

October 5, 2015

Dear Facebook,

We write to call on Facebook to fix its broken “authentic identity” (commonly known as “real name”) policy.<sup>1</sup> It’s time for Facebook to provide equal treatment and protection for all who use and depend on Facebook as a central platform for online expression and communication.

We are a coalition of people and organizations who represent and work to protect the rights of women, human rights activists, indigenous, religious, and ethnic minority communities, LGBTQ people, and Internet users who have found Facebook’s name policies to be culturally biased and technically flawed. We represent:

- Transgender and gender variant people whose legal names don’t accord with their gender identity
- People who use a pseudonym or name modification in order to protect themselves from physical violence, legal threats from repressive governments, or harassment on the basis of gender, sexuality, religion, or political activities
- People who have been silenced by attackers abusing Facebook’s “Fake Name” reporting option
- People whose legal names don’t fit the arbitrary standards of “real names” developed by Facebook, such as Native Americans, other ethnic minorities, and members of the clergy.<sup>2</sup>

Despite commitments to reform these policies,<sup>3</sup> Facebook maintains a system that disregards the circumstances of users in countries with low levels of internet penetration, exposes its users to danger, disrespects the identities of its users, and curtails free speech.

### **Abuse Reports Silence Vulnerable Users**

Under Facebook’s current policies, users create profiles with the names they use “in real life.”<sup>4</sup> When a user first creates a profile, Facebook does not require proof of identity.

Any user can easily file reports with Facebook claiming that a fellow user is violating this policy, and has no obligation to submit evidence supporting their claim. Any user can file as many reports as they wish, as quickly as they wish, allowing targeted reporting sprees. This has led to unfair application of the policy, and provides people who wish harm upon communities like ours with a dangerous and effective tool. One abuse report can silence a user indefinitely—and has.

Facebook users in the global LGBTQ community<sup>5</sup>, South and Southeast Asia<sup>6</sup> and the Middle East report that groups have deliberately organized (sometimes even coordinating via Facebook) to silence their targets using the “Report Abuse” button.<sup>7</sup>

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<sup>1</sup> See, *What names are allowed on Facebook?* <https://www.facebook.com/help/112146705538576>

<sup>2</sup> See appendix for case examples, also available online at <https://www.eff.org/document/appendix-october-5-2015-coalition-letter-facebook>.

<sup>3</sup> *Post by Chris Cox*, Oct. 1, 2014, Facebook, <https://www.facebook.com/chris.cox/posts/10101301777354543>.

<sup>4</sup> This policy has also been referred to as an “authentic” name policy. Compare “*What names are allowed on Facebook?*” from October 2014 (“We require everyone to provide their *real names*....”) with that from July 2015 (“Facebook is a community where people use their *authentic identities*.”). Located at:

<https://web.archive.org/web/20141001193811/https://www.facebook.com/help/112146705538576>;

<https://www.facebook.com/help/112146705538576>.

## **A “Name in Real Life” Is Not an ID**

In the face of an abuse report (regardless of the report’s merit), users who wish to maintain their accounts must submit proof of identification. Facebook acknowledges that “authentic names” may not match legal names, and has emphasized that government-issued ID is not required. Yet the types of ID that Facebook asks for in the “report abuse” process, whether issued by a government or private entity, do not necessarily feature a person’s nickname or “real life” name—especially for transgender people and others who modify their names to protect themselves from harm. ID from a private institution is also often linked to a person’s legal identity and government-issued ID number.<sup>8</sup>

Facebook’s current process can put users who use a name other than their legal name for safety or privacy purposes in real danger. In some cases Facebook has reinstated accounts with the legal name of users who have submitted government-issued ID in accordance with Facebook’s policies, exposing them to abusive former partners, politically-motivated attacks, and threats of offline violence.<sup>9</sup>

## **Facebook’s Enforcement Process Leaves Users Without a Remedy**

For years, Facebook has known about the flaws in their appeals process across the service, yet have not addressed them.<sup>10</sup> Individuals without a type of ID that Facebook accepts are left without recourse. IDs must be submitted to Facebook within ten days of notice, disadvantaging users who do not have daily access to the Internet. Those who fail to submit IDs in the allotted time period are locked out of their accounts, preventing both communication with other users and downloads of valuable account data. Excluded users are not provided with the right to appeal for access to accounts.

## **ID Process Endangers User Data**

Users who opt to send Facebook their identification information are told that their information is secure, but are given no information about how Facebook treats their data. Users often send their ID documents to Facebook through insecure email—particularly concerning for users who are subject to surveillance for the political work they do.

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<sup>5</sup> See, e.g., Jay Barmann, *Drag Queens, Other Performers Outraged As Facebook Forces Them To Use Their Real Names*, sfist, Sep. 11, 2014, [http://sfist.com/2014/09/11/drag\\_queens\\_other\\_performers\\_outrag.php](http://sfist.com/2014/09/11/drag_queens_other_performers_outrag.php); Selena Larson, *Facebook’s real name policy claims account of Ethiopian LGBT activist*, The Daily Dot, Jul. 12, 2015

<http://www.dailydot.com/technology/facebook-real-name-policy-ethiopian-lgbt-activist/>

<sup>6</sup> Russel Brandom, *Facebook’s Report Abuse button has become a tool of global oppression*, The Verge, Sep. 2, 2014, <http://www.theverge.com/2014/9/2/6083647/facebook-s-report-abuse-button-has-become-a-tool-of-global-oppression>

<sup>7</sup> Sahar Habib Ghazi, *We Will Choke You”: How Indian Women Face Fatal Threats on Facebook While Trolls Roam Free*, Global Voices, August 6, 2015. <http://advocacy.globalvoicesonline.org/2015/08/06/we-will-choke-you-how-indian-women-face-fatal-threats-on-facebook-while-trolls-roam-free/>; Preetha G., post on August 3, 2015,

<https://www.facebook.com/preetha.g/posts/86231088383735?fref=nf; User stories from survivors of domestic or sexual violence>, (last updated May 29, 2015), MyNameIsCampaign, <http://www.mynameiscampaign.org/category/user-stories/survivor/>.

<sup>8</sup> Many countries use unique individual identification numbers (akin to social security numbers in the US) on all kinds of documentation, including many of the “non-state” examples that FB offers, such as student IDs and library cards.

<sup>9</sup> Samantha Allen, *How Facebook Exposes Domestic Violence Survivors*, THE DAILY BEAST, May 20, 2015, <http://www.thedailybeast.com/articles/2015/05/20/how-facebook-exposes-domestic-violence-survivors.html>.

<sup>10</sup> Lee Rowland, *Naked Statue Reveals One Thing: Facebook Censorship Needs Better Appeals Process*, ACLU Free Future Blog, Sept. 25, 2013, <https://www.aclu.org/blog/naked-statue-reveals-one-thing-facebook-censorship-needs-better-appeals-process>.

## **This Policy Raises Legal Concerns**

Under international human rights standards, companies have a responsibility to respect human rights and to provide remedies for any abuses they cause or contribute to.<sup>11</sup> A policy of excluding users in a discriminatory manner also violates European Union regulations<sup>12</sup> and the spirit of US civil rights laws.<sup>13</sup> If Facebook maintains these policies and practices, it will build a reputation as a dangerous place for women and girls, LGBTQ people, and many others. It will also continue to run afoul of countries with more stringent data protection requirements like Germany.<sup>14</sup> If the company wants to do right by its current and future users, it must strive to meet the needs of its users.

## **Proposed Policy Changes**

As a coalition, we believe Facebook should get rid of its real names policy altogether. But until then, we demand that Facebook support the dignity, safety, and expressive rights of all users by making the following changes in its policy and process:

- Commit to allowing pseudonyms and non-legal names on its site in appropriate circumstances, including but not limited to situations where using an every day name would put a user in danger, or situations where local law requires the ability to use pseudonyms.
- Require users filing real name policy abuse reports to support their claims with evidence. This could come in written form, multiple-choice questions, or some alternative documentation.
- Create a compliance process through which users can confirm their identities without submitting government ID. This could include allowing users to submit written evidence, answer multiple-choice questions, or provide alternative documentation such as links to blog posts or other online platforms where they use the same identity.
- Give users technical details and documentation on the process of submitting identity information such as where and how it is stored, for how long, and who can access it. Provide users with the ability to submit this information using PGP or another common form of encrypted communication, so they may protect their identity information during the submission process.

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<sup>11</sup> Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, Mar. 21, 2011, U.N. Doc. A/HRC/17/31, [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf) [accessed 2 September 2015]. There is growing recognition that anonymity enables the realization of human rights online, including on private Internet platforms. See UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, at 16, 20, 22* May 2015, U.N. Doc. A/HRC/29/32, available at: [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Documents/A.HRC.29.32\\_AEV.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Documents/A.HRC.29.32_AEV.doc) [accessed 2 September 2015].

<sup>12</sup> Nadia Kayyali, *New Report Shows European Data Protection Authorities are Taking Facebook’s Questionable Terms of Service Seriously*, EFF, Feb. 26, 2015, <https://www.eff.org/deeplinks/2015/02/new-report-shows-european-data-protection-authorities-are-taking-facebooks>

<sup>13</sup> See, e.g. Cal. Civil Code § 51 et seq.

<sup>14</sup> The Hamburg Data Protection authority ruled that Facebook must allow German users to use pseudonyms under German law. See, Julia Fioretti, *German regulator orders Facebook to allow pseudonyms*, Reuters, Jul. 28, 2015, <http://www.reuters.com/article/2015/07/28/us-facebook-germany-pseudonyms-idUSKCN0Q21U620150728>).

- Provide a robust appeals process for users locked out of their accounts. This could include the ability to request a second review, to submit different types of evidence, and to speak to a real Facebook employee, especially in cases involving safety.

We look forward to working with Facebook to develop concrete and meaningful changes to its name policy and would welcome the opportunity to participate in strengthening these policies to ensure the rights and free speech of all Facebook users. But we are also dealing with communities that have had their ability to communicate with each other decimated by this policy. That is why we are asking Facebook to respond to these proposed changes by **October 31. Our communities recognize the common injury this policy currently inflicts and we will not stop advocating until fundamental changes are made.**

Signed,

Access

American Civil Liberties Union

ACLU of California

Anja Kovacs and Nayantara Ranganatha, Internet Democracy Project, India

Article 19

Asociacion por los Derechos Civiles

Association for Progressive Communications

Association Okvir, Bosnia and Herzegovina

Bangladesh NGOs Network for Radio and Communication

Bangladesh Friendship Education Society

Bishakha Datta and Smita Vanniyar, Point of View, India

Bolo Bhi, Pakistan

Bytes for All, Pakistan

Canadian Internet Policy & Public Interest Clinic (CIPPIC)

Centre for Communication Governance

Center for Media Justice

Centre for Information Technology and Development, Nigeria

Centre for Internet and Society, India

Civil & Liberal Initiative for Peace, Afghanistan

Color of Change, US

Computer Society of India

Demand Progress

Digital Empowerment Foundation, India

Digital Rights Foundation, Pakistan

Electronic Frontier Foundation

EngageMedia, Australia/Indonesia

Fantsuam, Nigeria

FeminismInIndia.com, India

Foundation for Media Alternatives, Philippines

Fundacion Karisma, Colombia

Free Women Writers, Afghanistan

Freedom of the Press Foundation

ForabetterFB Campaign

Foundation for Internet and Civic Culture, Thailand

GreenNet  
Gay-Straigh Alliance Network  
Hiperderecho de Perú  
Hivos, IGmena (Middle East)  
Human Rights Watch  
Hyderabad for Feminism, India  
Institute for Global Communications  
Instituto DEMOS, Guatemala  
Instituto Bem Estar Brasil  
Instituto Panameño de Derecho y Nuevas Tecnologías  
International Modern Media Institute, Iceland  
IP Justice  
LaborNet  
Library Freedom Project  
Media Matters for Democracy, Pakistan  
Metamorphosis, Foundation for Internet and Society, Macedonia  
Misneach Nua Eabhrac, New York  
New Media Rights  
#MyNameIs Campaign, US  
One World Platform Foundation, Bosnia Herzegovina  
OpenMedia  
Privacy & Access Council of Canada  
R3D, Mexico  
Si Jeunesse Savait, Democratic Republic of Congo  
Software Freedom Law Center  
SonTusDatos, Mexico  
Sunil Abraham, Computer Society of India  
Urgent Action Fund  
TEDIC (tecnología, educación, desarrollo, investigación y comunicación)  
Transgender Law Center  
VOICE, Bangladesh  
WITNESS  
Women from the Internet, Serbia  
Women, Action, & the Media  
Women's Media Center Speech Project  
WomensNet, South Africa  
Youth, Technology, and Health  
Ženskaposla.ba, Bosnia Herzegovina