned with international human rights standards. Users then need to be aware what content is permissible on certain online services. 'Hate speech' is a relatively new concept in Myanmar and what users consider to be hate speech may differ from person to person. For example, during field research on the ground in Myanmar, some people considered swear words or general insults to be hate speech. It is important that a company's terms of service are translated into Burmese and ideally other ethnic languages, none of which are formally covered by major social media platforms. However users may use either non-Myanmar languages or transliterated forms of Myanmar ethnic minority languages. The company therefore risks hosting hate speech in any of those languages. This is an area where companies need to build up their capability to be able to screen and manage content in all languages on their sites.

- **Develop and promote reporting mechanisms:** Most online platforms have a mechanism for users to report content that is illegal, or falls under categories that the company would remove as it contravenes their terms of service, such as a user receiving abuse. As social media companies do not actively monitor all the content posted on their platform, the reporting process is important. It is unlikely the company would see this content otherwise. It also helps the company 'take the temperature' of societal attitudes and understand the context in which they are working. One of the ways in which the spread and impact of hate speech can be reduced is through a well-functioning mechanism of reporting such speech to the company hosting it, followed by a swift process of removing it from the site. This depends on (as noted above),

terms of service that are aligned with international human rights standards (given that the government currently does not have clear laws or guidance on this issue) and a transparent and accessible process for users to report content they consider hate speech. One company has developed a 'market specific' reporting mechanism unique to the Myanmar context, with an option to report specific kinds of content. One option is to report content that is, *"hateful towards a race, religion, gender, sexual orientation or ability. Examples: racism, insulting religious groups, anti-gay posts"*. Another is to report content which is, *"a rumour or false information. Examples: false news stories, rumour based on the conflict of religious groups"*.

- **Promote awareness of Terms of Service and reporting mechanisms.** Overall there is a low level of awareness of the impact of hate speech in Myanmar, and what may or may not be acceptable to post online. Many users in Myanmar are unaware of reporting functions, or do not know how to use them, or understand what action the company may take if they do report content. Companies could consider initiating a public awareness campaign focused on platform-specific guidelines and the impacts of hate speech spread through media. Materials need to be translated into local languages. Facebook Community Standards are now available in Burmese.

- **Develop other options to respond to hate speech:** Efforts are underway by civil society to educate users and combat hate speech in society. Telcos and over the top companies appear aware of the issue of hate speech in Myanmar, and some are supporting local groups to spread messages of non-violence. For example, Panzagar aims to promote responsible use of social media, and raise awareness of the implications resulting from online behavior. Panzagar has partnered with local graphic designers and Facebook to create a set of online 'stickers' with cartoons and peaceful messages, similar to emoticons, which can be downloaded and inserted onto user profiles, or included in online chat functions.[310]

D. Relevant International Standards and Guidance on Hate Speech

> **Relevant International Standards:**
> - UN OHCHR, "Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression" A/67/357 (7[h] September 2012).
> - OHCHR "Rabat Plan of Action on the Prohibition of Advocacy of National, Racial or Religious Hatred that Constitutes Incitement to Discrimination, Hostility or Violence" (2012).
>
> **Relevant Guidance:**
> - ARTICLE 19, "Towards an interpretation of Article 20 of the ICCPR: Thresholds for the prohibition of incitement to hatred (Work in Progress)". A study prepared for the regional expert meeting on article 20, Organised by the Office of the High Commissioner for Human Rights, Vienna, February 8-9, 2010.
> - The Dangerous Speech Project
> - United States Institute of Peace, Wielding Technology to Combat Dangerous Speech in Myanmar – PeaceTech Exchange Myanmar
> - NipeUkweli – This is an initiative based in Kenya to counter negative online content by correcting false statements and spreading positive messages.

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[310] Global Voices, "Can #Panzagar 'Flower Speech' Facebook Stickers End Hate Speech in Myanmar?" (22 Feb 2015).