



Public Comment Appendix for

2020-002-FB-UA

Case number

Case description

A user posted two well-known photos of a deceased child lying fully clothed on a beach at the water's edge. The accompanying text (in Burmese) asks why there is no retaliation against China for its treatment of Uyghur Muslims, in contrast to the recent killings in France relating to cartoons. The post also refers to the Syrian refugee crisis. Facebook removed the content for violating its [hate speech](#) policy. The user indicated in their appeal to the Oversight Board that the post was meant to disagree with people who think that the killer is right and to emphasise that human lives matter more than religious ideologies.



Public Comment Appendix for

2020-002-FB-UA

Case number

The Oversight Board is committed to bringing diverse perspectives from third parties into the case review process. To that end, the Oversight Board has established a public comment process.

Public comments respond to case descriptions based on the information provided to the Board by users and Facebook as part of the appeals process. These case descriptions are posted before panels begin deliberation to provide time for public comment. As such, case descriptions reflect neither the Board's assessment of a case, nor the full array of policy issues that a panel might consider to be implicated by each case.

To protect the privacy and security of commenters, comments are only viewed by the Oversight Board and as detailed in the [Operational Privacy Notice](#). All commenters included in this appendix gave consent to the Oversight Board to publish their comments. For commenters who did not consent to attribute their comments publicly, names have been redacted. To withdraw your comment, please email contact@osbadmin.com.

To reflect the wide range of views on cases, the Oversight Board has included all comments received except those clearly irrelevant, abusive or disrespectful of the human and fundamental rights of any person or group of persons and therefore violating the [Terms for Public Comment](#). Inclusion of a comment in this appendix is not an endorsement by the Oversight Board of the views expressed in the comment. The Oversight Board is committed to transparency and this appendix is meant to accurately reflect the input we received.

2020-002-FB-UA

Case number

PC-00014

Public comment number

United States and Canada

Region

Withheld

Commenter's first name

Withheld

Commenter's last name

English

Commenter's preferred language

Withheld

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Retaliation verbiage is inapprpriate

Full Comment

Although the users comments are reasonably clear in their primary intent of drawing attention to the apparent lack of proportional reactions to beliefs versus deaths, the use of the word retaliation can also be easily understood as a public call to action which could cause harm to others. This content should remain removed

Link to Attachment

No Attachment

2020-002-FB-UA

Case number

PC-00024

Public comment number

Europe

Region

Paul

Commenter's first name

Friedl

Commenter's last name

English

Commenter's preferred language

Humboldt University Berlin, Faculty of Law

Organization

No

Response on behalf of organization

Short summary provided by the commenter

The post is polemical, provocative, painful and objectionable, but does not - with sufficient clarity - represent hate speech. Especially the use of ambiguous language and the inconclusive political references allow for interpretations in which the post cannot with sufficient certainty be read as calling for violence against others.

Full Comment

The case is a difficult one as the post ties together a number of political events in a rather ambiguous and convoluted manner. However, taking into account all possible interpretations, I come to the conclusion that the post is polemical, provocative, painful and surely objectionable, but does not - with sufficient clarity - represent hate speech. In reaching that conclusion the following considerations seemed particularly important: 1) The primary reason for which the post could constitute hate speech seems its implied attack against Chinese nationals. "If French nationals are 'brought to justice' for hurting Muslims, why shouldn't the Chinese suffer for doing the same?", the post seems to ask. However, already at this point two important qualifications must be noticed. First, the post only speaks of "retaliation" and does not directly call for physical violence. While the word "retaliation" can imply notions of archaic mirror justice which primarily aims to hurt the opponent rather than establish justice, it is also used in contexts, such as warfare measures, which many deem acceptable and often enjoy legal protection. In any case, it does not seem to be the case physical attacks or killings are the only or even preferred form of retaliation or reaction the author would deem acceptable. Secondly and on a more fundamental level - at least from how the post is described in the case summary - it does not even seem sufficiently clear that the author wanted to identify himself with the brutal actions taken by the terrorists in France at all. At least from how the case summary describes the post and taking into consideration that the post also interlinked the two already somewhat distant political situations in France and China to the even less connected European refugee situation, it does seem possible that the question posed by the author is not a rhetorical one, but indeed one of political interest. In this interpretation the post could be read as attempting to showcase specifically disturbing instances of human violence and ask in a cynical, albeit not approving

manner why the treatment of the Chinese Uighurs has not prompted similar reactions. In this interpretation, the post does not seem to call for violent action at all. For these ambiguities alone - which the author cannot on-sidedly be charged with - it seems difficult to treat the post as hate speech. 2) However, the photo of the deceased child lying fully clothed on a beach - which I, as I suppose many others would too, take to be a photo of Alan Kurdi - and the reference to the Syrian refugee crisis complicates matters even further. Photos of Alan Kurdi, and I would suppose that this is the case for other photos of similarly tragic circumstances, have generally been shared to illustrate the deadly consequences of refugee policies the world over which try to ignore rather than address immigration issues. In all instances in which I have been confronted with such horrible photos the intent of the person or institution pointing to the photos was to denounce rather than advocate the death of individuals for lack of help of others. For this reason, I assume that the author's intent was of a similar nature and that many would have interpreted his motivation the same way. This, however, means that other users who were confronted with the post and who presumably first took notice of the photo, rather than the accompanying text, which in any case takes more effort to engage with and might not even be fully visible on mobile devices, in all likelihood believed the author to attempt to object to such inhumane treatment of individuals too, rather than promote degrading treatment of or violence against others. While the photo does not resolve the text's ambiguity, it might have steered users to a more empathic reading. At least this interpretation seems perfectly possible for me.

[Link to Attachment](#)

No Attachment

2020-002-FB-UA

Case number

PC-00043

Public comment number

United States and Canada

Region

Robert

Commenter's first name

Dale

Commenter's last name

English

Commenter's preferred language

The Gathering Place

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

We have observed the lack of common sense by Facebook's internal Community. People will often post something to expose a philosophy with which the poster does not agree. They want to expose the philosophy as dangerous. However, FB cannot tell the difference between agreement and exposure. They wrongly think a post is always agreement, which is quite ignorant. Further, FB has no clear standards. We have never seen a DO NOT POST LIST of memes or links. Yet, FB unleashes harsh responses when they do not understand the poster's intent to expose and the Appeals Process is almost non-existent (very few are reviewed). This is tyrannical behavior and constitutes cyberbullying. FB is not private, because they accept payments. Thus, they are PUBLIC.

Full Comment

We have observed a lack of common sense by Facebook's internal "Community." We the members are the true Community, but no one ever asks us what we think. They merely speak for us without our consent. Further, FB has no clear standards. We have never seen a DO NOT POST LIST of memes or links. The so-called policies are vague and unspecific. Yet, FB unleashes harsh responses when they do not understand the poster's intent to "expose the works of darkness" (Ephesians 5:11) and the Appeals Process is almost non-existent (very few are reviewed). The poster is guilty without a hearing. This is tyrannical behavior and also constitutes cyberbullying. Like a child who lives under the whims of a narcissistic parent who leashes out their rage without clear guidelines or warning, the poster is often left wondering what happened and "how could they miss my point?!" People (members) will often post something to expose a philosophy with which the poster does not agree. They want to expose the philosophy as dangerous or in error. However, FB employees and robots cannot tell the difference between agreement and exposure. They wrongly think a post is always in agreement with the message being exposed, which is quite ignorant. Members are deprived of the Right to respond as adults to the content and engage in meaningful discussion without the Nanny-control of FB employees. The American Founding Fathers called this "repression of dissent" and it is unfitting for anyone to perpetuate such repression of

Free Speech. The US Supreme Court ruled on a similar case in the early 1980s that businesses are barred from limiting Free Speech, even on their own property, etc. FB is NOT private, because they accept payments. Thus, according to Law, they are PUBLIC -- not private! And their actions to act like they are private in their wild and incessant censorship are unlawful, at best. Most often, it comes down to the difference of opinion of the FB reviewer on duty, in our observation. Millions of people have been leaving FB over the past few months, due to FB's extremely harsh policies and behavior. If you remember MySpace, we believe FB will be joining them soon, unless they change their bullying activities. We have all had enough of it!

[Link to Attachment](#)

No Attachment

2020-002-FB-UA

Case number

PC-00064

Public comment number

United States and Canada

Region

Rosemary N.

Commenter's first name

Palmer

Commenter's last name

English

Commenter's preferred language

None

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Obviously dead children's bodies are intended to provoke. And you can make an argument that the photo and the words give a pass to the person(s)(ideology) of those who killed them, and is disgusting way to get one's point across. But you have to leave the photo and post up because the Uyghur situation is dire and if people are afraid or forbidden from standing up for the distressed and disfavored, that dehumanizes all of us. Shutting up those who say important, though disputed or controversial things because of the way they say them doesn't help anyone.

Full Comment

Obviously dead children's bodies are intended to provoke. And you can make an argument that the photo and the words give a pass to the person(s)(ideology) of those who killed them, and is disgusting way to get one's point across. But you have to leave the photo and post up because the Uyghur situation is dire and if people are afraid or forbidden from standing up for the distressed and disfavored, that dehumanizes all of us. Shutting up those who say important, though disputed or controversial things because of the way they say them doesn't help anyone.

Link to Attachment

No Attachment

2020-002-FB-UA

Case number

PC-00075

Public comment number

Europe

Region

Jacob

Commenter's first name

Mchangama

Commenter's last name

English

Commenter's preferred language

Justitia

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

The user's submission to the Oversight Board appears reasonable if the post is considered in its entirety and summed up below: ? Use of the prolific photo of the dead child on the beach (to stir up emotions of empathy and anger at systemic disfunction) ? The reference to the Syrian refugee crisis indicates that the post wanted to shed light on humanitarian issues ? The reference to the killings as a result of cartoons with no retaliation taken in respect to the Uyghur Muslim's situation in China and the resulting impassivity of other Muslims A broad interpretation of hate speech as the one in this case essentially serves to mute criticism of powerful States, in this instance China which actively censors political criticism.

Full Comment

Case: 2020-002-FB-UR Contextual Issues It is reasonably assumed that the photos are those of three-year old Syrian Aylan Kurdi which became a symbol of Europe's refugee 'crisis' and its dismal handling by authorities. This image was disseminated throughout social media and even became a focus of a study which examined how one photograph could create deep emotion five years into Syria's civil war - much greater than any statistical record of the war's victims. This photograph of a child dead on a Turkish beach can reasonably be assumed to be one which seeks to stir emotions of empathy but also dismay at the Syrian refugee crisis (which was mentioned in the post). It can also be considered to be symbolic of any humanitarian crisis and the actions or inactions of States. We propose that the Oversight Board considers the nature of the photo not as one which can be reasonably linked to hatred or violence but rather as an alarming image to trigger concern. The fact that the post also mentioned the Syrian refugee crisis is indicative of the user's intention to shed light on humanitarian issues. Further, the post raises the issue of China's treatment of Uyghur Muslims. As noted by Amnesty International, China has intensified the forced cultural assimilation and political indoctrination of Muslim ethnic groups such as the Uyghurs through 're-education' camps. In witness statements, torture, inhuman and degrading treatment occurs in these camps whilst there have been reports of forced sterilisation and forced

labour. The Canadian parliamentary committee said that China's policies in Xinjiang amount to genocide against the Muslim Uyghur minority and a 2020 Australian study found that camps have expanded despite claims that Uyghurs were being released. 39 countries at the United Nations condemned China's abuses of Uyghurs. However, beyond oral condemnations, nothing much is really happening to tackle this situation. The Guardian noted that 'one of the great crimes of the 21st century is being committed in front of our eyes. We see it, yet we don't register it.' The same article characteristically refers to the fact that 'the Muslim-majority countries that raged against Rushdie, Jyllands-Posten and Charlie Hebdo' have decided to stay silent. They use the idea of Muslim solidarity only when it suits them.' By making the comparison with the retaliations in France due to cartoons, it appears reasonable that the user wanted to draw attention to the passive attitude of other Muslim nations towards the Uyghurs as was done in the article referred to above. The post is not inciting violence or hatred against a particular group, it is posing the question of why retaliations occur as a result of the cartoons which were considered blasphemous, yet nothing is done for the Uyghur Muslims. The user is not agreeing with the killings as a result of the cartoons, nor is inciting, promoting or advocating for killings against anyone in China. The user's submission to the Oversight Board appears reasonable if the post is considered in its entirety and summed up below: ♣ Use of the prolific photo of the dead child on the beach (to stir up emotions of empathy and anger at systemic disfunction) ♣ The reference to the Syrian refugee crisis indicates that the post wanted to shed light on humanitarian issues ♣ The reference to the killings as a result of cartoons with no retaliation taken in respect to the Uyghur Muslim's situation in China and the resulting impassivity of other Muslims (as demonstrated in the article above).

Semantical/Normative Issues Facebook defines hate speech as a 'direct attack on people based on what we call protected characteristics...We define attack as violent or dehumanizing speech, harmful stereotypes, statements of inferiority, or calls for exclusion or segregation.' No where in the user's post is there an attack against a protected group as defined above. Facebook did not contextualise the post. Had it done so it would be clear that this post was neither a glorification of the violence in France nor an endorsement of such violence in China. Instead it was a post seeking to shed light on the plight of the Uyghur Muslims. The Oversight Board must take into account the present post in light of Article 19 and Article 20(2) of the International Covenant on Civil and Political Rights and threshold test set out by the Rabat Plan of Action. In fact, this case does not seem to meet even one of the six requirements to the threshold test set out by the Rabat Plan of Action. As noted by the Special Rapporteur on Freedom of Expression in 2019, hate speech must be narrowly defined to ensure the protection of freedom of expression. The Board must also consider the significance of political speech and the danger of hate speech laws infringing on political dissent was underlined in the Special Rapporteur's 2019 report on Online Hate Speech. A broad interpretation of hate speech and a removal of posts such as the one in this case essentially serves to mute criticism of powerful States, in this instance China which actively censors political criticism. We would recommend the Board to consider a Norwegian Supreme Court judgement in which it noted that one cannot assume that what is said is, in fact, hateful. The majority held that '...The rule of law, and especially the consideration of foreseeability, dictates restraint when it comes to an expansive interpretation based on context. When it comes to punishable expressions the point must be that you can only be punished for what you have said, not what could possibly have said.' In sum, it is evident that the post is not advocating for violence, hatred or discrimination against a

protected group, is not glorifying violence but is, instead, using a situation of a severe reaction in France to demonstrate (through hyperbole) the passivity marking reactions to what is going on in China.

[Link to Attachment](#)

No Attachment

2020-002-FB-UA

Case number

PC-00093

Public comment number

United States and Canada

Region

Daniel

Commenter's first name

Gainor

Commenter's last name

English

Commenter's preferred language

Media Research Center

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

There is no good reason to remove the original post. Facebook's Hate Speech policies are overly complex and in opposition to free speech.

Full Comment

This case, as the others, is almost impossible to decipher without more specific detail. Facebook's quest to make the appeals hard to identify results in generic content on some of the most challenging issues of the day. There are four key reasons why this content should be allowed on the platform. 1. The case is challenged on Hate Speech grounds. The Hate Speech Policy is ridiculously complex, overly long and vague enough that almost anything users post could violate it. Unfortunately, that's designed to be both censorious and intentionally vague so the company can do whatever it wants. The policy itself is more than 1,000 words long, but it links out to additional 2,600 words in the Hard Questions blog. That 3,600 words is roughly 2 times the length of the Declaration of Independence. If there is any part of Facebook's Byzantine content rules that needs to be removed, it is this Hate Speech policy. 2. If one cannot criticize the actions of a country committing genocide because it would be Hate Speech, then the rule serves no purpose other than to protect the worst villains in history. 3. Also, any removal of the original post clearly seems to violate the Newsworthiness Exemption for content. Clearly, both the death of a child and the genocide of 1 million Uyghur Muslims are both newsworthy enough to meet that goal. 4. Lastly, Facebook should be promoting the concept of free speech to stand up for freedom, not suppressing speech that might potentially offend. In part of a nine-page speech addressing Officers of the Army, former American President George Washington made clear his thoughts on free speech: "[F]or if Men are to be precluded from offering their sentiments on a matter, which may involve the most serious and alarming consequences, that can invite the consideration of Mankind; reason is of no use to us?the freedom of Speech may be taken away?and, dumb & silent we may be led, like sheep, to the Slaughter." Facebook's Oversight Board would do well to take note of what the Founders considered to be of fundamental importance, one of our first freedoms: free speech. The Board should afford Facebook's

users nothing less. It must avoid a mad rush toward globalizing Hate Speech rules that overrule free speech.

[Link to Attachment](#)

No Attachment

2020-002-FB-UA

Case number

PC-00119

Public comment number

Asia Pacific and Oceania

Region

Raphael

Commenter's first name

Ren

Commenter's last name

English

Commenter's preferred language

Faculty of Law, University of Malaya

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Guidance should be drawn from the six-part test in the Rabat Action Plan: (1) content and form; (2) status of speaker; (3) extent of speech; (4) context; (5) intent; and (6) imminence of harm. Such factors ought to be evaluated cumulatively, but with varying weight. On content and form, freedom of expression protects information, ideas and imagery that may offend, shock, or disturb. On context, every citizen should take effort to debate their country's own history openly and dispassionately. On intent, the post is to be objectively interpreted based on what is 'immediately understandable' to a third-party reader. Indeed, the line between free speech and hate speech is quite difficult to draw in theory – and even more so in practice.

Full Comment

[1] This public comment aims to recommend a set of legal factors that ought to be considered by the Facebook Oversight Board (FOB) when reviewing this case. Due to the limited factual matrix provided in the summary, we are unable to express any strong views on the merits itself. Hence, our focus is to distil the enforcement of Facebook's Community Standards in accordance with international norms of human rights. [2] 'Hate speech' is a slippery shorthand term that still defies definition under international law till today. The illegality of hate speech is spelt out in Article 20(2) of the ICCPR which mandates States to prohibit by law '[a]ny advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence'. Such prohibition is also enshrined in the ICERD. This accords with Facebook's *raison d'être* for banning hate speech 'because it creates an environment of intimidation and exclusion and in some cases may promote real-world violence'. [3] The FOB should draw guidance from the Rabat Action Plan – a soft law instrument widely recognised by international bodies, including the CERD, UN Special Rapporteurs, and European Court of Human Rights (ECtHR). According to the Rabat Action Plan, 'hatred' must necessarily refer to 'the most severe and deeply felt form of opprobrium'. The overriding aim of banning hate speech is to protect vulnerable minorities from persecution and discrimination. The determination of whether an expression amounts as 'hate speech'

turns upon a six-part test. [4] First, on content and form. This factor refers to the substance of the expression, and the form and style in which it was conveyed. It must be emphasised that freedom of expression protects even information or ideas that may 'offend, shock, or disturb', including the use of disturbing imagery. The line is crossed, however, when the expression calls for violence, such as terrorism or bloody revenge. [5] Second, on status of speaker. This factor refers to the standing of the user in the context of the audience the speech is being directed to. In particular, politicians with a large following and clout deserve stricter scrutiny. Peaceful critics ought not to be lightly labelled as 'hate preachers'. [6] Third, on extent of speech. This factor refers to the means of dissemination, and the size and magnitude of the audience. As opined by the ECtHR in *Delfi*, the Internet provides an 'unprecedented platform for the exercise of freedom of expression', and likewise, for hate speech to 'be disseminated like never before, worldwide, in a matter of seconds, and sometimes remain persistently available online'. [7] Fourth, on context. The prevailing socio-political background is a critical factor. Provocative speech uttered during a tense security situation or atmosphere of hostility risks exacerbating violence. In *Lehideux*, the ECtHR observed that discussion on historical events 'forms part of the efforts that every country must make to debate its own history openly and dispassionately'. Nevertheless, location matters – it is utterly unacceptable for someone to deny the Holocaust in Germany, but less objectionable to question the 1915 Armenian genocide by the Ottoman empire in Switzerland (despite the Armenian diaspora on Swiss soil). [8] Fifth, on intent. The term 'advocacy' and 'incitement' requires more than mere negligence or recklessness. The test is objective, not subjective. In *Nix*, the ECtHR noted that the applicant's blog may have posted a picture of an infamous Nazi officer (in uniform with a swastika armband) to raise awareness on the discrimination of immigrant children at schools and employment offices, yet ultimately considered that such an intent would not be 'immediately understandable' to third-party readers. In *Tagiyev*, the ECtHR held that the Azerbaijani court erred in examining the author's remarks critical of Islam 'detached from the general context and content of the article, without assessing the author's intention' to make a 'comparison between Western and Eastern values' and 'role of religion in the formation of those values'. [9] Sixth, on imminence of harm. Although actual commission of violence is not a pre-requisite, there must still be 'a reasonable probability that the speech would succeed in inciting actual action against the target group'. This accord with the general rule that restrictions of freedom of expression must have 'a direct and immediate connection between the expression and the threat'. [10] In sum, the post depicting the picture of a deceased child in reference to China's treatment of Uyghur Muslims and recent killings in France over cartoons mocking Islam must be carefully reviewed through the legal lens of the six-factor test in Rabat Action Plan (and refined through the ECtHR's jurisprudence constante). The case will likely turn on three pivotal factors: content and form, context and intent. Ultimately, the critical question is whether the user's immediate audience would interpret the post as a critique on religious fanaticism and hypocrisy of its adherents (rather than an incitement against Muslims). Indeed, the fine line between free speech and hate speech is quite difficult to draw in theory – and even more so in practice. [full version with citations in the document attached]

Link to Attachment

[Attachment PC-00119](#)

2020-002-FB-UA

Case number

PC-00122

Public comment number

Europe

Region

Withheld

Commenter's first name

Withheld

Commenter's last name

English

Commenter's preferred language

Withheld

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Since all visual and textual elements of the removed post point coherently in the same direction of legitimize calls for retaliation, the conclusion can be drawn: The removal of FB was in accordance with the community standard, the appeal is not convincing.

Full Comment

summary of the case does not make it easy to assess whether Facebook reacted appropri-ately by removing the post. In the context of the reason for removal put forward, I assume that "retaliation" is meant as a form of non-governmental, i.e.: private violent (or prepared to use vio-lence) reaction interchangeably used like revenge or vengeance. In the post itself, this call is justified by another act of injustice. However justified (or unjustified) a comparison may be, a normative (of course not necessarily factual) principle can be found in many legal traditions confining such a way of comparison: "law or the right does not arise from injustice: ex injuria jus non oritur?). If one follows this principle in a normative assessment, neither the comparison with (alleged) injustice in France nor with the refugee crisis in Syria can legitimize calls for violence. The subsequent justification in the appeal (?? post was meant to disagree with people who think that the killer is right and to emphasize that human lives matter more than religious ideologies.?) is also not convincing. The pictures of the deceased child, the reference to the refugee crisis in Syr-ia and the reference to the French cartoon controversy are altogether fitting into the narrative of inciting revenge for alleged unjust treatment of Uyghur Muslims in China. Insofar in the post, the question for retaliation is clearly formulated (which I hereby take for granted), also alternative in-terpretations to ascribe some rhetorical figures (irony, hyperbole or paradox) to meet the expla-nation put forward in the appeal will fail. Conclusion: Since all visual and textual elements of the post point coherently in the same direction, the conclusion can be drawn: The removal of FB was in accordance with the community standard.

Link to Attachment

Withheld

2020-002-FB-UA

Case number

PC-00138

Public comment number

Europe

Region

Dr Murtaza

Commenter's first name

Shaikh

Commenter's last name

English

Commenter's preferred language

UN Special Rapporteur on Minority Issues

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

General principles to interpret online hate speech in accordance with the protection of minorities under international and regional human rights law. I have also commented on 3 of the cases relating to hate speech, one of which has been withdrawn, focusing particularly on legitimate minority rights and the importance of referring to a broader set of protected characteristics in line with the UN Strategy and Plan of Action on Hate Speech, 2019.

Full Comment

Generally, ethnic, religious, linguistic and national minorities as identified under the Article 27 of the International Covenant on Civil and Political Rights (ICCPR) and Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities are the most likely targets of online hate speech. Moreover, hate speech against minorities leads to severer incidences of real-world harm, ultimately culminating in ethnic cleansing and genocide. I would urge the Board to take account of these instruments along with the jurisprudence of the Committee on the Elimination of Racial Discrimination and the reports of the Advisory Committee on the Framework Convention for the Protection of National Minorities on National Minorities. This will be essential to protect the most vulnerable and marginalised groups, who happen to be minorities, thus allowing the Board to apply a comprehensive approach to adjudicating hate speech cases that is not limited to just a consideration of ICCPR Articles 19 and 20, and ECHR Articles 14 and 17. The Guidelines of the OSCE High Commissioner on National Minorities should also be referred to. Lastly and crucially, the definition of hate speech in Facebook's Community Guidelines should incorporate a more extensive and non-exhaustive list of protected characteristics in line with the UN Strategy and Plan of Action on Hate Speech 2019, which states: "[A]ny kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor." The UN's detailed guidance elaborates 'identity factor' can include "language; political or other opinion; belief; national or social origin; property; birth or other

status, including indigenous origin or identity; caste; disability; health status; migrant or refugee status; place of residence; economic and social situation; marital and family status; sexual orientation; gender identity; intersex status; age; albinism; and HIV status.” The UN’s detailed guidance also calls for greater “focus on those groups in situations of vulnerability due to entrenched or historic stigmatization, discrimination, long-standing conflicts...and exclusion and marginalization from the political, economic and social life of the society.” In relation to Case 2020-001-FB-UA, hate speech should not be tolerated towards minorities, nor the situation of minorities be used to justify or advocate hatred or violence against majorities. It is also immaterial whether the quote is rightly attributed to Dr Mahatir Mohamad. However Dr Mohamad’s status as a prominent international political personality with a considerable following is of importance. Furthermore, the content of the purported statement, which is an unqualified support of “a right to...kill millions of French people” should be classified as hate speech and potentially an incitement to violence. Despite the absence of intent, the framing of extreme violence as a right given the status of the speaker, reach, and nature of the content posed a serious enough risk of real world harm to justify removal. It was a user who shared this statement and not the purported speaker. In this regard, I would advise the Board to adopt the principle of deferring to the inherent intent of the reported statement unless the reporter qualifies their post in drawing explicit attention to its reprehensibility. In relation to Case 2020-002-FB-UA, the plight of one minority should not be used to undermine attention given to the plight of another. Social media is replete with posts that highlight the inconsistency of responses and dangerously oversimplify complex factors and circumstances. Taking of life can never be justified or defended under any circumstances, whether inflicted on those belonging to minorities or by foreign terrorist non-State actors seeking to worsen minority-majority relations through violence against innocent civilians. However, rather than justify terrorist acts, the user is raising the hypocrisy in response to loss of human life. Further, to establish hate speech in accordance with Facebook’s Community Standards and the UN Strategy, a group with a protected characteristic must be the target of an attack. Such a protected group is not easily identifiable in this case. The implicit idea behind the post that Muslim lives are worth less than French lives may constitute a flawed and uncomfortable opinion, yet still be within the bounds of the right to freedom of expression. In relation to Case 2020-003-FB-UA, it is notable that Azerbaijan has a Christian minority amounting to approximately five percent of the population. With regards to context, Armenia and Azerbaijan have just ended a military confrontation with Armenia ceding some territory to Azerbaijan. There have been anxieties by Christians in those territories as to the non-denial “in community with the other members of their group...to profess and practice their own religion”. Lastly, the Board should appreciate that right to have, maintain and use places of religious worship is an established right of those belonging to religious minorities. As such, regardless of the veracity of the claims made in the post relating to the destruction of churches, concern about such actions is within the ambit of legitimate minority concerns. Furthermore, there needs to be a protected group targeted. This post seems to be targeted at the Azerbaijani Government rather than the Azerbaijani people. Ascertaining whether hate speech has occurred in this case hinges on the proper meaning and connotation of the term “т.а.з.и.к.и” and whether this term targets a particular group on the basis of protected characteristics.

[Link to Attachment](#)

[Attachment PC-00138](#)



Public Comment Appendix for
2020-002-FB-UA

Case number

End of public comments