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DIGITAL RIGHTS FOUNDATION PUBLIC COMMENT SUBMISSION ON OVERSIGHT BOARD CASE REGARDING INDIA SEXUAL HARASSMENT VIDEO

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Digital Rights Foundation Pakistan (DRF) welcomes the opportunity to provide comments on case 2022-012-IG-MR, regarding India Sexual Harassment Video.

Meta has made considerable strides in allowing content to remain on its platforms (on a case-by-case basis), with due warning, for the purposes of news reporting and the general public interest that would otherwise violate its Community Standards (See: [Colombia Protests case](#), [Sudan Graphic Video case](#)). However, it should be noted that the sufficiency of these measures has thus far not been tested against content depicting sexual violence. Whilst all forms of violence have tremendous potential for harm to those subjected to it, there is still a distinction between violence in general and sexual violence. The distinction between sexual violence and general violence is an important point for Meta to consider. Meta already has a precedent where it has made a distinction between different kinds of violence such as its separate guidelines for child sexual exploitation, abuse and nudity.

As traumatic as general graphic violence during an armed conflict or through police brutality is, sexual violence has greater potential for harm on its viewer, and has the added consequence of retraumatizing sexual assault survivors and depending on cultural context can further exacerbating the harm suffered from the attack. If such content is allowed to stay up due to newsworthiness, it needs to be censored beyond just the identity of the victim i.e. through diminishing the resolution of the content, or blurring the act considerably. Meta should consider "newsworthiness" here as raising awareness that a particular act or phenomenon is occurring without necessarily fully depicting the act in an uncensored way. Also Meta's warning label may be accidentally bypassed by people without the requisite literacy to consent to viewing such content. Meta should also consider keeping a threshold i.e. at what level of detail does the depiction of graphic sexual violence become reductive and more harmful than serve the public good. Further, it should account for the fact that visual depiction of sexual violence has a

different impact and should be considered at a different (higher) threshold than a verbal description of the same act. (See: [Swedish journalist describing child sexual violence case](#))

Secondly, to account for the fact that the impact of violent content will be dependent on the cultural context and play out along intersectional lines. Dalit, Adivsai and other members of “Scheduled Castes” and “Scheduled Tribes” in India are disproportionately subject to violence and discrimination. As reported by National Family Health Survey 2015-2016, women from Scheduled Tribes (Adivsai or Indigenous Indians) and Scheduled Castes (Dalits) were more like to face sexual violence at higher rates, (7.8% and 7.3% respectively) than non-caste women (4.5%).¹ Traditionally, women from these marginalized castes and communities are routinely failed by the criminal justice systems and rarely have access to institutional recourse. Sharing stories about their plight online has been helpful in raising awareness, and there have been instances where public outrage and social pressure was successful in expediting the criminal prosecution of cases and getting these women justice. Social media has been a powerful tool to raise a voice for those who have been silenced by the status quo and those whose conditions have been concealed by state apparatuses and have no other access to justice. However, videos of sexual exploitation can be exploitative in their own right. For example, the videos left up for the purpose of news reporting may result in sexually violent content on the platform proliferated in private group chats for voyeuristic purposes and shared in a celebratory fashion as opposed to “newsworthiness”. This can also devolve into inadvertent pornography, or even a form of revenge porn, where the continuous sharing of the content can be used to humiliate the victim and cause second-hand trauma for others.

Additionally, the context of the video i.e. the location, faces of the perpetrators, clothing of the victim can all be used as identifiers, making the victims life worse by being doxxed even if the face of the victim is not visible. There is still a massive stigma for assault survivors in South Asia and a cultural proclivity towards victim blaming, especially in tribal areas. Oftentimes, due to social pressure alone, women from these castes/tribes are unable to pursue their cases to the fullest extent of the law and having this kind of content available even for the purposes of newsworthiness may prove to be damaging and more harmful to the victim. For those cases, Meta should also consider that even if the content is “newsworthy” and is eligible to remain on the platform, requests from the victim or the victim’s family to remove/ban the content should be given the highest priority and complied with accordingly, in an expedient manner. However, the rights of victim/survivor should not be made solely dependent on reporting for privacy violations as often marginalized communities lack the digital literacy and access to adequately use reporting mechanisms.

¹Akansha Singh, India: Why justice eludes many Dalit survivors of sexual violence (Aljazeera, 2022) <https://www.aljazeera.com/news/2022/6/8/india-why-justice-eludes-many-dalit-survivors-of-sexual-violence>

In cases content otherwise considered newsworthy or in the public interest is removed from the platform, Meta should keep a highly secured cache of such content that is accessible (on a case-by-case basis) primarily to law enforcement officials, researchers and journalists for the purposes of news reporting, data collection and use of evidence in criminal justice proceedings. Special measures should be taken to ensure that such content, especially dealing with sexual assault, is not copied, shared, or disseminated in any way by those accessing the database.

*To read the Oversight Board's full decision on this case:

<https://www.oversightboard.com/decision/IG-KFLY3526>

**To see all submitted Public Comments:

<https://oversightboard.com/attachment/889993282026535/>