

**Submission to the Securities and Exchange Commission
on
Meta's Violation of Security Laws
Concerning Facebook's Role in the Atrocities Against the
Rohingya in 2017**

23 January 2025

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SUMMARY

Amnesty International, the Open Society Justice Initiative and Victim Advocates International (collectively, the “Submitting Entities”) make this submission on behalf of Sayed Ullah, known as Maung Sawyeddollah, a Whistleblower, to provide information on Meta’s role in the atrocities perpetrated against the Rohingya people of Myanmar in 2017, which the United States government has classified as genocide, to present facts concerning Meta’s conduct, and to identify representations to the Securities and Exchange Commission (SEC) and to public investors that appear to have violated federal securities laws. The Submitting Entities and the Whistleblower urge the SEC to open a formal investigation to determine the full extent and scope of Meta’s securities law violations.

At the time of the events in question, the company was registered as Facebook, Inc. This submission will use the current name of Meta for the company while referring to its social media platform as Facebook.

The Facebook platform was a central vehicle in the proliferation of hate speech that contributed to the atrocities committed against the Rohingya in Myanmar in 2017, which was classified as genocide¹ and crimes against humanity by the U.S. government. Two facts transform the conduct of Meta from a moral failure into a violation of U.S. securities laws:

- First, from at least 2013, when civil society and researchers began alerting the company, Meta knew or at a minimum recklessly disregarded that its algorithmic systems were at risk of supercharging the spread of hate speech in Myanmar, but consistently made incomplete statements on this issue which failed to disclose this material fact to the SEC and to investors, and on several occasions actively misrepresented relevant information.
- Second, Meta knew or at a minimum recklessly disregarded that from 2013 onwards its content-moderation systems were inadequate to the task of preventing and removing hate speech in Myanmar that could foreseeably contribute to the atrocities against the Rohingya, but consistently made incomplete statements on this issue which failed to disclose this material information to the SEC and shareholders, and on several occasions actively made misrepresentations on this matter.

As described in detail below, civil society activists and researchers alerted Meta staff every year in 2013, 2014, 2015, 2016 and 2017, before the widespread attacks against the Rohingya began in August 2017, about the heightened risk that Facebook could contribute to potential mass violence, with some of them warning about the risk of genocide. However, these warnings were effectively ignored by Meta, which failed to take sufficient action to properly mitigate these risks.

Meta made misrepresentations on these issues in the 10-K Filings for the financial years 2015 and 2016. It stated that the company sought to identify “undesirable accounts” which violated Facebook’s terms of service, and it failed to fully report on the risks in Myanmar, even though the situation could (and eventually did) cause reputational damage stemming from negative publicity, as discussed below.

These misrepresentations and omissions were repeated in the Proxy Statements in 2015, 2016 and 2017, detailed below, where Meta opposed shareholder proposals on initiatives to better monitor the company’s human rights impact by falsely claiming it was sufficiently “evaluating and responding” to such issues,

¹ Note: The Submitting Entities themselves have not adopted this classification but consider the acts to amount to crimes against humanity at a minimum.

all while knowing or at a minimum recklessly disregarding that the Facebook platform was continuing to contribute to the escalation of violence in Myanmar in those years.

In Earning Calls with investors in 2016 and 2017, Meta misrepresented the impact that Facebook's algorithms had on recommended content. Specifically, Meta claimed that their algorithms did not result in polarization despite possessing an internal study that demonstrated the exact opposite. Meta made this claim despite having been alerted that its algorithms were actively proliferating anti-Rohingya content in Myanmar at the time. Meta also failed to fully disclose information about their content moderation capabilities in these conversations.

Only after increasing public pressure following a Congressional Hearing in April 2018 did Meta partially acknowledge its failure to adequately address incitement and hate speech against the Rohingya—which it had been alerted to long before—and only then did Meta promise to take action to improve the situation. Even then, Meta declined to acknowledge that its algorithms were promoting hateful and inciting content; rather, Meta continues even now to downplay and misrepresent the harms and risks associated with its algorithmic recommender systems.

This submission forms a strong basis for the SEC to launch a formal investigation and ultimately to bring an enforcement action against Meta, which appears to have repeatedly violated the antifraud provisions of the federal securities laws. Specifically, it appears there are ample grounds for the SEC's enforcement staff to launch a formal investigation into whether Meta's conduct concerning its sale of securities violated the following:

- Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder (fraudulent or deceptive practices, including affirmative misstatements and material omissions made with scienter);
- Section 13(a) of the Securities Exchange Act of 1934 and Rules 13a-1, 13a-16 and 12b-20 thereunder (false statements in periodic SEC filings); and
- Section 17(a) of the Securities Act of 1933 (fraudulent or deceptive practices, including affirmative misstatements and material omissions made at least negligently or recklessly).

In making the arguments summarized above, this submission is divided into three parts: Part I discusses the factual context, Part II discusses Meta's misrepresentations and omissions in 2015, 2016, 2017, 2018 and Part III addresses the applicable legal arguments.

I. FACTUAL CONTEXT OF THE SUBMISSION

The Submitting Entities, Amnesty International², the Open Society Justice Initiative³ and Victim Advocates International⁴ make this submission on behalf of Sayed Ullah, known as Maung Sawyeddollah.⁵

² Amnesty International is a global movement of more than 10 million people who are committed to creating a future where human rights are enjoyed by everyone, see <https://www.amnesty.org/en/about-us/>.

³ The Open Society Justice Initiative pursues and supports legal action, legal advocacy and empowerment strategies to foster human dignity, equality and rights around the world, see <https://www.justiceinitiative.org/who-we-are>.

⁴ Victim Advocates International empowers victims of serious international crimes and transforms accountability processes, see <https://www.victimadvocatesinternational.org/>.

⁵ This submission will refer to the complainant as Maung Sawyeddollah.

The facts presented in this submission draw on and highlight key findings from Amnesty International’s exhaustive 2022 report detailing how Facebook was used to fuel the atrocities against the Rohingya.⁶ The report is based on consensual remote interviews with 10 Rohingya survivors and refugees, and 12 subject-matter experts, conducted between February and June 2022.⁷ Maung Sawyeddollah, on whose behalf this submission is filed, is one of the Rohingya interviewed.

The witnesses⁸ interviewed provided original information on their interactions with Meta from 2013 to 2017, demonstrating Meta’s actual knowledge of the underlying facts. The results of these interviews were corroborated with other credible sources, such as civil society, media and United Nations reports, and complemented with a detailed analysis of the internal Meta documents leaked by whistleblower Frances Haugen.⁹

A. Atrocities against the Rohingya in 2017

The Rohingya have been subjected to decades of state-sponsored discrimination, persecution, and oppression that has been extensively documented by the United Nations International Fact-Finding Mission on Myanmar¹⁰ (IFFMM) and civil society organizations, such as Amnesty International and Victim Advocates International.¹¹

Amnesty International described the situation of the Rohingya in the lead up to 2017 as follows:¹²

Virtually all of them have no citizenship and no reasonable claim to citizenship other than in Myanmar. Despite this, the vast majority of Myanmar’s Rohingya have no legal status, having been effectively deprived of a nationality as a result of discriminatory laws, policies and practices, most significantly the 1982 Citizenship Law and its application. The law discriminates on racial grounds and in Rakhine State, was implemented in a way which allowed the Myanmar authorities to strip the Rohingya *en masse* of citizenship rights and status [...] In addition to violations of their right to a nationality, Rohingya have over several decades been subjected to widespread and systematic human rights violations by successive governments. These violations, at the heart of which lies systematic racial and

⁶ Amnesty International, *The Social Atrocity Meta and The Right to Remedy for The Rohingya*, (2022), (“Social Atrocity”), <https://www.amnesty.org/en/documents/asa16/5933/2022/en/>.

⁷ *Social Atrocity*, at 12.

⁸ Contact details of witnesses are on record with Amnesty International. Upon request, Amnesty International can seek informed consent from witnesses to share contact details for the purpose of investigations by the SEC.

⁹ *Social Atrocity*, at 12.

¹⁰ Report of the Independent Fact-Finding Mission on Myanmar, August 27, 2018,

https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFM-Myanmar/A_HRC_39_CRP.2.pdf.

¹¹ See e.g. the following Amnesty International reports: “Caged Without a Roof” – Apartheid in Myanmar’s Rakhine State, (2017), <https://www.amnesty.de/sites/default/files/2017-11/Amnesty-Bericht-Myanmar-Rohingya-Apartheid-November2017.pdf>; “My World Is Finished” – Rohingya Targeted in Crimes Against Humanity in Myanmar, (2017), <https://www.amnesty.de/sites/default/files/2017-10/MyWorldIsFinished.PDF>; “We Will Destroy Everything” – Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar, (2018); *Remaking Rakhine State*, (2018), <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA1686302018ENGLISH.pdf>; “No One Can Protect Us” – War Crimes And Abuses In Myanmar’s Rakhine State, (2019), <https://www.amnesty.eu/wp-content/uploads/2019/05/ASA1604172019ENGLISH.pdf>.

¹² Footnotes in all subsequent quotes are omitted.

religious discrimination, include severe and arbitrary restrictions on their freedom of movement which have negatively impacted access to healthcare, education and livelihood opportunities; unlawful killings; arbitrary detentions; torture and other ill-treatment; forced labour; land confiscations and forced evictions in addition to various forms of extortion and arbitrary taxation.¹³

The situation in Myanmar escalated in 2017 with an attack by a Rohingya armed group:

Against a backdrop of decades of systemic discrimination and apartheid perpetrated against the Rohingya population by the Myanmar authorities, on 25 August 2017, a Rohingya armed group known as the Arakan Rohingya Salvation Army (“ARSA”) attacked a range of security and military targets in northern Rakhine State.¹⁴

The Myanmar military responded with a large-scale operation (termed “clearance operation”) against the Rohingya population in Rakhine state that resulted in mass killings, sexual violence, and other forms of abuse which the United States government declared in March 2022 to be genocide and crimes against humanity.¹⁵

B. Facebook’s Contribution to the Atrocities against the Rohingya

Facebook, in Myanmar, is synonymous with ‘the internet’.¹⁶ From 2011 onwards, Facebook established near-total dominance over social media interactions, and was the main source of news and information for the country’s online population. As Amnesty International’s report explains:

Even before internet access became widely available in Myanmar, Facebook was already the dominant platform in the country. In 2011, despite widespread restrictions on internet access, it was estimated that approximately 80% of Myanmar's few internet users had Facebook accounts. By 2014, Facebook was estimated to have had hundreds of thousands of users in Myanmar, many of whom were accessing the platform through internet cafes or devices belonging to their friends or family members. Prior to 2015, Facebook was only available in Myanmar via an English-language interface, but a specific Myanmar version was launched in 2015. Facebook usage exploded alongside internet access after 2014, and by 2016, it was estimated that there were 10 million Facebook users in Myanmar.
[...]

¹³ Amnesty International, “Caged Without a Roof” – Apartheid in Myanmar’s Rakhine State, (2017), <https://www.amnesty.de/sites/default/files/2017-11/Amnesty-Bericht-Myanmar-Rohingya-Apartheid-November2017.pdf>, at 20.

¹⁴ Social Atrocity, at 16.

¹⁵ United States Department of State, Secretary Antony J. Blinken on the Genocide and Crime Against Humanity in Burma, March 21, 2022, <https://www.state.gov/secretary-antony-j-blinken-at-the-united-states-holocaust-memorial-museum/>; Amnesty International also found these acts to amount to crimes against humanity in “We will destroy everything” – Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar, (2018), <https://www.amnesty.org/en/documents/asa16/8630/2018/en/>.

¹⁶ As noted by the Independent International Fact-Finding Mission on Myanmar in 2018, “[f]or many people, Facebook is the main, if not only, platform for online news and for using the Internet more broadly”, see Independent International Fact-Finding Mission on Myanmar, Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar (IIFMM, Detailed findings), 17 September 2018, A/HRC/39/CRP.2, para. 1345.

Meta's rapid market entry into Myanmar, combined with the enthusiastic embrace of the platform by a population which had long been starved of space to freely express themselves, led to Meta enjoying near-total market dominance in Myanmar by 2017. The Facebook platform was used not only as a means of communicating with friends, but for many people in Myanmar, it became their primary news source, business directory, online marketplace, and go-to search engine.¹⁷

Dominating the market in this fashion, Facebook played a crucial role in fomenting hate and discrimination against the Rohingya. According to the IIFFMM:

As elsewhere in the world, the Internet and social media platforms have enabled the spread of this kind of hateful and divisive rhetoric. The Myanmar context is distinctive, however, because of the relatively new exposure of the Myanmar population to the Internet and social media. Messages portraying Rohingya as violent, dishonest, anti-Bamar [Bamar are the majority ethnic group], anti-Buddhist, illegal immigrants and/or terrorists of the kind set out above are particularly widespread on social media. Death threats, incitement to violence and discrimination, and online harassment are common features as well, not only against the Rohingya themselves but also against moderate commentators, human rights defenders and ordinary people who have views that differ from the official line.¹⁸

Incitement to violence against the Rohingya on Facebook started as early as 2012 and reached its height in 2017:

Facebook's platform had previously been used to incite violence against the Rohingya and Muslims in the years leading up to the [military] operations in 2012, 2014, and 2016. The IIFFMM points to widely disseminated posts from early in 2012 alleging that a group of Rohingya men murdered a Buddhist woman to have contributed to violence in Rakhine state, as well as similar posts alleging the rape of a Buddhist woman by Muslims to have led to riots in 2014. Facebook was used to disseminate hate speech in the context of the 2016 operations, which resulted in the destruction of at least 1,500 Rohingya homes, as well as the forced displacement of more than 69,000 Rohingya into Bangladesh. According to *The Guardian*, digital researcher and analyst Raymond Serrato examined about 15,000 Facebook posts from supporters of the hard-line nationalist Ma Ba Tha group. The earliest posts dated from June 2016 (before the October 2016 operations) and spiked on 24 and 25 August 2017 when the operations happened. The analysis showed that activity within the anti-Rohingya group, which had 55,000 members, "exploded [during this time period,] with posts registering a 200% increase in interactions."¹⁹

This incitement to violence was exacerbated by the nationalist groups' use of Facebook to silence moderate or opposing views among the majoritarian population by posting online threats:

¹⁷ Social Atrocity, at 16-17.

¹⁸ Report of the Independent Fact-Finding Mission on Myanmar, August 27, 2018, at para. 1342.

¹⁹ Victim Advocates International, Specific Instances Under the OECD Guidelines For Multinational Enterprises Submitted to the Republic of Ireland National Contact Point ("NCP") for the OECD Guidelines, (2021), at 10 (on file with Submitting Entities).

[Facebook] offered a unique capability to transform threats into public displays. While threatening messages against individuals and their families were conveyed using multiple channels, Meta’s de facto monopoly in Myanmar meant that Facebook was the primary means by which such messages could also address a larger audience. Such displays had to be taken seriously, because there were good reasons to believe both that nationalist forces were prepared to act on them and that protection or assistance from state authorities was unlikely.²⁰

In an environment where Facebook was the primary source of online information, the platforms’ contribution to the atrocities against the Rohingya can be traced back to two factors: (1) Meta’s use of algorithms that amplify harmful content and (2) Meta’s inability to adequately moderate content that violates “Facebook Community Standards,” which state what content is allowed and prohibited on the platform.

(1) Meta’s Use of Algorithms Amplified Anti-Rohingya Content

Amnesty International’s analysis of internal information leaked by whistleblower Frances Haugen in the Facebook Papers, a cache of internal Meta documents that were disclosed to the United States Congress in October 2021, demonstrates that the algorithms deployed by Meta to recommend content to users on Facebook had the effect of disproportionately favoring content that incites hate and violence even though such content often violates Meta’s own Community Standards:

[E]vidence [from the Facebook Papers] shows that the core content-shaping algorithms which power the Facebook platform—including its news feed, ranking, and recommendation features—all actively amplify and distribute content which incites violence and discrimination, and deliver this content directly to the people most likely to act upon such incitement.²¹

Amnesty International’s research found that this is inherent in Meta’s business model, which seeks to maximize user engagement above anything else:

Meta’s business model, based on invasive profiling and targeted advertising, fuels the spread of harmful content, including incitement to violence. The algorithmic systems that shape a user’s experience on Facebook and determine what information they see are designed to keep people on the platform – the more engaged users are, the more advertising revenue Meta earns. As a result, these systems prioritize the most inflammatory, divisive, and harmful content as this content is more likely to maximize engagement.²²

In Myanmar, with Facebook’s dominant role as social media platform and news provider, the deployment of algorithms promoted widespread anti-Rohingya online campaigns which contributed to offline violence:

²⁰ Schissler, M. (2024), Beyond Hate Speech and Misinformation: Facebook and the Rohingya Genocide in Myanmar, *Journal of Genocide Research*, 1–26, <https://doi.org/10.1080/14623528.2024.2375122>, at 22.

²¹ Social Atrocity, at 8.

²² Social Atrocity, at 7.

The Facebook platform’s signature features—including virality, groups, news feed, and recommendations—played a prominent role in Myanmar’s information landscape in the months and years preceding the 2017 atrocities in Northern Rakhine State. [...] [T]hese features were actively amplifying, promoting and recommending divisive and inflammatory content in Myanmar, in a context where the risk of an outbreak of mass violence against the Rohingya was growing by the day.

[...]

They also fueled offline harms by amplifying content which incited and facilitated violence against the Rohingya, and by delivering this content to the users who were most likely to act upon this incitement and engage in real-world violence.²³

A witness interviewed by Amnesty International confirmed the effects of the algorithmic amplification:

Michael, [an] international aid worker who lived in Myanmar from 2013-2018, described a typical Facebook News Feed in Myanmar in 2017:

“The vitriol against the Rohingya was unbelievable online—the amount of it, the violence of it. It was overwhelming. There was just so much. That spilled over into everyday life...The news feed in general [was significant]—seeing a mountain of hatred and disinformation being levelled [against the Rohingya], as a Burmese person seeing that, I mean, that’s all that was on people’s news feeds in Myanmar at the time. It reinforced the idea that these people were all terrorists not deserving of rights. This mountain of misinformation definitely contributed [to the outbreak of violence].”

[...]

“The fact that the comments with the most reactions got priority in terms of what you saw first was big—if someone posted something hate-filled or inflammatory it would be promoted the most—people saw the vilest content the most. I remember the angry reactions seemed to get the highest engagement. Nobody who was promoting peace or calm was getting seen in the news feed at all.”²⁴

(2) Meta Failed to Sufficiently Moderate Content

Content moderation typically involves the detection of harmful content that violates Meta’s Community Standards, followed by a range of varied actions in response, such as removal of the content, making the content less visible (“demoting” or “downranking”), or penalties against individual users or groups.²⁵ Hate speech is one type of content prohibited by the Community Standards and was understood by Meta as “anything that directly attacks people based on what are known as their ‘protected characteristics.’”²⁶

In the lead-up to August 2017, anti-Rohingya hate speech was rampant on Facebook:

In the months and years leading up to August 2017, content that spread dehumanizing, hateful and discriminatory views towards the Rohingya—oftentimes portraying genocidal intent—was rife on the Facebook platform throughout Myanmar. This content, which

²³ Social Atrocity, at 47-48.

²⁴ Social Atrocity, at 45 and 47: Amnesty International interview by video call with Michael (pseudonym), March 28, 2022.

²⁵ Social Atrocity, at 34.

²⁶ Social Atrocity, at 34, fn. 162.

encouraged and justified violence and discrimination against the Rohingya, was posted by a variety of actors, including senior government and military officials, prominent civilian hate groups and figures, including radical Buddhist nationalist groups such as Ma Ba Tha, and ‘news’ pages, groups, and other accounts with large followings.²⁷

The testimony of the complainant interviewed by Amnesty International confirmed how harmful content started spreading before 2017:

[The complainant Maung Sawyeddollah], 21, Rohingya activist and survivor:
“I started seeing different things on Facebook, some things related to Rohingya people... The writing was in Burmese—it said, ‘there is no Rohingya [race] in Myanmar.’ I was seeing this post from many people. I thought, what is happening to these people? Why are they posting against us? Why are they against Rohingya people? I started seeing more and more—about ‘Bengali’ people, that we are not from Myanmar. It said, ‘if they stay here, we will be under their control.’ A lot of hate speech, a lot of false news.”²⁸

Even though these types of content were in clear violation of Facebook’s Community Standards, Meta consistently failed to adequately enforce them by removing anti-Rohingya content in the months and years leading up to the 2017 atrocities in northern Rakhine State.²⁹

Rohingya survivors interviewed by Amnesty International, including the complainant Maung Sawyeddollah, described how their efforts to report harmful content to Facebook did not lead to any actions:

Sharif, a 28-year-old Rohingya community educator, told Amnesty International that he reported anti-Rohingya content “more than 100 times” since 2014, and no action was ever taken.³⁰

Showkutara had a similar experience, and recalled her dismay at Meta’s repeated failure to take action in response to her reports:

“There were so many pages and contents, how could I report them all? I was not able to do anything against all these things. But I did report some, and I just received a message [that no action would be taken]... I really wanted to stop these things on Facebook, and I tried a lot—I just cried when I saw this; I didn’t have any other option. I really wanted Facebook to stop this hate speech spreading, but I could not, and it made me so upset.”³¹

[The complainant Maung Sawyeddollah], a 21-year-old Rohingya refugee and youth activist, recalled how his frustrations at Meta’s content moderation failures led him to believe that Meta itself was also contributing to the suffering of his community:

“I saw a lot of horrible things on Facebook. And I just thought that the people who posted

²⁷ Social Atrocity, at 28.

²⁸ Social Atrocity, at 26: Amnesty International interview by video call with complainant Maung Sawyeddollah, April 6, 2022.

²⁹ Social Atrocity, at 37.

³⁰ Social Atrocity, at 35.

³¹ Social Atrocity, at 35-36: Amnesty International interview by video call with Showkutara, April 6, 2022.

that were bad. I didn't think that Facebook was to blame. But one day I saw a post that made me feel so bad. It said, 'these Bengali people'—using derogatory words—'their birth rate is so much higher than us—if they live on, we will be under their rule soon.' I tried to report that post to Facebook. I said it was hate speech. But I got a response that said thank you for reporting it, but sorry, it does not go against community standards. That made me really angry. Then I realized that it is not only these people—the posters—but Facebook is also responsible. Facebook is helping them by not taking care of their platform."³²

The insufficient numbers of content moderators with the required language skills contributed to the failures of Meta:

Meta's wholly inadequate staffing of its Myanmar operations prior to 2017 was a significant factor in the company's staggering failures to remove harmful anti-Rohingya content from the Facebook platform. This is symptomatic of the company's broader failure to adequately invest in content moderation across the Global South. In mid-2014, Meta staff admitted that they only had one single Burmese-speaking content moderator devoted to Myanmar at the time, based in their Dublin office. Meta has never disclosed the precise number of Burmese-language content moderators it employed during the 2017 atrocities, but the company claimed to have hired "dozens" more in mid-2018.³³

In its report, Amnesty International explained that even a well-resourced approach to content moderation, in isolation, would likely not have sufficed to prevent or adequately mitigate the harms caused by Meta's algorithms.³⁴ This is because content moderation fails to address how Meta's content-shaping algorithms are optimized to maximize user engagement, and therefore profit, and which are central to Meta's overall business model. Amnesty International further explained that effective content moderation can nevertheless be a relevant mitigation tactic when it is combined with other measures that seek to directly prevent and mitigate harmful algorithmic amplification. Ultimately, as explained by Amnesty International, Meta's content moderation operations in Myanmar ahead of the 2017 violence were deeply inadequate.³⁵

C. Meta's Knowledge Since 2013

From 2013 through the atrocities against the Rohingya committed in August 2017, Meta knew, or at a minimum recklessly disregarded the role its platform Facebook was playing in inciting hate and violence against the Rohingya due to repeated, explicit warnings communicated by civil society actors to Meta employees:

[F]ollowing Meta's market entry into Myanmar, the company received repeated warnings from civil society activists that it risked contributing to an outbreak of mass violence, and repeatedly failed to act upon them, including several specific instances prior to 2017 where the company's platform was used to spread harmful content including advocacy of hatred

³² Social Atrocity, at 35-36: Amnesty International interview by video call with complainant Maung Sawyeddollah, April 6, 2022.

³³ Social Atrocity, at 7.

³⁴ Social Atrocity, at 62.

³⁵ Social Atrocity, at 62.

against the Rohingya, resulting in ethnic violence. These repeated warnings and interventions mean that Meta either knew or should have known about the potential human rights harms which it risked contributing to in Myanmar.³⁶

2013:

In 2013, two individuals interviewed by Amnesty International expressed their concerns to Meta staff:

In October 2013, Htaike Htaike Aung [a local activist]³⁷ reiterated her concerns [on the issue of hate speech against the Rohingya on Facebook] at a Freedom House roundtable held at the Internet Governance Forum in Bali, Indonesia, which was attended by a number of Meta policy executives.

In November 2013, academic and journalist Aela Callan was conducting a fellowship focusing on the issue of “hate speech” in Myanmar at Stanford University. She travelled to Menlo Park in late 2013 and secured a meeting with Meta’s Vice-President for Global Communications and Public Policy. At the meeting, she **“raised explicitly this hate speech problem in Myanmar and urged them to take it seriously”**. However, according to David Madden, founder of the Myanmar-based Phandeeyar foundation, the **Meta staff member “wasn't that interested in the hate speech problem” because Myanmar was “seen as a tremendous market opportunity, certainly in terms of user growth.”**³⁸ (Emphasis added.)

2014:

In 2014, according to individuals interviewed by Amnesty International, the same concerns continued to be raised:

In March 2014, Htaike Htaike Aung, accompanied by Aela Callan, had a meeting with staff from Meta’s “compassion team” at Meta’s headquarters in Menlo Park, California, and made another attempt at convincing Meta to take action to address the escalating risks in Myanmar.

Also in March 2014, six Meta employees joined a call with academics and civil society experts to discuss concerns related to the spread of “hate speech” on the platform. Yangon-based academic Matt Schissler was invited by Harvard academic Susan Benesch to join the call and present on Myanmar. According to one account, Schissler **“gave a stark recounting of how Facebook was hosting dangerous Islamophobia”** and detailed **“the dehumanizing and disturbing language people were using in posts and the doctored photos and misinformation being spread widely”**. (Emphasis added.)

In April 2014, Meta’s compassion team held a virtual meeting with staff from MIDO [Myanmar ICT for Development Organization], Aela Callan, Susan Benesch and Matt

³⁶ Social Atrocity, at 61.

³⁷ Htaike Htaike Aung is currently the Executive Director of Myanmar ICT for Development Organisation.

³⁸ Social Atrocity, at 51.

Schissler, where they discussed cooperating on the localization of Meta’s reporting tool for Facebook. A Facebook group was set up to support further consultation and engagement. Over the following months, it came to be used as a key channel to alert the company to emerging concerns, as activists could find no other way of raising emergency situations.

[...]

In July 2014, [...] a Meta representative flew into Myanmar to take part in a panel discussion at the invitation of the Myanmar government. The representative also conducted meetings with civil society activists during her visit.

Following these meetings, Meta took some minor steps aimed at responding to the concerns raised by civil society – namely by issuing a Burmese-language translation of its community standards, and by supporting a civil society-led ‘flower speech’ sticker, which was intended to be used by users in Myanmar to counter content that incited violence and discrimination [...].³⁹

The minor steps [Meta] took in 2014 [...] did not seek to address the amplification of harmful content, and were ultimately negligible in their impact. As noted in Section 5.3 [of The Social Atrocity report], the flower speech stickers may have even further amplified harmful content, including advocacy of hatred against the Rohingya, on the Facebook platform.⁴⁰

2015:

In 2015, researchers raised their concerns at Meta’s headquarters in the United States, expressly warning that Facebook was already contributing to real-world violence and deaths in Myanmar, and that it ran the risk of being used to fuel a genocide, similar to the infamous role that radio had played in the 1994 Rwandan genocide:

On 17 March 2015, Matt Schissler travelled to California and made a presentation at Meta headquarters aimed at raising awareness within the company of the risk that Meta could contribute to anti-Muslim violence in Myanmar. Schissler shared “a PowerPoint presentation that documented the seriousness of what was happening in Myanmar: **hate speech on Facebook was leading to real-world violence in the country, and it was getting people killed**”. Schissler had a lunch meeting with a smaller group of Meta staff after the presentation. During the lunch, **one employee asked Schissler if he thought Facebook could contribute to a genocide in Myanmar, to which he responded that yes, it was a real possibility.** (Emphasis added.)

In May 2015, David Madden, the founder of the Phandeyar foundation, made a presentation at Meta headquarters in Menlo Park, the purpose of which was “to try to help people understand what was going on, help Facebook decision makers understand what was going on in Myanmar at the time, and just how dangerous the situation was”. Madden told Amnesty International that “those of us who were working on these issues in Myanmar had a sense that people in Facebook didn’t appreciate the nature of the political situation

³⁹ Social Atrocity, at 51-52.

⁴⁰ Social Atrocity, at 61.

in the country”. During this presentation, attended by relevant Meta staff in person and via videoconference, Madden cited “examples of the kinds of content that we had already seen on Facebook that was being used to exacerbate divisions between communities and to ratchet up the temperature”. Madden provided explicit warnings that Meta risked contributing to mass violence in Myanmar: “I drew the analogy with what had happened in Rwanda. There had been genocide in Rwanda, and radios had played a really key role in the execution of this genocide in Rwanda. And my concern was that Facebook would play a similar role in Myanmar, meaning it would be the platform through which hate speech was spread and incitements to violence were made. And so, **I said very clearly to them that Facebook runs the risk of being in Myanmar what radios were in Rwanda.** I said that very clearly; I said it very explicitly. It wasn’t the last time that I said it. I said it on many occasions after that. But I think that was the first time that I had said it to them.”⁴¹ (Emphasis added.)

A few months later, in September 2015, concerns were again raised with Meta staff:

[A] senior Meta representative travelled to Myanmar to launch the Burmese-language version of Facebook’s Community Standards. During a meeting between the Meta representative and a range of local civil society groups, several groups raised concerns that Facebook’s community standards were not being adequately enforced in the country.⁴²

In the same year, Meta conducted an internal study on Facebook algorithms and found that it promotes political polarization:

Meta researchers again studied the impact of Meta’s algorithms on political polarization in 2015. The study found that “**Facebook’s newsfeed algorithm decreases ideologically diverse, cross-cutting content people see from their social networks on Facebook by a measurable amount**”.⁴³ (Emphasis added.)

2016:

In 2016, one of Amnesty International’s interviewees communicated further warnings directly to Meta staff:

A senior Meta representative made at least three visits to Myanmar in 2016. In one meeting in November 2016 between the Meta representative and a local digital rights activist, the local activist delivered a “stark warning” about the risks that Meta could contribute to mass violence in Myanmar.⁴⁴

That same year, another internal study by Meta highlighted the role of Facebook algorithms in amplifying harmful content, explicitly recognizing that “[o]ur recommendation systems grow the problem of

⁴¹ Social Atrocity, at 52-53.

⁴² Social Atrocity, at 52-53.

⁴³ Social Atrocity, at 54.

⁴⁴ Social Atrocity, at 53.

extremism.⁴⁵ The internal Meta report further noted that “**64% of all extremist group joins are due to our recommendation tools**” and that most of the activity came from the platform’s ‘Groups You Should Join’ and ‘Discover’ algorithms [...].⁴⁶ (Emphasis added.)

As Amnesty International’s report concludes, “[t]hese internal studies could and should have triggered Meta to implement effective measures to mitigate the human rights risks associated with its algorithms, but the company repeatedly failed to act.”⁴⁷

2017:

Even in the year of the attacks in 2017, civil society actors interviewed by Amnesty International repeatedly flagged the problem with Meta staff, once again warning that Facebook risked contributing to a potential genocide:

In January 2017, David Madden and Victoire Rio remotely joined a meeting between Meta representatives and another digital rights activist taking place in Menlo Park. David Madden recounted the briefing to PBS Frontline: “We were genuinely worried about where things might go from there, and the situation on Facebook was even worse because what was really apparent by now was just how rife the hate speech problem was, and importantly, just how inadequate Facebook's response was. So we were very clear at that meeting that their systems just didn’t work. The processes that they had in place to try to identify and pull down problematic content, they just weren't working. And we were deeply concerned about where this was going to go, and the possibility that something even worse was going to happen imminently... So we were very prescriptive and very clear at that meeting. **At that meeting I reiterated this point that there was a real risk that Facebook would be in Myanmar what the radios had been in Rwanda, and I was really clear about that.**”

In June 2017, a Meta delegation travelled to Myanmar and met with local digital rights groups including Phandeeyar and the Myanmar ICT for Development Organization (MIDO). Victoire Rio, who attended two meetings with Meta staff during that trip, told Amnesty International that she “raised the fact that we needed a much better escalation mechanism, and that policies really needed to be contextualized to account for risks”.⁴⁸ (Emphasis added.)

II. META’S MISREPRESENTATION AND OMISSIONS IN 2015, 2016, 2017, 2018

Despite being alerted about Facebook’s role in inflaming hatred against the Rohingya every year from 2013 until the attacks in 2017, Meta misrepresented and omitted material information in its public disclosures, concerning the functioning of Facebook algorithms and the company’s inability to sufficiently moderate harmful content, as evidenced by filings made to the SEC and conversations with shareholders in the years 2015, 2016, 2017 and to some extent in 2018. For ease of reference, the statements are

⁴⁵ Social Atrocity, at 44, 54.

⁴⁶ Social Atrocity, at 44, 54.

⁴⁷ Social Atrocity, at 8.

⁴⁸ Social Atrocity, at 53.

presented in order of their publication dates.

2015:

April 24, 2015 – Proxy Statement in FY2015⁴⁹

According to the Proxy Statement for 2015, dated April 24, 2015, shareholders proposed conducting a human rights impact assessment and publishing a human rights policy because “risks related to human rights violations, such as litigation, reputational damage, and project delays and disruptions, can adversely affect shareholder value.”⁵⁰ In other words, Meta’s shareholders viewed the risk of human rights violations as material information.

However, Meta opposed this proposal by stating:

Our board of directors opposes this proposal, however, because we already follow strong and specific standards to protect our users’ data and to give people the power to share and express themselves. [...] We devote substantial resources to providing a safe and secure environment for users under the age of 18, [...] In addition, we are a member of the Global Network Initiative (GNI), a multi-stakeholder organization that includes companies, civil society organizations, academics, and investors. As a member of GNI, we commit to abide by the organization’s Principles on Freedom of Expression and Privacy.⁵¹

In its response, while addressing selected human rights issues as data privacy, safety of minors and freedom of expression, Meta declined to disclose any of the material human rights concerns with regard to the situation of the Rohingya in Myanmar at that time, despite several warnings in 2013 and 2014 that widespread content on Facebook in Myanmar constituted hate speech.

2016:

April 27, 2016 – 10-K Filing for FY2015⁵²

In its 10-K Filing for 2015, dated April 27, 2016, Meta stated:

We also seek to identify “false” accounts, which we divide into two categories: (1) user-misclassified accounts, where users have created personal profiles for a business, organization, or non-human entity such as a pet (such entities are permitted on Facebook using a Page rather than a personal profile under our terms of service); and (2) **undesirable accounts, which represent user profiles that we determine are intended to be used for purposes that violate our terms of service**, such as spamming. In 2015, for example, we estimate user-misclassified and undesirable accounts may have

⁴⁹ Proxy Statement FY2015, <https://d11ge852tjjqow.cloudfront.net/CIK-0001326801/d6d5d2e0-f3d6-4fa3-9f71-7b258ae2f662.pdf>.

⁵⁰ Proxy Statement FY2015, at 57.

⁵¹ Proxy Statement FY2015, at 58.

⁵² 10-K Filing FY2015, <https://d11ge852tjjqow.cloudfront.net/CIK-0001326801/0547fb48-b742-44e2-80c9-9438cafabca1.pdf>.

represented less than 2% of our worldwide MAUs [monthly active users].⁵³ (Emphasis added.)

While recognizing the issue of “undesirable accounts”, Meta omits what had been reported to employees on the situation in Myanmar where civil society activists from Myanmar had shared with Meta that the company’s response to accounts violating the terms of service by posting inciteful and harmful content in Myanmar had been inadequate. As set out above, civil society activists were actively reporting posts and not seeing sufficient responses by Meta, casting doubt that Meta was actively seeking to identify these accounts or doing enough to address them once identified. The existence of such accounts was communicated to employees several times in 2013, 2014 and 2015 without adequate action being taken against such accounts.

In addition, in the section on “Risk Factors,” damages to reputation or brand and negative publicity were listed several times as potential risks by stating:

[D]ecisions by marketers to reduce their advertising as a result of **adverse media reports or other negative publicity involving us, content on our products**, [...] ⁵⁴ (Emphasis added.)

Our brands may also be negatively affected by the actions of users that are deemed to be hostile or inappropriate to other users, or by users acting under false or inauthentic identities, by perceived or actual efforts by governments to obtain access to user information for security-related purposes, or by the use of our products or services for illicit, objectionable, or illegal ends.⁵⁵ (Emphasis added.)

We receive a high degree of media coverage around the world. **Unfavorable publicity regarding**, for example, our privacy practices, terms of service, product changes, product quality, litigation or regulatory activity, government surveillance, the actions of our developers whose products are integrated with our products, **the use of our products or services for illicit, objectionable, or illegal ends, the actions of our users**, or the actions of other companies that provide similar services to us, could adversely affect our reputation.⁵⁶ (Emphasis added.)

Despite these being included as risk factors, Meta omitted any references to the reputational risks it knew or should have known were increasingly intensifying in Myanmar. Meta declined to do so despite knowing, since at least 2015, that shareholders viewed “risks related to human rights violations” as material information. These risks, which were reasonably foreseeable in light of the repeated warnings given to Meta in the years and months preceding its April 2016 filing, in combination with Meta’s own internal research in 2015 showing how Facebook algorithms increased polarization, should have been disclosed to shareholders.

⁵³ 10-K Filing FY2015, at 4.

⁵⁴ 10-K Filing FY2015, at 9.

⁵⁵ 10-K Filing FY2015, at 12.

⁵⁶ 10-K Filing FY2015, at 13.

Meta also discussed the risks to international operations, which included Facebook in Myanmar, by stating:

We have significant international operations and plan to continue the international expansion of our business operations and the translation of our products. We currently make Facebook available in more than 90 different languages, and we have offices or data centers in more than 30 different countries. [...] **If we fail to deploy, manage, or oversee our international operations successfully, our business may suffer.**⁵⁷ (Emphasis added.)

As described above, the expansion to Myanmar in 2011 without the necessary capabilities to moderate content in the local languages was a key failure in its operations in Myanmar. Despite being aware of this shortcoming, Meta failed to alert shareholders to this material risk and only partially disclosed the extent of this category of risk.

With regard to the use of algorithms, in the 10-K Filing for 2015, Meta only disclosed:

There are a number of different ways to engage with people on Facebook, the most important of which is **News Feed which displays an algorithmically-ranked series of stories and advertisements individualized for each person.**⁵⁸

[...]

Similarly, from time to time **we update our News Feed ranking algorithm to deliver the most relevant content to our users**, which may adversely affect the distribution of content of marketers and developers and could reduce their incentive to invest in their development and marketing efforts on Facebook.⁵⁹ (Emphasis added.)

Notably, Meta elected to withhold from this disclosure of potential adverse effects of Facebook's algorithms any information regarding its 2015 study, discussed above, which showed the impact of its algorithms in growing extremism and promoting political polarization, as Meta was aware had been playing out in Myanmar from 2013 onwards.

June 2, 2016 – Proxy Statement in FY2016⁶⁰

According to the Proxy Statement for 2016, dated June 2, 2016, shareholders proposed to establish an “International Public Policy Committee of the Board of Directors to oversee [the] Company’s policies and practice that related to international public issues including human rights, corporate social responsibility” and other issues.⁶¹

Meta opposed this proposal by stating:

Our commitment to international public policy issues is fundamental to our business.
As one of the world's largest technology companies, **we continually are evaluating and**

⁵⁷ 10-K Filing FY2015, at 22.

⁵⁸ 10-K Filing FY2015, at 9.

⁵⁹ 10-K Filing FY2015, at 12.

⁶⁰ Proxy Statement FY2016, <https://d1lge852tjqow.cloudfront.net/CIK-0001326801/88a9c929-a16e-4a47-bece-ecdcf84a3098.pdf>.

⁶¹ Proxy Statement FY2016, at 88.

responding to international public policy issues, including issues with respect to human rights, corporate social responsibility, charitable giving, political activities and expenditures, and foreign governmental regulations **that may affect our operations, performance, and reputation worldwide**. To that end, we have devoted substantial resources to various public policy issues, and such issues are continuously evaluated and discussed at all levels of our company, including as a standing agenda item at each regularly scheduled meeting of our board of directors.[...] ⁶² (Emphasis added.)

As in 2015, Meta declined to mention any of the urgent, ongoing human rights concerns with regard to the situation of the Rohingya in Myanmar at that time, despite receiving ongoing and increasingly dire warnings since 2013, and despite being alerted to the role which the company’s algorithms played in fomenting political divisions and growing extremism from at least 2015 onwards. Contrary to the claim that the company was “responding” to human rights issues, Meta failed to take necessary actions to adequately improve content moderation in Myanmar or appropriately adjust the functioning of its algorithms, as described above, despite repeatedly being made aware of its failures and the imminent risk that Facebook would be used to incite atrocities against the Rohingya. By making statements on international public policy, including human rights, but leaving out this material information, Meta’s statement was incomplete, as before.

July 27, 2016 – Q2 FY2016 Earnings Call

At the Results Conference Call with investors on July 27, 2016, Meta was asked by a shareholder about the bias in its algorithms’ presentation of content:

First, some people believe that much of what users see in the news feed is driven by their behavior and preferences. And as a consequence, the stories they end up seeing are almost always in line with their existing views and preferences. Does this phenomenon in the end increase – **does this phenomenon lead to increased adoption in the use of Facebook, creating more polarization of views and less effective communication?** At least in some areas of people’s lives?⁶³ (Emphasis added.)

Despite knowing of the results of the aforementioned internal study of 2015, which plainly identified the algorithms’ effects in increasing polarization, and despite the company repeatedly being made aware of the role that Facebook was playing in amplifying anti-Rohingya content in Myanmar from 2013 onwards, Meta’s CEO Mark Zuckerberg responded:

So we have studied the effect that you’re talking about and published the results of research that show that Facebook is actually and social media in general are the most diverse forms of media that are out there. And basically what—the way to think about this is that even if a lot of your friends come from the same kind of background or have the same political or religious beliefs, if you know a couple hundred people there’s a good chance that even maybe a small percent, maybe 5 or 10 or 15% of them will have different

⁶² Proxy Statement FY2016, at 89.

⁶³ Facebook, Inc. (FB), Second Quarter 2016 Results Conference Call, July 27, 2016, at 18-19, https://s21.q4cdn.com/399680738/files/doc_financials/2016/q2/FB-Q216-Earnings-Transcript.pdf.

viewpoints which means that their perspectives are now going to be shown in your News Feed.

If you compare that to traditional media, where people will typically pick a newspaper or a TV station that they want to watch, and just get 100% of the view from that, **people are actually getting exposed to much more different kinds of content through social media than they would have otherwise or have been in the past. So it's a good sounding theory and I can get why people repeat it. But it's not true.** So I think that that's something that if folks read the research that we put out there, then they'll see that.⁶⁴ (Emphasis added.)

November 2, 2016 – Q3 FY2016 Earnings Call

In the Results Conference Calls with investors dated November 2, 2016, when asked about changes to the News Feed algorithm, Meta's CEO Mark Zuckerberg responded:

So News Feed is an ongoing work that we're always improving. What we basically are trying to do is work on, over time, adding more and more signals to the News Feed model to help us fully value what people in the community value about the different content that we show them.

[...]

So we ran a bunch of qualitative studies and talked to a bunch of people and **incorporated those signals into the model and that has had the result that people in our community who gave us that feedback and who we worked with on this, what we'd expected in terms of both increasing the quality of the content that people see and, therefore, also enabling people to share more with their friends and the people that they want.**⁶⁵ (Emphasis added.)

This statement stands in contrast to the aforementioned internal study in 2015 showing that Facebook's recommender algorithms were contributing to the growth of membership in extremist groups, which is similar to what happened in Myanmar from 2013 onwards.

2017:

February 1, 2017 – Q4 FY2016 Earnings Call

In the Results Conference Call with investors on February 1, 2017, the issue of content moderation was raised for the first time on an investor call with Mark Zuckerberg stating:

Another area where I'm really excited about this is our ability to keep the community safe. **So there's an increasing focus on objectionable content. And a lot of unfortunate**

⁶⁴ Facebook, Inc. (FB), Second Quarter 2016 Results Conference Call, July 27, 2016, at 19, https://s21.q4cdn.com/399680738/files/doc_financials/2016/q2/FB-Q216-Earnings-Transcript.pdf.

⁶⁵ Facebook, Inc. (FB), Third Quarter 2016 Results Conference Call, November 2, 2016, at 22-23, https://s21.q4cdn.com/399680738/files/doc_financials/2016/Q3/FB-Q316-Earnings-Transcript.pdf.

things that people share on Facebook. It's a minority of the content but I'm really focused on making sure our company gets faster at taking the bad stuff down.

And we can do better with people but ultimately the best thing we can do is build AI systems that can watch a video and understand that it's going to be problematic and violates the policies of our community and that people aren't going to want to see it and then just not show it to people. Before bad experiences happen and things like violence get spread through—violent content gets spread through the network.”⁶⁶ (Emphasis added.)

Even though the problem of harmful content was discussed, Meta failed to disclose that civil society activists had informed the company that hate speech was rife on the Facebook platform in Myanmar and that their systems weren't working to combat the problem. Meta also withheld from shareholders that another warning of the possibility of Facebook contributing to serious human rights violations in Myanmar was communicated by civil society actors David Madden and Victoire Rio to Meta employees at their headquarters in January 2017, just one month prior to the call, as described above, and similarly declined to disclose any information on the algorithmic amplification of such content, despite the above-mentioned internal studies in 2015 and 2016 that evidenced the role algorithms played in promoting polarization and extremist content.

February 3, 2017 – 10-K Filing for FY2016⁶⁷

In the 10-K filing for FY2016, dated February 3, 2017, which reiterated all statements for the financial year 2016 set out above, under the rubric of “Risk Factors,” Meta made the following additions to the risk of reputational damage:

Our brands may also be negatively affected by the actions of users that are deemed to be hostile or inappropriate to other users, by the actions of users acting under false or inauthentic identities, **by the use of our products or services to disseminate information that is deemed to be misleading (or intended to manipulate opinions)**, by perceived or actual efforts by governments to obtain access to user information for security-related purposes, or by the use of our products or services for illicit, objectionable, or illegal ends.⁶⁸ (Emphasis added.)

We receive a high degree of media coverage around the world. Unfavorable publicity regarding, for example, our privacy practices, terms of service, product changes, product quality, litigation or regulatory activity, government surveillance, the actions of our advertisers, the actions of our developers whose products are integrated with our products, the use of our products or services for illicit, objectionable, or illegal ends, the actions of our users, **the quality and integrity of content shared on our platform**, or the actions of

⁶⁶ Facebook, Inc. (FB), Fourth Quarter and Full Year 2016 Results Conference Call, February 1, 2017, at 23, https://s21.q4cdn.com/399680738/files/doc_financials/2016/Q4/Q4'16-Earnings-Transcript.pdf.

⁶⁷ 10-K Filing FY2016, <https://d18rn0p25nwr6d.cloudfront.net/CIK-0001326801/80a179c9-2dea-49a7-a710-2f3e0f45663a.pdf>.

⁶⁸ 10-K Filing FY2016, at 12.

other companies that provide similar services to us, could adversely affect our reputation.⁶⁹
(Emphasis added.)

These adjustments appear to be in reaction to the public scrutiny Meta faced in relation to the alleged Russian interference in elections in the United States in 2016 through misinformation on Facebook.⁷⁰ However, despite receiving continued warnings that content on Facebook posed an urgent, material risk to contributing to atrocities against the Rohingya, Meta elected not to disclose the specific, known risk of rampant hate speech nor its amplification through algorithms in Myanmar, although this information would have been essential to understand the full extent of potential reputational damage.

Indeed, even though hate speech was mentioned under the rubric of potential liabilities resulting from information published on Meta's platforms, the only consideration was given to "local laws regulating hate speech or other types of content" as a risk factor without speaking to the widespread nature of hate speech on Facebook in Myanmar and the inability to adequately address this issue through content moderation as another material risk factor.⁷¹

Just as in the 10-K Filing for the financial year 2015, Meta's known lack of capacity to adequately moderate content in Myanmar was not included in the risks for international operations.⁷²

April 24, 2017 – Proxy Statement in FY2017⁷³

According to the Proxy Statement in 2017, dated April 24, 2017, shareholders proposed that Facebook issue a report on the "public policy issues associated with fake news enabled by Facebook" in response to the claims of online interference with the elections in the United States in 2016.⁷⁴

In opposing this proposal, Meta offered the following reassurances:

Our community standards govern what type of sharing is allowed on Facebook, and what type of content may be reported to us and removed. Our policies include prohibitions against spammers who use misleading or inaccurate information to artificially collect likes, followers, or shares and contacting people for commercial purposes without their consent. **Facebook also removes hate speech, which includes content that directly attacks people based on their race, ethnicity, national origin and religious affiliation, sexual orientation, sex, gender, or gender identity, or serious disabilities or diseases.**⁷⁵
(Emphasis added.)

⁶⁹ 10-K Filing FY2016, at 13.

⁷⁰ See NPR, Tough Questions, Hours of Hearings But No Silver Bullet On Russian Tech Interference, November 2, 2017, <https://www.npr.org/2017/11/02/561446855/tough-questions-hours-of-hearings-but-no-silver-bullet-on-russian-tech-interfere>.

⁷¹ 10-K Filing FY2016, at 17.

⁷² See 10-K Filing FY2016, at 22.

⁷³ Proxy Statement FY2017, <https://d18rn0p25nwr6d.cloudfront.net/CIK-0001326801/9455e35f-a8eb-4ea9-9264-44889de58b05.pdf>.

⁷⁴ Proxy Statement FY2017, at 52. , <https://d18rn0p25nwr6d.cloudfront.net/CIK-0001326801/9455e35f-a8eb-4ea9-9264-44889de58b05.pdf>.

⁷⁵ Proxy Statement FY2017, at 53.

Contrary to this claim, however, Meta did not have the capacity or capability to adequately moderate content by removing hate speech against the Rohingya, as evidenced by the widespread existence of such content on Facebook in and before 2017, as it had been repeatedly warned. In fact, Facebook algorithms were actively amplifying hate speech. The fact that harmful content of this nature was highly prevalent in Myanmar had been brought to Meta's attention since at least 2013, when civil society actors began communicating warnings.

May 3, 2017 – Q1 FY2017 Earnings Call

In the Results Conference Call with investors on May 3, 2017, Meta was asked how artificial intelligence could help solve the problem of content moderation in the future; CEO Mark Zuckerberg responded:

Over time, the AI tools will get better. Right now, there are certain things that AI can do in terms of understanding text and understanding what's in a photo and what's in a video. That will get better over time. That will take a period of years though to really reach the quality level that we want. So for a while our strategy has been to continue building as good of tools as we can. **Because no matter how many people we have on the team, we're never going to be able to look at everything, right? So that's going to be a big challenge.**⁷⁶ (Emphasis added.)

Even though Meta indirectly acknowledged the limitations of content moderation on this occasion, it declined to disclose that Facebook algorithms were actively, presently amplifying harmful content, as shown by the internal studies in 2015 and 2016.

July 26, 2017 – Q2 FY2017 Earnings Call

Omissions regarding the algorithms' harmful effects continued at the Results Conference Call with investors on July 26, 2017, during which Meta's CEO Mark Zuckerberg stated:

In News Feed, we currently mostly show you content from people and pages you're connected to. We can rank this better with the algorithm improvement, but the really big improvement from AI will be when we can understand all the other content that's out there so we can help you discover much more of what matters to you beyond just what friends are up to.⁷⁷ (Emphasis added.)

As in past statements cited above regarding Facebook's algorithmic recommendation system, Meta failed to discuss the harmful aspects of it which were brought to the company attention from at least 2015 onwards due to the internal studies as well as warnings by activists in Myanmar.

⁷⁶ Facebook, Inc. (FB), First Quarter 2017 Results Conference Call, May 3, 2017, at 14, https://s21.q4cdn.com/399680738/files/doc_financials/2017/Q1-'17-Earnings-transcript.pdf.

⁷⁷ Facebook, Inc. (FB), Second Quarter 2017 Results Conference Call, July 26, 2017, at 3, https://s21.q4cdn.com/399680738/files/doc_financials/2017/Q2/Q2-'17-Earnings-call-transcript.pdf.

November 1, 2017 – Q3 FY2017 Earnings Call

Eventually, after public scrutiny increased with the Congressional Hearing on October 31, 2017, on Russian interference in the U.S. elections of 2016,⁷⁸ and after the attacks against the Rohingya began in August 2017, Meta's CEO Mark Zuckerberg addressed the issue of content moderation during the company's Results Conference Call with investors on November 1, 2017:

This is part of a much bigger focus on protecting the security and integrity of our platform and the safety of our community. It goes beyond elections and it means strengthening all of our systems to prevent abuse and harmful content.

We're doing a lot here with investments both in people and technology. Some of this is focused on finding bad actors and bad behavior. Some is focused on removing false news, hate speech, bullying, and other problematic content that we don't want in our community. We already have about 10,000 people working on safety and security, and we're planning to double that to 20,000 in the next year to better enforce our Community Standards and review ads. In many places, we're doubling or more our engineering efforts focused on security. And we're also building new AI to detect bad content and bad actors—just like we've done with terrorist propaganda.⁷⁹ (Emphasis added.)

[...]

Let me be clear on this that people do not want false news or hate speech or bullying or any of the bad content that we're talking about. To the extent that we can eradicate that from the platform that will create a better product, which will also create a stronger, long-term community and better business as well. **The reason why we haven't been able to get these things to the level that we want today is not because we somehow want them on the platform; it's that it's a really hard problem.** And we're going to invest both in people and technology because we think that both are really important parts of the solution here to go after all different parts of these problems. And that was what I tried to stress earlier on. We're going from 10,000 people working on safety and security to more than doubling that to 20,000. We're building—we're doubling, in some cases, more our engineering teams focused on security. We're building AI to go after more different areas of harmful content and finding fake accounts and other bad actors in the system.⁸⁰ (Emphasis added.)

Again, this was only a partial, misleading presentation of the actual facts, which left out material information about what was actually happening at that time in Myanmar where, as was brought to Meta since 2013, anti-Rohingya hate speech continued to flourish and was actively amplified by Facebook algorithms in the midst of serious human rights abuses. By focusing on increasing staff numbers and on the removal of content through content moderation and AI systems, Meta gives the impression to shareholders that they were doing all they could to tackle the issue, but Meta failed to mention the risks

⁷⁸ See NPR, Tough Questions, Hours of Hearings But No Silver Bullet On Russian Tech Interference, November 2, 2017, <https://www.npr.org/2017/11/02/561446855/tough-questions-hours-of-hearings-but-no-silver-bullet-on-russian-tech-interfere>.

⁷⁹ Facebook, Inc. (FB), Third Quarter 2017 Results Conference Call, November 1, 2017, at 2, https://s21.q4cdn.com/399680738/files/doc_financials/2017/Q3/Q3-'17-Earnings-call-transcript.pdf.

⁸⁰ Facebook, Inc. (FB), Third Quarter 2017 Results Conference Call, November 1 2017, at 17, https://s21.q4cdn.com/399680738/files/doc_financials/2017/Q3/Q3-'17-Earnings-call-transcript.pdf.

associated with the amplification of harmful content or strategies they have undertaken to mitigate this risk.

2018

Only after the high-point of atrocities committed against the Rohingya in August 2017, and following the increased public pressure that ensued, did Meta begin to acknowledge the role of Facebook in the Rohingya atrocities at a Congressional Hearing on April 10, 2018.⁸¹ Specifically, in response to questioning about the company's role in the atrocities against the Rohingya, Mark Zuckerberg responded:

Senator, what's happening in Myanmar is a terrible tragedy, and we need to do more ... we're hiring dozens of more Burmese-language content reviewers, because hate speech is very language-specific. It's hard to do it without people who speak the local language, and we need to ramp up our effort there dramatically.⁸²

Following the publication of the IIFFMM report in August 2018, which points out Facebook's contribution to inciting hate against the Rohingya, Meta published a human rights impact assessment for Myanmar on November 5, 2018, which conceded failures in Myanmar.⁸³ Specifically, the company stated:

[P]rior to this year, we weren't doing enough to help prevent our platform from being used to foment division and incite offline violence. We agree that we can and should do more.⁸⁴

Only because of this public pressure was Meta forced to partially acknowledge Facebook's role in the Rohingya atrocities and began to address the questions of content moderation and hate speech with investors.

For example, in the 10-Q Filing for the first quarter of 2018, dated April 26, 2018,⁸⁵ under the heading "[w]e anticipate that our ongoing investments in safety, security, and content review will identify additional instances of misuse of user data or other undesirable activity by third parties on our platform," Meta noted:

[W]e are making significant investments in safety, security, and content review efforts to combat misuse of our services and user data by third parties, including investigations and audits of platform applications that previously accessed information of a large number of users of our services. **As a result of these efforts we anticipate that we will discover and announce additional incidents of misuse of user data or other undesirable activity by third parties. We may also be notified of such incidents or activity via the media or other third parties. Such incidents and activities may include** the use of user data in a

⁸¹ U.S. Senate Committee on Commerce, Science & Transportation, Hearing on Facebook, Social Media Privacy, and the Use and Abuse of Data, April 10, 2018, <https://www.commerce.senate.gov/2018/4/facebook-social-media-privacy-and-the-use-and-abuse-of-data>.

⁸² Social Atrocity, at 34.

⁸³ Meta, An Independent Assessment of the Human Rights Impact of Facebook in Myanmar, November 5, 2018, <https://about.fb.com/news/2018/11/myanmar-hria/>.

⁸⁴ *Id.*

⁸⁵ 10-Q Filing Q1 FY2018, <https://d18rn0p25nwr6d.cloudfront.net/CIK-0001326801/c867f5bf-e958-4d4d-bbd0-cfb1caae55a3.pdf>.

manner inconsistent with our terms or policies, the existence of false or undesirable user accounts, election interference, improper ad purchases, **activities that threaten people's safety on- or offline**, or instances of spamming, scraping, or spreading misinformation. The discovery of the foregoing may negatively affect user trust and engagement, harm our reputation and brands, and adversely affect our business and financial results.⁸⁶ (Emphasis added.)

Such disclosure of potential risks should have happened from at least 2014 when Meta was made aware of the extent of hate speech on Facebook and its insufficient capacity to moderate content in Myanmar. In an interview in 2018, Meta's CEO Mark Zuckerberg specifically acknowledged the role of Facebook in Myanmar and represented that the issue had been getting a lot of attention within the company and outlined steps taken in the wake of the atrocities against the Rohingya.⁸⁷ This underscores the fact that Meta should have publicly disclosed such known risks to investors.

These acknowledgments, however, were only partial in nature, as they did not address the full extent of what Meta knew or should have known regarding its algorithms' amplification of harmful, extremist content, including its role in amplifying anti-Rohingya content. As Amnesty International's report elaborates:

This statement reflects Meta's position that its primary failing was its inadequate moderation of content posted by other actors on the platform. This position effectively covers up Meta's proactive role in the amplification of anti-Rohingya content, and it seeks to cast content moderation as the main solution to the spread of harmful content on the Facebook platform.⁸⁸

In fact, Meta continued to downplay the risks associated with its algorithms as shown by the testimony of Chris Cox, Chief Product Officer of Meta, before the United States Senate Committee on Homeland Security and Governmental Affairs on September 14, 2022:

I want to stress that the goal of ranking [algorithms] is to help people see what they find most valuable. It is not to keep people on the service for a particular length of time, and it's certainly not to give people the most provocative or enraging content.⁸⁹

In the wake of these partial concessions, Meta claimed to have improved their content moderation capabilities. However, Facebook again played a role in fomenting hate and inciting violence during the conflict in northern Ethiopia between 2020 and 2022. Indeed, as Amnesty International concluded:

[D]espite the company's claim to have learned the lessons of its contribution to the atrocities against the Rohingya in 2017, many of the same systemic failures occurred again

⁸⁶ 10-Q Filing Q1 FY2018, at 46.

⁸⁷ Vox, Mark Zuckerberg on Facebook's role in ethnic cleansing in Myanmar: "It's a real issue," April 2, 2018, <https://www.vox.com/2018/4/2/17183836/mark-zuckerberg-facebook-myanmar-rohingya-ethnic-cleansing-genocide>.

⁸⁸ Social Atrocity, at 39.

⁸⁹ Testimony of Chris Cox, Chief Product Officer of Meta, before the U.S. Senate Committee on Homeland Security and Governmental Affairs on September 14, 2022: <https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/Testimony-Cox-2022-09-14.pdf>.

in Ethiopia.⁹⁰

III. LEGAL ARGUMENT

A. Meta Violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 Thereunder

From 2013 onwards, Meta knew, or at a minimum, recklessly disregarded that its algorithms were actively promoting divisive, hateful, and conspiratorial content against the Rohingya that significantly risked contributing—and did indeed contribute—to the attacks in Myanmar which escalated in August 2017. Despite this, Meta declined to disclose in a clear and complete manner, in SEC filings and conversations with shareholders from 2015 through at least 2018, material information regarding Facebook’s known role in growing extremism (in Myanmar and elsewhere) and inciting violence against the Rohingya.

Similarly, Meta knew or recklessly disregarded that anti-Rohingya content was rampant on Facebook from 2013 onwards and was aware of its inability to adequately moderate such content or to enforce its community guidelines in Myanmar. Despite this, Meta affirmatively misrepresented its capabilities of content moderation and misleadingly omitted material qualifying information concerning these specific, known risks from SEC filings and conversations with shareholders from 2015 through at least 2018.

Meta knew that this information concerning the real, known risk that Facebook would (and did) contribute to promoting polarization, hatred, and extremism in Myanmar, leading to violence and, ultimately, atrocities against the Rohingya which the United States Department of State found to constitute genocide was material to its investors. Indeed, Meta’s investors had expressly proposed that Meta conduct a human rights impact assessment in 2015, recognizing that “risks related to human rights violations, such as litigation, reputational damage, and project delays and disruptions, c[ould] adversely affect shareholder value,”⁹¹ and had similarly requested adoption of an “International Public Policy Committee of the Board of Directors to oversee [the] Company’s policies and practice that related to international public issues including human rights” in 2016.

However, rather than responding to these investor proposals by disclosing known, material risks concerning the use of Meta products in perpetrating human rights violations and atrocities in Myanmar, Meta elected to withhold this information from investors. In fact, Meta affirmatively represented to investors that it was “continually [...] evaluating and responding to international public policy issues, including with respect to human rights” and had “devoted substantial resources” to these issues, all while having been alerted that its algorithms were actively promoting anti-Rohingya content and despite receiving repeated warnings that it had woefully inadequate content moderation resources and capabilities, which posed a known, material risk of contributing to mass violence against the Rohingya in Myanmar.

⁹⁰ Amnesty International, “A Death Sentence For My Father” – Meta’s Contribution to Human Rights Abuses in Northern Ethiopia, (2023), at 34, <https://www.amnesty.org/en/documents/afr25/7292/2023/en/>.

⁹¹ Proxy Statement FY2015, at 57. The risks identified by investors have materialized in the years since Facebook’s role in contributing to the 2017 attacks against the Rohingya has been made public, as Meta has faced lawsuits and reputational damage, see e.g. lawsuit in the US and UK (BBC News, Rohingya sues Facebook for \$150bn over Myanmar hate speech, December 7, 2021, <https://www.bbc.co.uk/news/world-asia-59558090>; complaint to the OECD National Contact Point (Silicon Republic, Your tech, our tears: Rohingya activists call on Facebook to remedy its role in atrocities, November 23, 2022, <https://www.siliconrepublic.com/business/rohingya-muslims-genocide-myanmar-facebook-meta-oecd-complaint>).

These actions appear to violate the anti-fraud provision of Section 10(b) of the Security Exchange Act and Rule 10b-5 thereunder.

B. Meta Violated Section 13(a) of the Security Exchange Act of 1934 and Rules 13a-1, 13a-16 and 12b-20 Thereunder

As described above, Meta made misleading statements, including through partial half-truths and the omission of material information, in its 10-K Filings for the financial years 2016 and 2017 in relation to the Facebook's contribution to the escalation of violence and hate against the Rohingya in Myanmar, despite having been made aware of this situation from 2013 onwards. This appears to constitute a violation of the reporting duties under Section 13(a) of the Security Exchange Act and its Rules and Regulations thereunder.

C. Meta Violated Section 17(a) of the Securities Act of 1933

Meta's statements described above also appear to violate the anti-fraud provision in Section 17(a) of the Securities Act as Meta acted at a minimum negligently or recklessly by making affirmative misrepresentations and material omissions while disregarding the numerous alerts and warnings about Facebook's role in Myanmar communicated to employees every year from 2013 to 2017.

CONCLUSION

We respectfully submit that the facts underlying Meta's Facebook platform being a central vehicle in the proliferation of hate speech that substantially contributed to the atrocities committed against the Rohingya in Myanmar in 2017 make this an ideal candidate for a full investigation and ultimately an enforcement action "to protect our markets from wrongdoers" such as Meta, which we believe has violated the antifraud provisions of the federal securities laws cited above.

The SEC has brought enforcement actions in analogous situations in the past. In 2023, the SEC obtained judgments from federal courts ordering:

- Danske Bank, a multinational financial services corporation, to pay a \$178.6 million civil penalty to resolve charges that it misled investors about its anti-money laundering compliance program and failed to disclose risks posed by the program's significant deficiencies; and
- Vale S.A., a mining company and one of the largest iron ore producers in the world, to pay \$55.9 million combined in a civil penalty, disgorgement, and prejudgment interest to settle charges for allegedly false and misleading disclosures about the safety of its dams prior to a collapse that killed 270 people.⁹²

Additionally, in 2023, the SEC's enforcement staff took the following actions:

- Charges against Newell Brands Inc., a consumer products company, for misleading investors about its core sales growth. Newell agreed to pay a \$12.5 million civil penalty to settle the charges; and
- Charges against Electric vehicle companies XL Fleet, Canoo Inc., Kandi Technologies Group,

⁹² Press Release 2023-234, SEC Announces Enforcement Results for Fiscal Year 2023, (2023), <https://www.sec.gov/news/press-release/2023-234>.

Inc., and Hyzon Motors, Inc. for making materially misleading statements regarding revenue projections, sales, or product launches.⁹³

These actions shed light on the path that the SEC’s enforcement staff should take against Meta for continuously misleading its investors. These core-type enforcement actions addressed severe consequences stemming from public companies’ misleading statements to investors regarding profits, internal controls and accounting matters. Where, as here, Meta’s misstatements have affirmatively misled investors about Facebook’s risk of—and eventual role in—contributing to atrocities, the consequences should certainly be even more severe. Just as Vale S.A. was the subject of a judgment stemming from its misleading statements to investors relating to the eventual death of 270 people, Meta has continuously misled its investors as it relates to human rights, resulting in the proliferation of hate speech that contributed to the atrocities committed against the Rohingya in Myanmar.

The Submitting Entities remain available to share any additional information that you believe might be helpful as you assess this matter, including by participating in an interview at your convenience.

⁹³ *Id.*