



29 June 2023

Input from Amnesty International USA on “[United States posts discussing abortion](#)” (2023-011-IG-UA, 2023-012-FB-UA, 2023-013-FB-UA).

Amnesty International USA welcomes the opportunity to provide public comments on the Meta Oversight Board’s “United States posts discussing abortion”. Amnesty International USA is part of Amnesty International, an independent, Nobel Peace Prize-winning, global human rights movement of more than ten million people. We are drawing on our extensive global expertise regarding issues around technology and human rights, as well as reproductive rights, to provide context and guidance on this case.

Amnesty International USA has worked with a number of reproductive health and rights organizations who have had their content incorrectly flagged as “violating community guidelines”, or mistakenly removed by Meta’s content moderation mechanisms. Many of the posts from these organizations that have been removed provide information on abortion in general, how to access medication abortion (the [most common method of abortion](#) in the United States), or the drugs used to induce medication abortions, mifepristone and misoprostol. In the wake of the Supreme Court’s ruling on *Dobbs v. Jackson Women’s Health Organization*, which overturned *Roe v. Wade* and [stripped away federal abortion protections](#), it is more important than ever for reproductive health and rights organizations to be able to share accurate information on how to access safe abortion.

Regarding Meta’s responsibilities to respect human rights under the UN Guiding Principles on Business and Human Rights

As noted above, we have followed reports that Meta has censored reproductive health and other rights-related information in the United States, and we have analyzed how this may contravene Meta’s responsibility to respect human rights.

Laws that restrict access to abortion violate a number of human rights, including the rights to autonomy, bodily integrity, privacy and equality, as well as the rights to life, health, information and freedom from torture or other

ill-treatment.¹ These rights are enshrined in several international human rights treaties and instruments, and almost all countries—including the United States—are legally bound to at least one treaty that covers rights within which abortion fits squarely. While abortion may not be listed by name in these treaties, the UN treaty monitoring bodies have increasingly recognized abortion as an integral component of sexual and reproductive healthcare, which is key to realizing individuals’ reproductive autonomy and their full range of human rights. The UN Human Rights Committee for example, is the body charged under the International Covenant on Civil and Political Rights—a treaty ratified by the United States—with monitoring its implementation. It has confirmed that states cannot regulate abortion in a manner that is contrary to their obligation to ensure that women, girls and pregnant persons are not forced to resort to unsafe abortions.² Further, the UN Committee on Economic, Social and Cultural Rights (CESCR) explicitly has found that the International Covenant on Economic, Social and Cultural Rights (ICESCR) obligates states to “respect the right of women to make autonomous decisions” about their health, and that this right encompasses increased access to abortion, as well as other sexual and reproductive health services.³ The few states that have signed but not yet ratified the ICESCR such as the United States are still bound by these principles through the Vienna Convention on the Law of Treaties, which establishes that these states must not “defeat the object and purpose of a treaty prior to its entry into force.”⁴

The CESCR’s General Comment 14 further establishes that states must ensure that all health facilities, goods and services (including information) must be available, accessible (physically and financially), acceptable and of good quality. Within this context, states must ensure everyone has free, unhindered and easy access to credible, reliable, objective and evidence-based information about health products.⁵ And, as the UN Office of the High Commissioner for

¹ See, e.g. *Human Rights Committee, K.L. v Peru*, Comm. No. 1153/2003, UN Doc. CCPR/ C/85/D/1153/2003 (2005); *CEDAW Committee, L.C. v Peru*, Comm. No. 22/2009, UN Doc. CEDAW/C/50/D/22/2009 (2011), para. 8.15. See also *Access to safe and legal abortion: Urgent call for United States to adhere to women’s rights convention*, UN Office of the High Commissioner for Human Rights, 2022 at:

<https://www.ohchr.org/en/statements/2022/07/access-safe-and-legal-abortion-urgent-call-united-states-adhere-womens-rights>; *Joint web statement by UN Human Rights experts on Supreme Court decision to strike down Roe v. Wade*, UN Office of the High Commissioner for Human Rights, 2022 at:

<https://www.ohchr.org/en/statements/2022/06/joint-web-statement-un-human-rights-experts-supreme-court-decision-strike-down>

² UN Human Rights Committee (HRC), General Comment No. 36, Article 6 (Right to Life), 2019, CCPR/C/GC/35, para. 8

³ CESCR Committee, General Comment 22 (2016) on the right to sexual and reproductive health (Article 12 of the ICESCR), UN Doc. E/C.12/GC/22 (2016), para. 28

⁴ See *Vienna Convention on the law of treaties* (with annex). Concluded at Vienna on 23 May 1969, Article 18 at:

<https://treaties.un.org/doc/publication/unts/volume%201155/volume-1155-i-18232-english.pdf>

⁵ CESCR Committee, General Comment 22 (2016) on the right to sexual and reproductive health (Article 12 of the ICESCR), UN Doc. E/C.12/GC/22 (2016), para 18

Human Rights has explained, “access to medicines is intrinsically linked with principles of equality and non-discrimination, transparency, participation, and accountability.”⁶ The UN Committee on the Elimination of Discrimination against Women has advised states to ensure that sexual and reproductive healthcare includes access to safe abortion services.⁷ The United States has signed (though not ratified) the ICESCR and CEDAW, which again means it is obligated to refrain from actions that undermine the treaties’ object and purpose.

As outlined in the UN Guiding Principles on Business and Human Rights, all companies have a responsibility to respect human rights – including the right to health and access to information - and should: (i) avoid causing or contributing to adverse human rights impacts through their own activities; and (ii) seek to prevent such impacts linked to their products and services. The corporate responsibility to respect human rights is independent of the state’s own human rights obligations.⁸ To meet their responsibility to respect human rights, business enterprises are expected to carry out ongoing and proactive human rights due diligence “to identify, prevent, mitigate and account for their impacts on human rights.”⁹ When companies cause or contribute to human rights abuses, they also have the responsibility to remediate the harm.¹⁰

Social media companies can play a crucial role in facilitating the enjoyment of sexual and reproductive health and rights around the globe, especially where access to information and services is restricted. In the context of user-generated content moderation, the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has urged information and technology companies to “incorporate directly into their terms of service and ‘community standards’ relevant principles of human rights law that ensure content-related actions will be guided by the same standards of legality, necessity and legitimacy that bind State regulation of expression.”¹¹ Likewise, the UN CESCR stated that “[t]he dissemination of misinformation and the imposition of restrictions on the right of individuals to access information about sexual and reproductive rights also

⁶ *Access to medicines – a fundamental element of the right to health*, UN Office of the High Commissioner for Human Rights at: <https://www.ohchr.org/en/development/access-medicines-fundamental-element-right-health>

⁷ UN Committee on the Elimination of Discrimination Against Women (CEDAW). General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, 2013, CEDAW/C/GC/30, para. 52(c).

⁸ *Guiding Principles on Business and Human Rights*, UN Office of the High Commissioner for Human Rights, 2011 at: https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf.

⁹ *UN Guiding Principles on Business and Human Rights*, Principle 15

¹⁰ UN Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework* (2011), UN Doc HR/PUB/11/04, Principles 11 and 13 including Commentary, www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

¹¹ *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, A/HRC/38/35, 2018, para 45.

violates the duty to respect human rights. ... Such restrictions impede access to information and services, and can fuel stigma and discrimination.”¹²

In sum, actions that unduly restrict the right to freedom of expression on this topic, including the right to seek, receive and impart information related to sexual and reproductive health and rights, would contravene Meta’s responsibility to respect human rights. To comply with their human rights responsibilities, social media companies involved in facilitating and moderating online content should at the very least engage in human rights due diligence and ensure greater transparency regarding content moderation practices and policies to guarantee that human rights are respected.

Regarding Meta's moderation of content on Facebook and Instagram related to abortion:

Based on reported experiences from reproductive health and rights organizations, Meta’s content moderation systems are hindering the flow of information on abortion to users on Facebook and Instagram. Amnesty International USA has worked with partners to collect examples of abortion-related content being removed from Meta platforms - some examples of posts on abortion that have been removed include:

- An Instagram post with text that says: “Regardless of your state’s abortion laws, we are here to help you understand your options and access the care you need”. This post was flagged as “violent or graphic”.
- An Instagram post from an organization that lays out the process of how to have a self-managed abortion with pills (which followed the [WHO recommended protocols](#)). This post was removed because it went against “guidelines on sale of illegal or regulated goods”.
- A Facebook post from an organization that created an “Abortion Dictionary” to clarify abortion-related terms. This post was removed for “not following community guidelines”.

In all these instances, these organizations attempted to use their social media accounts to share accurate information on abortion, how to access abortion, or how to self-manage an abortion with pills. Based on our communications with reproductive health and rights organizations, the majority of posts that get removed discuss medication abortion or “abortion pills”. This is especially concerning given that access to medication abortion is currently the central target of the anti-abortion rights movement. In April of 2023, a judge in Texas revoked the FDA’s approval of mifepristone, one of the drugs used in most medication abortions which was approved by the FDA over 20 years ago. The Texas judge’s decision was appealed and sent to the Supreme Court, which paused the decision- the final decision on the

¹² General comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights)

case is still pending, and it is possible that mifepristone access in the United States could be restricted in the future. While access to mifepristone in the United States is at serious risk, access to information on the safety and efficacy of this drug is facing restrictions online.

While reproductive rights organizations have reported an increase in censorship following the overturn of *Roe*, this is [not a new issue](#)- even before the summer of 2022, Meta's content moderation mechanisms were removing posts about abortion that did not violate community guidelines. This is incredibly damaging for organizations that have their posts removed, as they must use their time and resources to appeal decisions made on their posts, and it can take long periods of time to get their posts reinstated. It also directly undermines Meta's responsibilities under the UN Guiding Principles on Business and Human Rights to allow access to information regarding reproductive rights generally, and abortion in particular.

Meta must facilitate, not hinder, access to medically accurate information on abortion on its platforms.

There are a number of things that Meta can do to ensure that discussion of abortion can be done freely and without unnecessary censorship. Of the utmost importance is being transparent with the public about how abortion-related content is moderated on Facebook and Instagram. Reproductive health and rights organizations have stated that the ways in which community guidelines are applied to posts about abortion are unclear, content is moderated inconsistently, and they are often unsure of the types of content that will trigger systems to flag their posts.

Meta could rectify this in different ways. For example, Meta developed incredibly [detailed policy updates](#) in light of the COVID-19 pandemic that specifically laid out how Meta's community guidelines apply to COVID-19 related content. Given the extraordinary circumstance of *Roe* being overturned and the surge in discussion of abortion online for Facebook and Instagram users in the US, it would be beneficial for Meta to produce similar policy clarifications for its users so they have explicit guidelines on what sort of content is allowed or prohibited.

Another example of how Meta can ensure that users have access to critical reproductive rights-related information (especially regarding abortion in general, and medication abortion in particular) is through the promotion of accurate information on the topic itself. Misinformation and disinformation are rampant across social media platforms, and discussion of abortion in particular often leads to sharing incorrect information and statistics that go unchecked. While Meta has mechanisms to [combat misinformation](#) and tag posts that share incorrect information, they are insufficient, and posts with purposefully misleading information can be shared widely while many posts with accurate information on abortion are removed.

Ultimately, Meta must uphold its responsibilities under the UN Guiding Principles and make necessary changes to ensure that users can freely and confidently discuss their views and share medically accurate information on abortion.