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ohchr-hrcadvisorycommittee@un.org

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INPUTS ON THE IMPACT OF DISINFORMATION ON THE ENJOYMENT AND REALIZATION OF HUMAN RIGHTS

The present submission is meant to contribute to the report on the impact of disinformation on the enjoyment and realization of human rights of the Human Rights Council Advisory Committee.

FIBGAR

Baltasar Garzón International Foundation -FIBGAR- is a private, social, non-profit foundation, deeply committed to the defence and promotion of Human Rights and Universal Jurisdiction. Under this mandate, FIBGAR is dedicated to disseminating, defending and promoting Human Rights and the fight against impunity, promoting the empowerment of people as agents of change and supporting initiatives that involve the application of the principles of International Jurisdiction and Human Rights, pushing towards the construction of more democratic societies and stronger institutions.

GENERAL COMMENTS

Addressing the impact of disinformation on human rights has become an **urgent priority** in today's interconnected world. The widespread dissemination of false or misleading information undermines public trust, distorts democratic processes, and weakens the protection of fundamental freedoms. It is essential to take concrete actions to mitigate these risks and uphold the integrity of human rights standards globally. By confronting disinformation, we contribute to preserving the principles of truth, accountability, and justice that form the foundation of democratic societies.

Disinformation is not confined to a single domain; its effects ripple across **multiple sectors**, infringing on a broad spectrum of rights. From the right to access accurate information to the protection of privacy, freedom of expression, and even the right to fair political participation, disinformation poses a threat to diverse areas of social, political, and economic life. Its influence can destabilize governance systems, exacerbate social divisions, and hinder the ability of individuals and communities to make informed decisions. Recognizing the **multifaceted nature** of disinformation is key to developing comprehensive strategies to combat its harmful consequences.

In this submission, FIBGAR will concentrate on analyzing the specific repercussions of disinformation within the realm of **international criminal justice**. Disinformation in this context can obstruct judicial processes, discredit international institutions, and manipulate public perception regarding accountability for serious crimes. By focusing on this particular area, we aim to shed light on how the spread of false narratives can undermine efforts to deliver justice for victims of atrocities, weaken the rule of law, and ultimately erode confidence in international mechanisms designed to uphold human rights and combat **impunity**.

INPUTS

1- What human rights are impacted the most by disinformation?

In the realm of international criminal justice, disinformation can have a profound impact on several human rights.

One of the core objectives of international criminal justice is to ensure accountability for gross human rights violations such as genocide, war crimes, crimes of aggression and crimes against humanity, which is directly tied to the **right to truth and justice** (Article 8 of the UDHR, Article 2(3) and 9(5) of the ICCPR, UN General Assembly Resolution 60/147 (2005), Article 24 of the International Convention for the Protection of All Persons from Enforced Disappearance). Disinformation can obscure the truth, misrepresent events, or deliberately alter narratives, obstructing justice and denying victims their right to know the truth about the crimes committed.

Additionally, disinformation affects the **right to access information** (Article 19 of the UDHR, Article 19 of the ICCPR, Article 68 of the Rome Statute of the International Criminal Court (ICC), Principle 9 UN General Assembly Resolution 60/147, 2005, Article 24 of the International Convention for the Protection of All Persons from Enforced Disappearance), misguiding the public about the nature and scope of human rights violations and hindering their understanding of judicial proceedings or outcomes.

Furthermore, disinformation undermines the **right to a fair trial** (Article 10 of the UDHR, Article 14 of the ICCPR; Article 67 of the Rome Statute), distorting facts, manipulating public opinion, and creating bias that prevents individuals from receiving a fair trial. The Right to Non-Discrimination (Article 2 of the UDHR, Article 2(1) of the ICCPR, Article 1 and 2 of the CERD) can also be exacerbated by disinformation, as it spreads false information about specific ethnic, religious, or political groups, fueling discrimination and prejudice. Disinformation can also infringe upon the Right to Freedom of Expression (Article 19 of the UDHR, Article 19 of the ICCPR), as it suppresses or manipulates speech and information, silencing those who speak out against injustice, such as journalists, human rights defenders, or activists.

The **right to peaceful assembly and association** (Article 20 of the UDHR, Article 21 and 22 of the ICCPR) is also at risk, as disinformation can be used to undermine or disrupt peaceful protests, social movements, or organizations advocating for justice in international criminal proceedings. By spreading false narratives about such groups, it can diminish their ability to organize and express their opinions freely.

Moreover, disinformation can hinder the **right to remedy and reparation** (Article 8 of the UDHR, Article 2(3) and 9(5) of the ICCPR, Article 75 and 79 of the Rome Statute of the ICC, Resolution 60/147 of the UN General Assembly, Article 24 of the International Convention for the Protection of All Persons from Enforced Disappearance, Article 14 of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), distorting the public's understanding of the harm caused and preventing adequate support for victims or hindering their access to reparations or compensation.

Disinformation also poses a threat to the **right to security and protection** (Article 3 of the UDHR, Article 9 of the ICCPR, Article 68 of the Rome Statute of the ICC, Article 24 of the International Convention for the Protection of All Persons from Enforced

Disappearance, Article 5 of the CERD), endangering the safety of individuals involved in international criminal justice, such as witnesses, legal professionals, and victims. False information targeting specific individuals or groups can lead to harassment, intimidation, or even violence, threatening their physical and psychological security.

In extreme cases, disinformation can incite violence or fuel conflict, directly threatening individuals' **right to life (**Article 3 of the UDHR, Article 6 of the ICCPR), as false narratives may lead to violent retaliation against individuals or communities.

2- Which forms of disinformation do you consider to be particularly problematic for human rights and why?

Several forms of disinformation pose significant risks to human rights by distorting legal processes, hindering accountability, and perpetuating impunity.

One of the most concerning forms is the **fabrication of evidence**, which includes false witness testimonies, doctored documents, or manipulated audiovisual materials. This disinformation undermines the integrity of judicial proceedings, leading to wrongful convictions or acquittals, and obstructing the pursuit of justice for victims of international crimes. It compromises the right to a fair trial, the right to truth, and the right to an effective remedy.[1]

Another problematic form is the spreading of **false narratives or misleading accounts**. Disinformation that distorts historical events or the context of international crimes is particularly harmful as it undermines the right to truth. By rewriting history, it not only discredits the experiences of victims but also prevents society from learning from past atrocities. Such disinformation obstructs the international community's ability to hold perpetrators accountable, perpetuating cycles of impunity and denying justice to those affected.

Court rulings from Nuremberg acknowledged this dynamic, revealing how media can serve as a tool of war that transforms groups into "the other," ultimately facilitating dehumanization, oppressive policies, and mass violence. The case of Hans Fritzsche, a **Nazi propagandist** acquitted at the Nuremberg Trials, serves as a historical example of how disinformation can contribute to mass atrocities. His propaganda efforts were instrumental in shaping public perception and justifying the actions of the Nazi regime, leading to widespread violence and persecution, particularly against Jews and other targeted groups. The trial highlighted the complexities of holding individuals accountable for disinformation that precedes or accompanies atrocity crimes[2]. Other historical cases illustrate the profound consequences of disinformation in fueling and justifying mass atrocities, emphasizing the need for accountability and vigilance in combating the spread of false narratives. The **Rwandan genocide** of 1994, which claimed over 800,000 lives in just 100 days, demonstrates the lethal impact of media-driven disinformation. Radio Télévision Libre des Mille Collines played a central role in inciting violence by spreading hate-fueled propaganda, directly encouraging the genocide against the Tutsi population by Hutu extremists. These broadcasts were later used as key evidence at the International

[1] Breeze, E. J. (24 July 2024). Versions of the truth: Disinformation and prosecuting atrocities. In M. A. Drumbl & C. Fournet (Eds.), *Sights, sounds, and sensibilities of atrocity prosecutions* (pp. 232–250) https://doi.org/10.1163/9789004677951_013

[2] Holvoet, M. (18 March 2022). International criminal liability for spreading disinformation in the context of mass atrocity. *Journal of International Criminal Justice, 20*(1), 223–250. https://doi.org/10.1093/jicj/mqac014

Criminal Tribunal for Rwanda, highlighting the media's role in orchestrating mass violence.[3] Similarly, during the **Bosnian War**, misinformation was systematically used to manipulate public narratives, fostering an environment where atrocity crimes could be committed with impunity. The victims of these crimes not only endured physical violence but also faced the erasure of their suffering through disinformation campaigns aimed at distorting and denying the truth.[4].

Likewise, disinformation has been weaponized in modern conflicts, shaping public opinion, justifying violence, and undermining accountability. The case of **Ukraine** illustrates how disinformation has become a powerful tool of warfare. While it is often said that "the first casualty of war is the truth," Russia has orchestrated a deliberate and extensive disinformation campaign not only against Ukraine but also against Europe. Despite European sanctions on Russian media channels, Russian propaganda continues to spread through platforms like WhatsApp, Telegram, and TikTok, flooding digital spaces with misleading content and manipulated audiovisual material[5]. Beyond distorting facts, Russia's strategy aims to sow discord within societies, discredit institutions, erode trust in media and governments, and ultimately weaken democracies.[6] In **Syria**, Russian-backed media outlets played a key role in spreading disinformation to cast doubt on the Syrian regime's chemical weapons attacks in Douma in 2018. A hallmark of Russia's disinformation strategy is the deliberate proliferation of multiple conflicting narratives—at least five different versions in this case—designed to obscure the truth and render all accounts equally questionable[7]. This campaign has not only influenced international perceptions but has also spread through Russian state-controlled media outlets operating in Spain and Latin America. The ongoing fight for justice for chemical attacks in Syria relies heavily on the credibility of evidence, such as footage of children affected by the attacks, which is crucial for ensuring accountability for these crimes[8]. Regarding **Israel and Palestine**, disinformation plays a pivotal role in enabling and justifying severe human rights violations. The process of dehumanization is one of the clearest indicators of mass atrocity risk, as it facilitates the justification of crimes against Palestinians, including acts that may amount to genocide[9].

Selective reporting or the omission of key facts also poses a major challenge. When disinformation selectively presents facts, omits crucial details, or distorts the scope of a crime or judicial process, it can mislead the public and policymakers, influencing both international and domestic support for justice mechanisms. This selective presentation creates false impressions of fairness or impartiality, undermining public trust in

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[3] Rosa Moro. (10 December 2024) .Rosa Moro: La desinformación hace que los criminales puedan estar 30 años matando a pueblos enteros sin que nadie les moleste. EFE. https://efe.com/cultura/2024-12-10/rosa-moro-la-desinformacion-hace-que-los-criminales-puedan-estar-30-anos-matando-a-pueblos-enteros-sin-que-nadie-les-moleste/

[4] Holvoet, M. (18 March 2022). International criminal liability for spreading disinformation in the context of mass atrocity. *Journal of International Criminal Justice, 20*(1), 223–250. https://doi.org/10.1093/jicj/mqac014

[5] EFE Verifica. (21 February 2025). *Desinformación y mentiras sobre Ucrania y Rusia*. EFE Verifica. https://verifica.efe.com/desinformacion-y-mentiras-ucrania-y-rusia/

[6] Hanley, Monika. (30 April 2020). «Salvaguardar el espacio informativo: las políticas de la UE y Ucrania ante la desinformación». Revista CIDOB d'Afers Internacionals, n.º 124, p. 73-98 DOI:doi.org/10.24241/rcai.2020.124.1.73

[7] Peinado, F. (16 April 2018). *La campaña de desinformación de Rusia sobre la guerra en Siria*. El País. https://elpais.com/internacional/2018/04/15/actualidad/1523805523_026186.html

[8] منظمة الأسلحة الكيماوية: هجوم دوما بسوريا في 2018 استخدم فيه غاز الكلور | +18 Orient - أورينت نيوز (1 March 2019). Youtube. https://www.youtube.com/watch?v=paStzKeJ8j4&list=WL&index=32&t=1s

[9] Not mention. (4 January 2024). *Law for Palestine releases database with 500+ instances of Israeli incitement to genocide – Continuously updated.* https://law4palestine.org/law-for-palestine-releases-database-with-500-instances-of-israeli-incitement-to-genocide-continuously-updated/

international criminal courts and tribunals, and negatively affecting the right to access accurate information and the right to participate in public affairs. Hundreds of conflicts are currently unfolding worldwide, yet [10]many receive little to no coverage, as they are not considered "important", like for example the civil wars on Yemen or Myanmar that have nearly no spotlight on the western media[11].

The propagation of **conspiracy theories** is another dangerous form of disinformation. Claims of bias, manipulation, or corruption within the justice system severely damage the credibility of international criminal justice institutions. These theories lead to disillusionment and a lack of trust in the justice system, weakening the rights of victims and defendants to have access to an impartial legal process and fair trials.

As the war between has intensified in **Gaza**, conspiracy theories about the conflict have been increasingly circulating on social media. A study analyzing comments on Telegram revealed that many individuals linked the conflict to broader conspiratorial narratives. These included antisemitic tropes suggesting that both Hamas and the Russian invasion of Ukraine were part of a coordinated effort by a "Khazarian Mafia" or global elites aiming for a "New World Order[1213]

Finally, **political disinformation**, in which states or groups deliberately spread false information to protect their interests or discredit international legal proceedings, undermines the independence of the judiciary and the rule of law. This form of disinformation often aims to delegitimize international courts or manipulate legal outcomes, especially in cases involving powerful states or individuals. It violates the right to impartial justice and weakens international accountability for grave crimes.

3- How can some measures to counter disinformation negatively impact human rights' enjoyment?

Measures designed to counter disinformation must be carefully crafted to avoid overreach, as excessive restrictions risk undermining the very rights they seek to protect. Specifically, the regulation of political disinformation could jeopardize one of the core elements of freedom of expression: the freedom to impart information. The challenge lies in ensuring that such efforts do not inadvertently or intentionally infringe upon the principles of justice, fairness, and the rule of law, which are foundational to both human rights and international criminal justice systems. While states have the authority to regulate communication, such regulation must be proportionate, necessary, and aligned with the broader objectives of protecting the public's right to accurate information while preserving the full spectrum of freedoms. Striking this balance is critical to maintaining public trust in

[10] Barforoush, S., & Plaut, S. (15 January 2025). *Information disorder in times of conflict*. Canadian Museum for Human Rights. https://humanrights.ca/story/information-disorder-times-conflict
[11] Ricardo Serna. (29 November 2023). Qué otras guerras hay ahora en el mundo (además de Gaza y Ucrania) y cuáles son los efectos colaterales de que atraigan menos atención. BBC news Brasil. https://www.bbc.com/mundo/articles/cprpn7re7dxo
[12] Evans, N. (20 November 2023). *Gaza and Ukraine are separate conflicts, but conspiracy theorists are trying to link the two on social media: new research*. The Conversation. https://theconversation.com/gaza-and-ukraine-are-separate-conflicts-but-conspiracy-theorists-are-trying-to-link-the-two-on-social-media-new-research-215803
[13] Unzicker, K. (9 November 2023). *Disinformation in the Middle East war, conspiracy theories and hate messages – Newsletter #14*. Upgrade Democracy. https://upgradedemocracy.de/en/upgrade-democracy-news-14/

democratic institutions and ensuring that counter-disinformation strategies do not erode the liberties they aim to defend.[14]

Two potential **approaches** that states might adopt in regulating disinformation can be conceptualized through Jack Balkin's framework, which distinguishes between traditional and contemporary regulatory strategies. Both approaches present challenges to the enjoyment of human rights, requiring careful consideration to ensure that regulatory measures effectively combat disinformation while safeguarding fundamental rights and freedoms. [15]

The first, or "**old school**," approach focuses on directly targeting the sources of disinformation—individuals or entities responsible for creating and disseminating false or misleading content. This method emphasizes holding communicators accountable through legal sanctions, restrictions, or penalties. The "old school" regulatory approach targets communicators directly, criminalizing the dissemination of false information, particularly when shared with intent to mislead and cause harm. Laws like Singapore's Protection from Online Falsehoods and Manipulation Act (POFMA)[16] and Russia's "fake news" provisions exemplify this approach. However, their broad application often raises concerns about compatibility with fundamental freedoms, as seen in cases where such laws have been used to suppress dissent or independent journalism. Within the scope of international criminal justice, the criminalization of disinformation, characteristic of the "old school" approach, risks undermining freedom of expression by discouraging open discussions on international crimes and justice processes. Governments could use such laws to silence human rights defenders, victims, and journalists reporting on atrocities, labeling their testimonies as false or misleading information. This can lead to the suppression of crucial evidence in international criminal cases, as individuals and media outlets may self-censor to avoid legal consequences, ultimately shielding perpetrators from accountability. This highlights the need for proportionality and precision in regulating disinformation to ensure it aligns with the principles of justice, fairness, and the rule of law.[17]

In contrast, the second, or "**new school**," approach shifts the focus to intermediaries, such as internet service providers or online platform operators, who facilitate the distribution of information. This strategy seeks to regulate these intermediaries by imposing obligations to monitor, filter, or remove harmful content, thereby addressing disinformation at the systemic level rather than targeting individual actors. Measures addressing disinformation reveal at least three emerging regulatory models under the "new school" approach.

The first, the **delegated censorship model**, involves the state imposing legal obligations on online platform operators to monitor and remove disfavored user-generated content. For instance, Germany's Network Enforcement Act (NetzDG) of 2017[18] requires platforms with over two million registered users to remove or block access to content deemed illegal upon receiving user complaints. This model, however, raises concerns

[14] Ben Epstein, 'Why it is so Difficult to Regulate Disinformation Online' in W LanceBennett and Steven L Livingston (eds), The Disinformation Age: Politics, Technology,and Disruptive Communication in the United States(Cambridge University Press 2020)195.
[15] Jack M Balkin, 'Old-School/New-School Speech Regulation' (2014) 127 Harvard Law Review 2296; Jack M Balkin, 'Free Speech is a Triangle' (2018) 118 Columbia LawReview 2011.
[16] Protection from Online Falsehoods and Manipulation Act (POFMA) 2019, s 7.
[17] R v Zundel [1992] 2 SCR 731; Chavunduka and others v Minister of Home Affairs andanother [2000] JOL 6540 (ZS); Chipenzi and others v The People [2014] ZMHC 112.
[18] Gesetz zur Verbesserung der Rechtsdurchsetzung in sozialen Netzwerken (Netzwerkdurchsetzungsgesetz - NetzDG) 2017 (as amended in 2021).

about collateral censorship *or* censorship by proxy, as platforms, aiming to avoid penalties, may over-censor content, including lawful expression, thereby undermining freedom of expression and the right to seek, receive, and impart information.[19] Fear of legal liability often leads platforms to over-censor, removing not only false content but also legitimate discussions, reports, and testimonies related to war crimes and human rights violations. Given that international courts increasingly rely on open-source digital evidence, this model threatens the documentation of mass atrocities by erasing vital information from online spaces. Moreover, activists, victims, and journalists may find their accounts restricted or content removed without due process, impeding their ability to raise awareness and contribute to justice efforts.

The second, the **administrative censorship model**, wherein online platform operators are required to act against specific items of illegal content upon receiving directives from national administrative authorities. Singapore's Protection from Online Falsehoods and Manipulation Act (POFMA) exemplifies this model, granting government ministers the authority to issue orders—often termed "directions"—to online platforms regarding the handling of false statements of fact. These orders may include requiring platforms to publish correction notices, disable access to posts containing false information, or even block accounts involved in disseminating false statements, engaging in coordinated inauthentic behavior, or controlled by bots. However, this model raises significant concerns, as it places government agencies, rather than independent judicial authorities, in the role of arbiters of lawful expression. This poses a serious threat to freedom of expression, as government ministers, being politically inclined, may exercise their powers in a manner that reflects political biases rather than impartiality. The POFMA's approach is particularly problematic, as it grants ministers what appears to be arbitrary authority to censor online expression under the guise of regulating false information, undermining the principles of transparency, accountability, and the rule of law[20]. States implicated in international crimes could use these powers to suppress reports exposing their wrongdoing, limiting access to critical information necessary for accountability. Without judicial oversight, administrative control over disinformation regulation creates an environment in which governments can shape narratives to serve political interests rather than justice. This not only threatens transparency but also obstructs international legal actors who rely on independent sources to investigate and prosecute crimes against humanity, war crimes, and genocide.

The **judicial sanction model** represents a regulatory approach that mandates online platform operators to take action against specific items of illegal content upon receiving orders from relevant national judicial authorities. This model includes provisions for initiating interlocutory judicial proceedings to halt the dissemination of false information through online platforms. Regulatory framework that requires judicial authorization for interference with user-generated content is, generally more conducive to safeguarding freedom of expression compared to the delegated censorship and administrative censorship models. This approach inherently minimizes risks to fundamental rights, provided that courts operate with impartiality and independence. By placing the authority

[19] UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, David Kaye, to the Federal Government of Germany (OL DEU 1/2017, 1 June 2017) , Irene Khan, Disinformation and Freedom of Opinion and Expression: Report of the Special Rapporteur on the Promotionand Protection of the Right to Freedom of Opinion and Expression' (A/HRC/47/25, 13 April 2021), para 58.

[20] Kirsten Han, 'Big Brother's Regional Ripple Effect: Singapore's Recent "Fake News"Law which Gives Ministers the Right to Ban Content they Do not Like, May Encourage other Regimes in South-East Asia to Follow Suit' (2019) 48 Index on Censorship 67.

to sanction content restrictions in the hands of the judiciary, rather than administrative or executive bodies, this model reduces the potential for politically motivated censorship and ensures that decisions are grounded in legal principles. Consequently, the judicial sanction model, when properly implemented, poses no significant threat to freedom of expression and aligns more closely with the rule of law and democratic values, assuming courts are imparcial, but poses a risk the politicization of justice, by undermining impartiality and enabling selective enforcement based on political interests. This threatens legal credibility and may suppress legitimate expression[21]. Even under this model risks to international justice persist. While judicial oversight offers stronger safeguards against arbitrary censorship, courts may still be subject to political pressures, leading to selective enforcement that favors certain narratives over others. Legal proceedings to determine disinformation may also delay access to vital information, affecting the timeliness of international investigations. Additionally, overly broad legal definitions of disinformation could restrict the right to seek and impart information, particularly in cases where conflicting interpretations of facts exist in war crime trials or human rights inquiries. Despite offering better protections compared to other models, this approach may still undermine fair access to information if judicial impartiality is compromised.

Ultimately, all regulatory models pose challenges to human rights within international criminal justice. The criminalization of disinformation risks silencing victims and journalists, platform-based censorship threatens the preservation of evidence, administrative controls enable political suppression of critical reports, and even judicially sanctioned measures may result in selective information restrictions. To prevent these consequences, disinformation regulations must be carefully crafted to be proportionate, transparent, and subject to independent oversight, ensuring they do not obstruct justice or limit fundamental rights in the pursuit of accountability for international crimes.

4- What do you consider to be the social and legal conditions that may contribute to disinformation and to the impact of disinformation?

In the context of international criminal justice, a complex interplay of social and legal conditions fosters the spread of disinformation, exacerbating its harmful impact on human rights, the rule of law, and the pursuit of justice. Digital technologies, political polarization, weak legal frameworks, and gaps in media literacy contribute to an environment where false or misleading narratives thrive. These conditions distort public perception, undermine legal processes, and obstruct accountability for serious crimes, posing a direct challenge to the principles of fairness, transparency, and justice. Addressing these issues requires a comprehensive understanding of their root causes and coordinated strategies to mitigate their impact.

On a social level, **political polarization and conflict** create fertile ground for disinformation. In politically unstable or post-conflict societies, narratives about international crimes become highly politicized, with disinformation frequently weaponized by political actors to control public discourse, discredit opposition, and divert attention from accountability processes. The rapid development of digital technologies has further intensified the spread of false information. Online platforms allow misleading content to circulate instantly, often without oversight or accountability. Anonymity online reduces hesitation in spreading falsehoods, while algorithm-driven echo chambers reinforce biased

[21] Political disinformation and freedom of expression: Demystifying the net conundrum, Phiri, Christopher, (30.11.2023), P 226.

perspectives, making it difficult to challenge misinformation. In this context, disinformation is deliberately used to manipulate public opinion, incite violence, or justify serious crimes such as genocide and ethnic persecution.

Another critical factor is the widespread **lack of media literacy**, which makes individuals more susceptible to disinformation. Without the ability to critically assess content, people are more likely to accept and share misleading narratives, especially when these narratives align with their existing beliefs. The rise of deepfakes, manipulated videos, and politically motivated falsehoods further complicates efforts to distinguish truth from fiction. In addition, the rise of platform-driven news and our reliance on algorithmic curation have trapped individuals in **echo chambers** and **filter bubbles**, where exposure to alternative perspectives is increasingly limited and they are exposed to content that reinforces their preconceptions[22].

In the realm of international criminal justice, such dynamics contribute to the delegitimization of legal institutions and obstruct efforts toward justice and accountability.

Historical memory and collective trauma also play a significant role in the spread of disinformation. In societies with histories of conflict, genocide, or grave human rights violations, false narratives can be used to distort or erase past atrocities. This manipulation of memory obstructs reconciliation processes, fuels denialism, and weakens the pursuit of justice. Psychological and social factors linked to historical trauma make communities particularly vulnerable to disinformation that reinforces their fears or grievances. Additionally, weak trust in institutions exacerbates this issue. When judicial institutions are perceived as biased or ineffective, people may be more inclined to believe narratives that discredit international courts and tribunals. In environments where trust is low, disinformation replaces official legal processes as a primary source of information, further eroding public confidence in justice systems.

On a legal level, weak **rule of law and regulatory gaps** contribute to the unchecked spread of disinformation. In regions where the legal system is fragile or inconsistently applied, there are few safeguards against the dissemination of falsehoods, particularly regarding human rights and international justice. The absence of legal accountability for spreading disinformation allows false narratives to flourish, distorting public perception and weakening legal institutions. Moreover, impunity for those who orchestrate disinformation campaigns remains a major challenge. Many political leaders, media outlets, and influential actors responsible for spreading falsehoods operate without consequences, enabling the deliberate manipulation of public opinion. This lack of accountability obstructs truth-seeking efforts and weakens social cohesion, making it even harder to counter disinformation.

In some cases, **legal loopholes and inadequate enforcement** render existing regulations ineffective. Even where laws exist to combat disinformation, they often fail due to inconsistent implementation or lack of resources. Defamation and libel laws, for instance, may not adequately address falsehoods concerning international criminal justice, particularly when powerful actors manipulate legal systems to evade responsibility. On the other hand, excessive or vaguely defined legislation can also pose a risk. While regulating disinformation is necessary, overly broad legal frameworks can threaten freedom of

[22] Barforoush, S., & Plaut, S. (15 January 2025). *Information disorder in times of conflict*. Canadian Museum for Human Rights. https://humanrights.ca/story/information-disorder-times-conflict

expression. Laws that criminalize false information without clear safeguards may be misused to suppress political dissent, silence activists, or restrict journalistic freedom. Instead of curbing disinformation, such measures can inadvertently strengthen authoritarian control, limit access to diverse perspectives, and weaken democratic principles.

The interplay between social and legal conditions creates an environment where disinformation thrives, distorting public perception and undermining justice efforts. Digital technologies, media illiteracy, political polarization, and weak institutional trust exacerbate the problem on a societal level, while legal loopholes, impunity, and ineffective enforcement allow false narratives to spread unchecked. To counter these challenges, a multifaceted approach is required. Strengthening regulatory frameworks, improving media literacy, and fostering coordinated efforts between international institutions, civil society, and legal professionals are essential steps in mitigating the impact of disinformation. Only by addressing both the social and legal dimensions of this issue can international criminal justice systems safeguard their integrity and effectiveness.

5- Which social groups in vulnerable situations are particularly affected by disinformation?

Digital platforms, while offering avenues for expression and activism, have also become powerful tools for spreading false narratives that reinforce discrimination, exclusion, and injustice. Hate speech and misinformation, often amplified by online anonymity, contribute to the marginalization of already at-risk communities. This dangerous combination of hate speech and disinformation worsens existing inequalities, fuels social divisions, and weakens efforts toward justice and reconciliation.[23]

Among those most affected by disinformation are **victims of international crimes**, including survivors of war crimes, genocide, and crimes against humanity. False narratives may attempt to discredit their testimonies, deny atrocities, or even portray them as perpetrators, obstructing their right to justice and reparations.

Human rights defenders, journalists, and civil society organizations (CSOs) are also frequent targets of disinformation campaigns, often accused of treason or foreign interference. Such tactics not only damage their credibility but also expose them to harassment, legal persecution, and physical threats. Those who work to expose international crimes or advocate for accountability are often targeted by disinformation campaigns. These individuals are at risk of being labeled as traitors, criminals, or agents of foreign interference. Disinformation campaigns aimed at discrediting these individuals can lead to harassment, violence, and legal repercussions, impeding their ability to carry out their work.

Additionally, **minority and indigenous communities** face systematic misrepresentation, particularly in post-conflict settings, where disinformation is used to deepen societal divisions and diminish their participation in legal processes. Similarly, refugees and internally displaced persons (IDPs) are often depicted as security threats or criminals, making it harder for them to access protection, aid, and justice. Women and gender

[23] A/77/512. Informe de la Relatora Especial sobre las formas contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia, Sra. E. Tendayi Achiume. Asamblea General, Naciones Unidas. 7 de octubre de 2022. https://docs.un.org/es/A/77/512

minorities who have suffered sexual and gender-based violence are frequently subjected to campaigns that dismiss, distort, or trivialize their experiences, reinforcing harmful stereotypes and obstructing accountability for gender-based crimes.[24] Such disinformation contributes to a lack of accountability for gender-based violence and perpetuates harmful stereotypes that undermine women's access to justice in international criminal justice systems.

Lastly, **political opponents, and dissidents** advocating for democratic reforms or accountability for international crimes are frequently the target of disinformation campaigns. These groups may be labeled as "enemies of the state" or "terrorists" in an attempt to silence their voices and discredit their political actions. In these cases, disinformation not only distorts reality but also impedes efforts to hold perpetrators accountable, making it imperative to counter false narratives through legal, technological, and educational interventions.

6- What is the role of digitalisation in relation to disinformation? Are there particular technologies you consider relevant and/or problematic in (countering) the dissemination of disinformation (e.g. generative AI)? Explain and provide examples.

Digitalization plays a crucial role in both the spread and mitigation of disinformation. The rapid development and exponential growth of digital technologies have significantly amplified the risks associated with false or misleading information. Digital platforms facilitate the rapid, large-scale dissemination of content, often without proper accountability. This is further exacerbated by the online disinhibition effect, where perceived anonymity and a lack of direct consequences encourage individuals to share and amplify disinformation without hesitation.

When digital technologies converge with advanced tools such as generative AI, deepfakes, and algorithmic content curation, the risks become even more pronounced. Online platforms collect vast amounts of user data, which is then monetized through targeted advertising. The more time users spend engaging with digital platforms, the more effectively these companies can profit from selling personalized ad exposure. As a result, content recommendation algorithms prioritize materials that generate high engagement—regardless of their accuracy, credibility, or potential harm[25].

This algorithm-driven approach can accelerate the spread of harmful content, including hate speech and misleading narratives, to a vast audience. By reinforcing biases and fueling polarization, these technologies contribute to the entrenchment of falsehoods, making it more difficult to foster informed public discourse. Addressing these challenges requires a nuanced approach that balances technological innovation with ethical considerations and regulatory oversight.

In the context of international criminal justice, digitalization has significantly transformed both the spread of disinformation and the tools used to counter it.

[24] A/78/538 Formas contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia, Nota del Secretario General*,Asamblea general ,Naciones Unidas, 18 de octubre de 2023, P,5. https://documents.un.org/doc/undoc/gen/n23/311/43/pdf/n2331143.pdf

[25] A/78/538 Formas contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia, Nota del Secretario General*, Asamblea general, Naciones Unidas, 18 de octubre de 2023, P.5. https://documents.un.org/doc/undoc/gen/n23/311/43/pdf/n2331143.pdf

First, **digital platforms** enable rapid dissemination of information worldwide, allowing disinformation to spread quickly across borders. Conflicts today extend beyond physical borders, playing out on our screens and saturating social media feeds like TikTok, Instagram, Facebook, Discord, Telegram, X and YouTube which can amplify harmful narratives about international crimes, court decisions, and investigations.

The case of **Myanmar** demonstrates how governments can weaponize disinformation to dominate the information space, suppress human rights, and incite violence. Hiding behind anonymity, state-affiliated actors used fake Facebook accounts to systematically spread false narratives, exacerbating the persecution and displacement of over 700,000 Rohingya[26].

This can create confusion or mislead the public, making it more difficult for institutions like the **International Criminal Court (ICC)** to maintain credibility. In addition, social media algorithms often create **echo chambers**, where users are exposed to content that aligns with their pre-existing beliefs. This effect can worsen disinformation in the context of international criminal justice, particularly when biased or misleading content is shared repeatedly, reinforcing false perceptions about crimes or legal proceedings.

Furthermore, the rise of generative AI and technologies like deepfakes has created an increasingly complex information ecosystem, especially in countries embroiled in armed conflicts, experiencing mass violence, or under authoritarian regimes. The use of **generative AI** and **deepfake technology** has made it possible to create fabricated audio and video content that can appear realistic, and have become a significant tool for those spreading disinformation. This is particularly concerning in conflict zones or authoritarian regimes, where the manipulation of media can distort the truth about events like military actions or atrocities. These technologies have introduced new challenges for human rights organizations and international justice bodies, creating a situation where it is becoming harder to differentiate truth from falsehood.

AI-generated images and videos have already fueled disinformation about the war in **Ukraine**—and continue to do so[27]. In the **Israel-Palestine** conflict, deepfake technology has been used to produce graphic images, including lifelike depictions of bloodied infants, designed to provoke outrage and spread misinformation[28]. Meanwhile, in **Sudan**, one of the deadliest active conflicts, a voice-cloning campaign featuring "leaked recordings" of former leader Omar al-Bashir circulated widely on TikTok and other platforms, further distorting the information landscape[29].

One of the core challenges facing international criminal justice is the **verification of evidence**, especially in cases involving conflict zones or mass violence. Digitally altered

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[26] Bradshaw, S. (November 2024). *Disinformation and identity-based violence*. Stanley Center for Peace and Security. https://stanleycenter.org/publications/disinformation-and-identity/

[27] Not mention. (24 february 2024). *Russia's war in Ukraine*. Deutsche Welle. https://www.dw.com/en/russias-war-in-ukraine/t-60931789

[28] Klepper, D. (28 november 2023). *Deepfakes from Gaza war increase fears about AI's power to mislead.* Associated Press.https://apnews.com/article/artificial-intelligence-hamas-israel-misinformation-ai-gaza-a1bb303b637ffbbb9cbc3aa1e000db47; Eisele, I., & Steinwehr, U. (10 November 2023). *Fact check: AI fakes in Israel's war against Hamas*. deutshe welle. https://www.dw.com/en/fact-check-ai-fakes-in-israels-war-against-hamas/a-67367744

[29] Jack Goodman and Mohanad Hashim. (5 October 2023). *AI: Voice cloning tech emerges in Sudan civil war*. BBC News. https://www.bbc.com/news/world-africa-66987869

ones spread on social media have been used to make false claims about responsibility for casualties or to deceive people about atrocities that never happened Deepfake technology has made it harder to rely on audiovisual material as proof of events, raising doubts about the authenticity of crucial evidence. The growing volume of digital content, much of it manipulated, poses a serious threat to the integrity of judicial processes. Without effective methods to verify evidence, there is a risk that false narratives could overshadow the truth, leading to miscarriages of justice.

Generative AI and deepfake technology not only challenge the verification of evidence but also raise fundamental questions about the nature of truth in conflict zones and in situations of mass violence. As disinformation becomes more sophisticated and pervasive, distinguishing real events from fabricated ones becomes increasingly difficult. The role of digital tools in spreading disinformation has reshaped the information landscape, making it crucial for international justice bodies and human rights organizations to collaborate in developing **robust systems** to identify and address synthetic media. Failure to do so could undermine the pursuit of justice, allowing disinformation to flourish and erode public trust in legal institutions tasked with upholding human rights and international law.

For example, during recent conflicts, such as the one between Palestine and Israel, synthetic media has been used to distort narratives, portraying fabricated scenes of military actions, refugee crises, and atrocities that never occurred[30].

This flood of **synthetic media** complicates the work of institutions like the International Criminal Court (ICC), which already faces the challenge of verifying complex evidence from diverse sources. If left unaddressed, the increasing volume of deepfakes could overwhelm justice systems, leading to delays in legal proceedings, as institutions struggle to differentiate between authentic and fabricated content.

One of the most alarming potential outcomes is that deepfakes could lead to the **acquittal of perpetrators** of international crimes. If courts and legal actors are unable to trust the audiovisual evidence presented before them, doubts may be cast on the authenticity of crucial material, undermining the credibility of prosecutions. This threat to the integrity of judicial processes highlights the urgent need for international criminal justice systems to adapt and develop new methods to detect and counter the rise of synthetic media. Traditional methods of evidence verification, such as human testimony and image analysis, are no longer sufficient in a world where deepfakes are so realistic and widespread.

As observed, **civil society organizations (CSOs**) rely heavily on user-generated content—videos, images, and testimonies from witnesses or victims—to present evidence in legal proceedings and advocate for justice. However, when such content can easily be manipulated or dismissed as fake, it undermines the credibility of these organizations and complicates their mission to hold perpetrators accountable. As deepfake technology becomes more accessible and sophisticated, the volume of synthetic media has exploded, making it even more difficult for justice institutions to analyze and verify evidence. In this context, those documenting human rights abuses are increasingly faced with the challenge of defending the authenticity of their content, while those implicated in international crimes can dismiss evidence by claiming it is fabricated. This dynamic risks creating

[30] Vazquez Llorente, R. (2024). *Deepfakes in the dock: Preparing international justice for generative AI*. The SciTech Lawyer, 20(2), 28–33. https://www.gen-ai.witness.org/wp-content/uploads/2024/02/Deepfakes-in-the-Dock_Preparing-Intl-Justice-for-Generative-AI.pdf

"epistemic injustice," where the least powerful—often the victims and witnesses—are the least believed.[31]

7- How can private sector address disinformation?

By improving content moderation, enhancing transparency, collaborating with international justice bodies, promoting digital literacy, developing ethical AI, and supporting regulations, companies can play a crucial role in reducing the impact of disinformation on human rights and justice efforts.

Private sector companies can also work alongside international criminal justice organizations, such as the International Criminal Court (ICC), and civil society groups monitoring human rights violations. Through these partnerships, companies can help identify and counter disinformation campaigns that target international criminal justice processes or seek to discredit victims and witnesses of international crimes. For instance, tech companies could assist international courts by providing data to trace the origins of disinformation campaigns that undermine the legitimacy of legal proceedings. They could also support the verification of evidence, helping to detect manipulated media that distorts testimonies or misrepresents events.

Given the central role of AI technologies, such as generative AI and deepfakes, in creating and spreading disinformation, it is imperative for tech companies to prioritize ethical AI development. This involves creating tools and safeguards to prevent AI systems from being misused to generate harmful disinformation, especially content that could undermine international criminal justice.

8- What are the good practices at the national, regional or international level to address the negative effects of disinformation on human rights? How to strengthen the integrity of the information system? Please provide examples.

At the global level, effective coordination between international institutions, such as the United Nations, the International Criminal Court (ICC), and non-governmental organizations (NGOs), is essential in combating disinformation and safeguarding the integrity of legal proceedings. One way to achieve this is through global fact-checking networks and partnerships. International bodies, including the United Nations (UN), can collaborate with global fact-checking organizations to monitor and address disinformation. By establishing networks for fact-checking and the exchange of reliable information, these organizations can ensure that public narratives are based on accurate, verified facts.

In addition to fact-checking initiatives, international criminal tribunals can also play a critical role in preserving the integrity of legal processes. By strengthening the procedures for verifying evidence, particularly digital evidence such as photos, videos, and testimonies, tribunals can prevent manipulation and ensure that only credible information is used in court. Developing mechanisms for assessing the reliability of digital evidence is key to upholding the fairness of legal proceedings and preventing the spread of disinformation.

9- What international organization, bodies, or agencies would be in your opinion best placed to tackle disinformation in line with international human rights law?

[31] Vazquez Llorente, R. (2024). *Deepfakes in the dock: Preparing international justice for generative AI*. The SciTech Lawyer, 20(2), 28–33. https://www.gen-ai.witness.org/wp-content/uploads/2024/02/Deepfakes-in-the-Dock_Preparing-Intl-Justice-for-Generative-AI.pdf

In the context of international criminal justice, tackling disinformation, especially with the growing threat of advanced technologies like deepfakes, requires a coordinated effort from various international organizations, bodies, and agencies that specialize in human rights, law enforcement, and technology. Several institutions are already well-placed to address this issue, with their expertise in international law, human rights, and technological innovation.

The **International Criminal Court (ICC)** itself plays a crucial role in addressing disinformation related to international crimes. As the primary institution tasked with prosecuting the most serious international crimes (genocide, crimes against humanity, war crimes, and the crime of aggression), the ICC is central to ensuring that disinformation does not undermine its legal proceedings. With the increasing prevalence of deepfakes and synthetic media, the ICC must invest in technologies to counter these threats. Specifically, the ICC can focus on:

- Establishing a reliable and transparent system for tracking the origin of digital evidence is crucial. Provenance infrastructure ensures that every piece of evidence can be traced back to its source, providing a safeguard against manipulation.
- Investing in advanced detection technologies to identify manipulated media, such as deepfakes, is vital. This will allow the ICC to verify the authenticity of evidence, especially user-generated content that is often used in international criminal cases, ensuring that the Court remains a pillar of human rights in the digital age.
- Singtrengthen its internal capacity to analyze and authenticate evidence, including digital forensics experts who can assess and confirm the validity of audiovisual material presented in court, , thereby ensuring that manipulated or AI-altered evidence is effectively filtered out and preventing misinformation from influencing judicial decisions.

10- How does disinformation affect the standing of "human rights" – concepts, institutions, individuals that work for the protection of human rights? Please give examples.

In the context of international criminal justice, disinformation has a **profound impact** on the standing of "human rights," including the concepts themselves, the institutions that protect them, and the individuals working on their behalf. The spread of false or manipulated information can undermine public trust in the legitimacy of human rights, the effectiveness of the institutions designed to uphold them, and the credibility of human rights defenders, normalising huamm rights violations.

Disinformation campaigns often aim to **distort or manipulate the understanding of fundamental human rights**, presenting them in a negative light or portraying them as secondary to other political, economic, or security concerns. For example, false narratives can be used to frame human rights advocates as politically motivated or biased, discrediting the universality and importance of rights like freedom of expression, protection from torture, or the right to a fair trial.

In conflict zones or authoritarian regimes, human rights concepts are often **weaponized** by state actors to divert attention from actual abuses. Disinformation may portray a human rights organization as an external actor with ulterior motives, such as promoting "foreign interference" or undermining national sovereignty. This can confuse the public and diminish

support for human rights protections, especially in countries facing political or social instability.

Allegations about the **International Criminal Court** being biased or politically motivated can undermine international efforts to prosecute perpetrators and defend human rights in the region. The Court is frequently targets of disinformation campaigns designed to weaken their legitimacy and influence. Disinformation can be used to cast doubt on the impartiality and effectiveness of these institutions, making it harder for them to carry out their work.

Governments have employed disinformation strategies to sway public opinion against the ICC. This tactic aims to deter the Court's investigations into alleged crimes committed by nationals from these countries[32]. As a recent exmple, following ICC decisions regarding jurisdiction over Palestinian territories, Israeli leaders also disseminated false narratives about the Court's authority, framing it as biased and politically motivated. This included accusations of antisemitism against the ICC[33].

This also has **broader implications** for international justice systems. If people begin to lose trust in organizations like the ICC, they may no longer believe in the importance of prosecuting international crimes like genocide, crimes against humanity, or war crimes. This diminishes the normative power of international human rights law, weakening the global commitment to uphold these standards.

Human rights defenders, including individuals, organizations, and journalists who document human rights violations or advocate for justice, are frequently targets of disinformation campaigns. These campaigns aim to delegitimize their work, discredit their findings, and paint them as "foreign agents" or "enemies of the state." This can jeopardize their safety, diminish public support for their causes, and undermine the broader **human rights movement**.

Disinformation campaigns can significantly impact the ability of international criminal courts and other **justice mechanisms** to hold perpetrators accountable for human rights violations. By flooding the information landscape with false or manipulated evidence, perpetrators of crimes may be able to muddy the waters, creating doubt about the authenticity of legitimate evidence and testimony. This can make it harder for courts to make informed decisions, potentially leading to delays in proceedings or even acquittals of perpetrators.

Disinformation is often used as a **weapon** in conflict zones, where it can fuel violence, create divisions, and make it harder for human rights organizations to access affected populations. In these contexts, disinformation can paint one group as the victim and another as the perpetrator, making it difficult to address violations objectively and impartially.

Disinformation can distort public perceptions of ongoing human rights crises and atrocities, hindering efforts to mobilize international action. When the international community is misled by fabricated narratives, it may fail to intervene or provide adequate support to victims, prolonging the suffering of those affected.

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[32] Ochs, Sara, Fake News & International Criminal Law (2021). St. Louis University Public Law Review, Vol. 66, No. 99, 2021, University of Louisville School of Law Legal Studies Research Paper Series No. 2022-9. https://ssrn.com/abstract=4103629

[33] Sara L. Ochs. (2022). Propaganda warfare on the International Criminal Court. Michigan Journal of International Law. https://www.judges.org/wp-content/uploads/2022/05/Propaganda-WARFARE-ON-THE-ICC-.pdf

In conclusion, disinformation poses a significant threat to the effectiveness of international criminal justice and the protection of human rights. By undermining trust in institutions such as the International Criminal Court, discrediting human rights defenders, and distorting public perceptions of abuses, disinformation weakens global efforts to uphold human rights standards and prosecute international crimes. It exacerbates political and social instability, particularly in conflict zones or authoritarian regimes, where false narratives can fuel divisions and hinder accountability. To counteract these harmful effects, it is essential for the international community to develop robust mechanisms for identifying and addressing disinformation, ensuring that the pursuit of justice remains grounded in truth and integrity.
Only by safeguarding the credibility of human rights and international justice systems can we ensure a collective commitment to upholding the principles of democracy, dignity, and accountability.
