Durban Declaration on Hate Speech

147. Calls upon States to consider the following, taking fully into account existing international and regional standards on freedom of expression, while taking all necessary measures to guarantee the right to freedom of opinion and expression: ...

*(e) Considering a prompt and coordinated international response to the rapidly evolving phenomenon of the dissemination of **hate speech** and racist material through the new information and communications technologies, including the Internet; and in this context strengthening international cooperation;...*

NOTE

The public version of this presentation has been adapted appropriately to avoid a continuation of the dissemination of hate speech.

FFM Finding on the Role of Hate Speech

Hate speech, including State-sponsored hate speech, played a significant role in the violence of 2012-2017 in Myanmar, especially in relation to the violence against the Rohingya people.

Overview of Presentation

1. Legal Framework

2. Methodology

3. Context of Hate Speech

4. Content and Form

5. Speakers and Reach

6. Role of the State in Hate Speech in Myanmar

7. Role of Facebook

8. Recommendation to Myanmar Government

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Definitions of "Hate Speech"

- Rabat Plan of Action: "intolerance, negative stereotyping and stigmatisation of, and discrimination, incitement to violence, and violence against persons based on religion or belief."

- UN ICERD: "a form of other-directed speech which rejects the core human rights principles of human dignity and equality and seeks to degrade the standing of individuals and groups in the estimation of society."

- Facebook: We define hate speech as a direct attack on people based on what we call protected characteristics — race, ethnicity, national origin, religious affiliation, sexual orientation, caste, sex, gender, gender identity, and serious disease or disability. We also provide some protections for immigration status. We define attack as violent or dehumanizing speech, statements of inferiority, or calls for exclusion or segregation. We separate attacks into three tiers of severity.

Legal Framework:
Speech that MUST be prohibited

1) Direct and public incitement to commit genocide (Genocide Convention, art. 3(c); ICC Statute, art. 25(e))

2) Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law (ICCPR, art. 20(2)

3) All dissemination of ideas based on racial superiority or hatred, and on incitement to racial discrimination (ICERD, art. 4)

Legal Framework:
Speech that MAY be restricted

Where the restrictions are (ICCPR, art.19(3)):

1. Provided by law in a clear and precise manner;

2. Necessary in a democratic society for the respect of the rights or reputations of others or for the protection of national security or public order; and

3. Proportionate.

Legal Framework: Legally Permissible Speech

Everything else!

Legal Framework: Rabat Plan of Action

6- part threshold test for expression of hate to be considered as criminal offences:

a) Context

b) Speaker

c) Intent

d) Content and form

e) Extent of the speech act

f) Likelihood, including imminence

Methodology

- FFM received a substantial amount of "lead" information, which was confirmed by its own research and verification.

- FFM researched and analyzed various sources including: all types of platforms, including the print media, broadcasts, pamphlets, CD/DVDs, songs, webpages and social media accounts, mainly Facebook, and Twitter (to a lesser degree).

- FFM regularly monitored Facebook accounts that were considered "influential" in light of the number of followers (10,000, and some over millions), high levels of engagement by the followers (likes/reactions, comments, sharing), activity (posting hourly or daily).

- FFM conducted a systematic review and analysis of statements and communications from government and security officials, including the Tatmadaw.

Methodology: Practical Considerations and Challenges

- Resources (technical and manpower),
- Knowledge of language and culture,
- Access to the country and threat of reprisals from those in Myanmar providing FFM with information,
- Identification of the exact source of hate speech in online cases (use of virtual identities),
- Findings concerning the reach/consequences of the identified hate speech, particularly in print media,
- Technological challenges with accessing required data from certain social media platforms to conduct a quantitative analysis,
- Access to messages spread through private messaging applications such as Viber, WhatsApp.

Context: 2012 to 2017 Violence

2012: Two waves of violence swept Rakhine State in June and October 2012. The murder and alleged rape of a Rakhine woman and the killing of 10 Muslim pilgrims are commonly presented as key triggers. According to the Government Inquiry Commission, the violence left 192 people dead, 265 injured and 8,614 houses destroyed. Actual numbers are likely much higher.

2016:On 9 October 2016, ARSA launched a small first offensive in northern Rakine. 9 police officers were killed. Security forces responded by conducting "clearance operations" across an "area clearance zone" that continued until February 2017 and resulted in 87,000 Rohingya fleeing Myanmar.

2017: On 25 August 2017, ARSA launched coordinated attacks across northern Rakhine State. The Myanmar security forces' response, starting within hours, was immediate, brutal and grossly disproportionate, targeting the entire Rohingya population. As a result, nearly 725,000 Rohingya had fled to Bangladesh by mid-August 2018.

Content and Form: Use of Derogatory Terms

- There are a number of derogatory terms used to reference the Rohingya people. Some are clearly, on their face negative such as "Ro-gein-nya" (Muslim dog liar) where as other such as "Kalar- Oak" (camel) are less obvious as they are derived from a Burmese parable.

- The identification of derogatory terms highlights the importance of not only language capacity but also in-depth cultural awareness in investigating incidents of hate speech.

Content and Form: Cartoons

Hate speech also take the form of cartoons: see para 1313 of the Report of the detailed findings Independent International Fact-Finding Mission on Myanmar.

Print Media: Hate Speech through Narratives

Print media focuses more on long narratives, highlighting the threat of Islam, the "other-ness" of Rohingya, and their alleged violent nature

Content: Hate Speech Narratives Targeting Rohingya

- Existential threat to Myanmar: "*The Myanmar race can go extinct due to the Bengali.*" (MaBaTha magazine, *Aung Zeyathu*, 18 November 2016)

- Threat to Burmese racial purity: *It started with a single weed. However, after days and months later, the weed grew uncontrollably, swallowing the other, more precious plants and flowers. (*MaBaTha magazine, *Aung Zeyathu*, 9 June 2017)

- Islam is a threat to Buddhist religion and its status in Myanmar: *The vitriol against the slaughtering of cows.* (*Myanmar Now*, Special Report,17 September 2015)

Speakers: Politicians and Religious Leaders

- Political Party Representatives
  - public statements and appearances at public events, rallies and demonstrations
    - Example: June 2012, Head of RNDP warned against the threat of the "present population of Bengali" and called for a "final solution". (RNDP - Rakhine Nationalities Development Party)

- Religious leaders and Buddhist monks
  - Inflammatory videos, school textbooks, 10 different journals and magazines, published novels and nonfiction books, and a variety of online platforms (Facebook, YouTube, Twitter, blogs and websites)
    - Example: July 2012, a statement from monks called on the ethnic Rakhine to implement a "great plan of staying away from bad Bengali (Kalar)" to prevent a "Rakhine ethnic cleaning programme".

Speakers: Tatmadaw

Military Training

- "expansion of Islam" and the "extinction of Buddhism"
- "Fear of extinction of the race"
- "protect our race and religion as much as possible"
- "killing thousands of non-Buddhist is a small sin"

Senior-General Min Aung Hlaing, Commander-in-Chief of the Tatmadaw, on 19 March 2018 : "*Bengali do not have any characteristics or culture in common with the ethnicities of Myanmar. The tensions (in Rakhine State) were fuelled because the Bengali demanded citizenship.*"

Role of the State in Hate Speech in Myanmar

Government and security sector officials are "Speakers" of hate speech. Trends include:

- Avoid use of the term "Rohingya" thereby denying Rohingya identity
- Associate the Rohingya identity with terrorism
- Spread the narratives of illegal immigration and Islamic threat

Impact

- Dissemination of misinformation
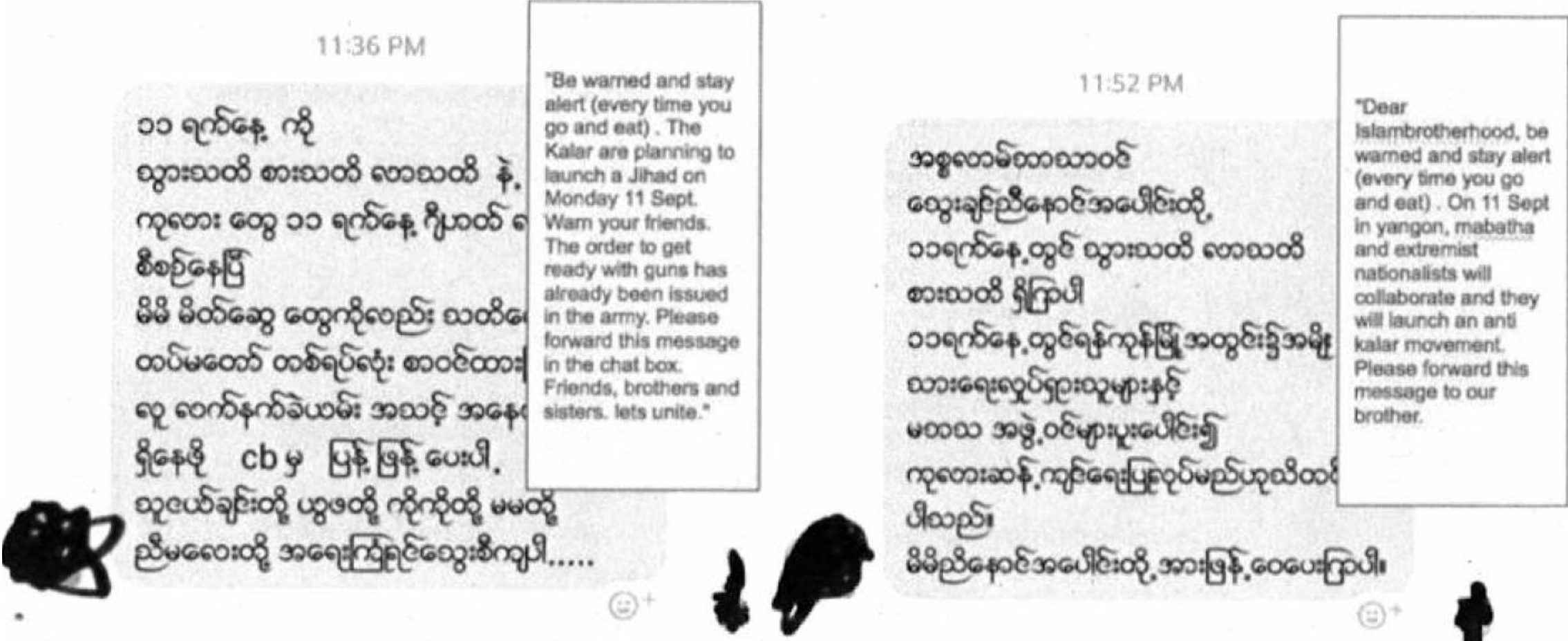- Call for nationalistic action based on hate narratives

Role of the State in Hate Speech in Myanmar

On 13 August 2018, the International Organizations Department of Myanmar Ministry of Foreign Affairs, headed by Daw Aung San Suu Kyi, sent an email to various United Nations agencies in Myanmar sharing the links to several videos about Rakhine State and the August 2017 events. The videos contain anti-Muslim/anti-Rohingya messages.

Role of Facebook in Disseminating Hate Speech

Recommendation to Government of Myanmar

The Government of Myanmar, including the civilian authorities and the Tatmadaw as relevant, should further act with the greatest sense of urgency to:

(h)   unequivocally condemn and end intolerant, divisive and discriminatory rhetoric based on ethnic, racial or religious grounds, both from State actors and non-State actors, and actively promote an inclusive national vision based on the equal respect and protection of human rights;

Myanmar Bill for
Protection against Hate Speech

Para 11 Rabat Plan of Action:

It is of concern that perpetrators of incidents, which indeed reach the threshold of article 20 of the International Covenant on Civil and Political Rights, are not prosecuted and punished. At the same time members of minorities are de facto persecuted, with a chilling effect on others, through the abuse of vague domestic legislation, jurisprudence and policies.

Observations and Conclusions

Hate narratives are universal.

Hate crimes, including hate speech are one of the clearest warning signs of impending violence.

Distinction among domestic sanctions:

a) forms of expression that should constitute a criminal offence;

b) forms of expression that are not criminally punishable, but may justify a civil suit or administrative proceeding; and

c) forms of expression that do not give rise to criminal , civil or administrative sanctions, but still raise concerns in terms of tolerance, civility and respect for the convictions of others.

Suggested Recommendations for the Experts to OHCHR/UN:

- To train staff in identifying, monitoring and analyzing hate speech across platforms and employ social media experts in the Secretariat of CoIs/FFMs;

- To invest in human rights compliant technological resources to assist mass-gathering of data for quantitative analysis;

- To collaborate with technological companies and non-profits to develop and obtain human rights compliant data tools for early-warning notification: for example, sudden spikes in the volume of hate speech as an indicator for violence, etc.

Suggested Recommendations for the Experts to Facebook and Other Social Media:

- To ensure that public data is accessible to conduct quantitative analysis of hate speech;

- To identify and remove all hate speech immediately;

- To preserve all relevant source information and content in relation to hate speech for accountability purposes while respecting the right to privacy and rules on data storage protection.

Suggested Recommendations for the Experts to States:

- To examine their domestic legislation schemes to ensure that it strikes the right balance in addressing and eliminating hate speech while protecting the right to freedom of expression through the implementation of criminal, civil, and administrative sanctions, while ensuring that any sanctions are proportionate to the infraction;

- To consistently and proactively condemn in the strongest possible terms ALL hate speech whether or not it triggers sanctions;

- To counter hate speech and misinformation with truthful accounts and facts;

- To educate people about the impact and consequences of hate speech, particularly in the context of social media.

Questions?

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