



Facebook's Community Standards "do not allow content that praises any of the ... organizations or individuals [listed] or any acts committed by them", nor do they allow "coordination of support for any of the ... organizations or individuals [listed] or any acts committed by them." Presumably basing itself on this Standard, Facebook removed a user's post featuring a picture of Abdullah Öcalan, founder of the Kurdistan Workers' Party (PKK). This raises important concerns for the user's freedom of expression, among other human rights at play.

First and foremost, context is key here. The user was raising awareness of the conditions of imprisonment of Mr. Öcalan, namely solitary confinement. In that respect, the goal of the post was to encourage discussion of solitary confinement, and defense rights in general. It doesn't appear that the post was intended to "praise" the PKK nor to directly coordinate "support" for the organization. Indeed, the limited information that we have about this case includes the fact that the user "encouraged readers to engage in conversation about his imprisonment and the inhumane nature of solitary confinement." There are no indications that the user was calling for or inciting violence, nor did the user praise any previous acts of violence. The user did not explicitly support the PKK's goal or ideology (in fact, they didn't share any views at all on the topic). Instead, the user posted a photo of someone who had been imprisoned for over two decades. Considering that the post violated the Community Standards, and subsequently taking down the post, is therefore unjustified.

In its recent [human rights policy](#), Facebook committed to respecting human rights as set out in the United Nations Guiding Principles on Business and Human Rights (UNGPs), which includes the International Covenant on Civil and Political Rights ([ICCPR](#)), among other instruments. From a legal point of view, particularly relevant for this case is [the right to freedom of expression](#) (articles 19 and 20 [ICCPR](#)), including [General Comment No. 34](#) of the Human Rights Committee (2011), UN Special Rapporteur on freedom of opinion and expression reports ([A/69/335](#) (2014); [A/HRC/38/35](#) (2018); [A/73/348](#) (2018), and [A/HRC/44/49](#) (2020), the [Joint Declaration on Freedom of Expression and Elections in the Digital Age](#) (2020), and the [Rabat Plan of Action](#). Given that this case concerns issues related to anti-discrimination (particularly on the basis of religion and ethnicity), [the right to non-discrimination](#) (Articles 2 and 26 [ICCPR](#)), the International Convention on the Elimination of All Forms of Racial Discrimination (articles 1, 4 and 5 [ICERD](#)), the 2013 General Recommendation No. 35 of the Committee on the Elimination of Racial Discrimination ([GR35](#)), and the 2018 report of the UN Special Rapporteur on Racism ([A/HRC/38/53](#)) are also relevant. Finally, the post raises issues related to [the right to life](#) (Article 6 [ICCPR](#), Human Rights Committee General Comment No. 36 of 2018 ([GC36](#)), the [right to security of person](#) (Article 9 [ICCPR](#), as interpreted by 2014 [General Comment No. 35](#), para. 9, Human Rights Committee), and prohibition of arbitrary detention (articles 8, 9, and 10 [ICCPR](#)).

Defense rights, the prohibition of arbitrary detention, and limitations on solitary confinements are pillars of international human rights law. Nilz Melzer, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, warned in 2020 that "The severe and often irreparable psychological and physical consequences of solitary confinement and social exclusion are well documented and can



range from progressively severe forms of anxiety, stress, and depression to cognitive impairment and suicidal tendencies. This deliberate infliction of severe mental pain or suffering may well amount to psychological torture," the Special Rapporteur said. Inflicting solitary confinement on those with mental or physical disabilities is prohibited under international law."

Discussing issues related to solitary confinement, detention, and defense rights do not constitute incitement to violence or "praising a dangerous individual or organization", merely because the person subject to detention is considered by some countries as dangerous and/or belonging to a dangerous institution. To avoid infringing on users' right to freedom of expression unjustly, the exception introduced in the Community Standards should interpret "content that praises" or "coordination of support" of dangerous individual and organizations on a very narrow basis. This exception should align with article 20 ICCPR, whereas "Any propaganda for war shall be prohibited by law [and a]ny advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." In this case, the post was not promoting real-world harm, nor advocating for any kind of discrimination or violence.

Furthermore, the list featuring these individuals and organizations "proclaiming a violent mission or engaging in violence" is not made publicly available by Facebook. As such, even if the content was somehow considered to "praise" or coordinate terrorist content, the fact that the user couldn't know that the PKK was considered "dangerous" prevented them from understanding what is permitted online or not. As Jillian York writes in her book "Silicon Values", "So what expertise do internet companies have or rely upon to make decisions about terrorist content? Do they rely on lists issued by the United States or other governments, or do they create their own guidelines? And how do external actors play into their decisions about what constitutes a terrorist organization? The answer, it turns out, is not so clear." Given the lack of clarity, a higher level of transparency from Facebook is expected and required. This is consistent with a recent decision of the Oversight Board itself, which "noted a gap between the rules made public through Facebook's Community Standards and additional, non-public rules used by the company's content moderators. In its publicly available rules, Facebook is not sufficiently clear that, when posting a quote attributed to a dangerous individual, the user must make clear that they are not praising or supporting them. While Facebook confirmed to the Board that [X] is designated as a dangerous individual, the company does not provide a public list of dangerous individuals and organizations, or examples of these. The Board also notes that, in this case, the user does not seem to have been told which Community Standard their content violated."

In light of the above, removing users' posts because they merely mention a dangerous individual or organization, especially when they raise other public interest issues such as solitary confinement, is an overly broad interpretation of the Community Standards and is unjustified. Such an approach disproportionately impacts human rights defenders, activists, political dissidents, journalists, and civil society organizations more generally. Indeed, the issues that they work on often center or relate to so-called dangerous individuals and organizations. Framed as "counter-terrorism" efforts and legal obligations, content take-downs disproportionately silence Muslim activists. While they are the primary target of terrorist acts, they are also most impacted by restrictions to freedom of expression and freedom of assembly in this context. Open and inclusive civic space cannot exist under such tight – and unjustified – restrictions.