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**Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

## **Countering disinformation for the promotion and protection of human rights and fundamental freedoms**

### **Report of the Secretary-General\*\***

#### *Summary*

The present report is submitted pursuant to General Assembly resolution [76/227](#). In it, the Secretary-General describes the challenges posed by disinformation and the responses to it, sets out the relevant international legal framework and discusses measures that States and technology enterprises reported to have taken to counter disinformation. The Secretary-General notes that countering the different manifestations of disinformation requires addressing underlying societal tensions, fostering respect for human rights, online and offline, and supporting a plural civic space and media landscape.

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\* [A/77/150](#).

\*\* The present report was submitted after the deadline in order to reflect the most recent information.



## I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 76/227, in which the Assembly requested the Secretary-General to submit a report based on information and best practices shared by States, United Nations entities and relevant stakeholders on countering disinformation for the promotion and protection of human rights and fundamental freedoms. The report builds on the work of the United Nations High Commissioner for Human Rights and views of international and regional human rights mechanisms, including relevant special procedure mandate holders<sup>1</sup> and a high-level Human Rights Council panel discussion on countering the negative impact of disinformation on the enjoyment and realization of human rights and on ensuring a human rights-based response, convened on 28 June 2022. In the present report, the Secretary-General describes challenges and threats related to disinformation, sets out the relevant international legal framework and discusses practices that States and business enterprises reported to have taken to counter disinformation.

2. Disinformation is not a new concern. For a long time, States have enacted laws addressing the propagation of falsehoods, for example, on issues such as defamation, fraud, false advertising and perjury. Current discussions on disinformation reflect a new and rapidly evolving communications landscape, in part due to innovative technologies that enable the dissemination of unparalleled volumes of content at unprecedented speeds. Navigating this modern and qualitatively different media landscape and ensuring it advances, rather than undermines, the protection and promotion of human rights and international peace and security is a key challenge of our time.

3. There is no clear definition of, or shared common understanding and approach to, the term “disinformation”. The term has been used by the International Telecommunication Union and the United Nations Educational, Scientific and Cultural Organization (UNESCO) to describe false or misleading content that can cause specific harm, irrespective of motivations, awareness or behaviours.<sup>2</sup> The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression similarly defines disinformation as “false information that is disseminated intentionally to cause serious social harm”.<sup>3</sup> The studies and inputs reviewed for the present report point to the following elements characteristic of disinformation: information that is inaccurate, intended to deceive and shared in order to do serious harm.

4. Any definition of disinformation must not unduly restrict expressions that take the form of irony, satire, parody or humour and that seek to question or even ridicule individual or societal norms, under the guise of combating disinformation. In this context, enabling or requiring censorship of such content under a “disinformation” label risks suppressing artistic, scientific and journalistic work and public debate more generally.

5. Any analysis of disinformation needs to be multifaceted. Concerns regarding disinformation arise in different contexts, including in relation to electoral processes, public health, armed conflict, minority rights and climate change. While many discussions on disinformation focus on the written word, audio and visual materials can also contain disinformation.

6. The phenomenon of disinformation poses a multiplicity of challenges in different ways. The coronavirus disease (COVID-19) pandemic has provided a powerful example of the potentially enormous consequences of disinformation

<sup>1</sup> See A/HRC/38/35, A/HRC/44/49, A/HRC/47/25, A/HRC/48/31 and A/HRC/50/55.

<sup>2</sup> [www.broadbandcommission.org/wp-content/uploads/2021/02/WGFoEDisinfo\\_Report2020.pdf](http://www.broadbandcommission.org/wp-content/uploads/2021/02/WGFoEDisinfo_Report2020.pdf).

<sup>3</sup> A/HRC/47/25, para. 15.

relating to health for entire societies, including the possible loss of many lives. The spread of disinformation in electoral contexts may diminish public trust in the credibility of processes, undermining the right to political participation. Disinformation can involve bigotry and hate speech aimed at minorities, women and any so-called “others”, posing threats not only to those directly targeted, but also to inclusion and social cohesion.<sup>4</sup> It can amplify tensions and divisions in times of emergency, crisis, key political moments or armed conflict. In effect, disinformation can affect the full range of human rights by disrupting people’s ability to make informed decisions about policies relating to, for example, the environment, crime, migration and education, among other issues of public interest and concern.

7. Disinformation can have a variety of motives, including political, ideological or commercial, or a combination thereof. When used by those with power and influence, it can undermine trust in public institutions and contribute to polarizing societies and exacerbating social divisions, thus creating fertile ground for populism and authoritarianism to flourish.

8. Disinformation does not exist in a vacuum, and approaches that try to “solve” disinformation without addressing the conditions conducive to its occurrence and spread will not succeed. As the High Commissioner has said, disinformation tends to be a symptom of “systemic inequality, where deep-seated discrimination, increasingly fragile institutions, loss of trust in governance structures and limited rule of law threaten stability and peaceful co-existence”.<sup>5</sup>

## II. Legal framework

9. The spread of disinformation can have a devastating impact on our societies, undermining a broad range of human rights. Disinformation about health interventions such as vaccines can cause grave physical harm and loss of life. Disinformation with regard to elections can undermine the rights to free and fair elections and to participate in public affairs. Disinformation can involve hate speech, inciting discrimination, hostility or violence. When disinformation threatens human rights, States have a duty to take appropriate steps to address these harmful impacts.

10. At the same time, State responses to disinformation must themselves avoid infringing on rights, including the right to freedom of opinion and expression. As repeatedly reiterated by the General Assembly and the Human Rights Council, the human rights that people have offline must also be protected online.<sup>6</sup> Business enterprises also have a responsibility to respect human rights, as outlined in the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework.<sup>7</sup>

11. The General Assembly and the Human Rights Council have recognized that responses to the spread of disinformation should comply with international human rights law and promote, protect and respect the right of individuals to freedom of expression, including the freedom to seek, receive and impart information.<sup>8</sup>

<sup>4</sup> See [www.un.org/en/genocideprevention/documents/advising-and-mobilizing/Action\\_plan\\_on\\_hate\\_speech\\_EN.pdf](http://www.un.org/en/genocideprevention/documents/advising-and-mobilizing/Action_plan_on_hate_speech_EN.pdf).

<sup>5</sup> [www.ohchr.org/en/statements-and-speeches/2022/06/high-level-panel-discussion-countering-negative-impact](http://www.ohchr.org/en/statements-and-speeches/2022/06/high-level-panel-discussion-countering-negative-impact).

<sup>6</sup> See General Assembly resolutions 70/125, 75/176 and 75/202, and Human Rights Council resolutions 20/8, 26/13, 32/13, 38/7 and 47/16.

<sup>7</sup> A/HRC/17/31, annex, para. 13.

<sup>8</sup> See General Assembly resolution 76/22, and Human Rights Council resolution 49/21.

## A. The right to freedom of opinion and expression, including the freedom to seek, receive and impart information

12. Article 19 of the Universal Declaration of Human Rights and article 19 (1) of the International Covenant on Civil and Political Rights protect the right to hold opinions without interference. As indicated by the Human Rights Committee, this right includes the rights to form one's opinion, to change one's opinion and to develop opinions by way of reasoning, as well as the right not to express any opinion.<sup>9</sup> All forms of opinion are protected, including opinions of a political, scientific, historic, moral or religious nature. Criminalizing the holding of an opinion, or harassing, intimidating, stigmatizing, arresting, detaining, putting on trial or imprisoning a person simply for opinions they may hold, is incompatible with article 19 (1).<sup>10</sup>

13. Article 19 of the Universal Declaration of Human Rights and article 19 (2) of the Covenant also protect the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, and through any media, either in speech, in writing or in print, in the form of art, or through any other media of one's choice. The human right to freedom of expression is not limited to favourably received information, but covers ideas and information that may "shock, offend or disturb",<sup>11</sup> irrespective of the truth or falsehood of the content.<sup>12</sup> As the Human Rights Committee has made clear, the general prohibition of expressions of erroneous opinions or incorrect interpretations of past events is not permitted under the Covenant.<sup>13</sup>

14. Linked to freedom of expression, freedom of information is itself a right.<sup>14</sup> The General Assembly has stated: "Freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the United Nations is consecrated."<sup>15</sup> The scope of the right has been held to include "records held by a public body, regardless of the form in which the information is stored, its source and the date of production".<sup>16</sup> International and regional instruments, including the Declaration of Principles on Freedom of Expression in Africa (section IV) of the African Commission on Human and Peoples' Rights, the Declaration of Principles on Freedom of Expression (principles 3 and 4) of the Inter-American Commission on Human Rights, and the Charter of Fundamental Rights of the European Union (articles 11 and 42), recognize both individuals' right to access information without discrimination and the corresponding State's obligation to provide them with information in its possession. The Inter-American Court of Human Rights, for its part, has asserted that "a society that is not well informed is not a society that is truly free".<sup>17</sup>

15. Freedom of expression and access to information can be subject to certain restrictions meeting specific criteria. To be lawful, in accordance with article 19 (3) of the Covenant, such restrictions must be provided by law, and be necessary for the respect of the rights or reputations of others or for the protection of national security or of public order (*ordre public*) or of public health or morals. States cannot add

<sup>9</sup> Human Rights Committee general comment No. 34 (2011), para. 9; see also [A/75/261](#), paras. 15–17, and [A/73/348](#), para. 22.

<sup>10</sup> Human Rights Committee general comment No. 34 (2011), para. 9.

<sup>11</sup> European Court of Human Rights, *Handyside v. the United Kingdom*, application No. 5493/72, judgment of 7 December 1976, para. 49.

<sup>12</sup> See Human Rights Committee general comment No. 34 (2011), para. 49 and European Court of Human Rights, *Lingens v. Austria*, No. 9815/82, 8 July 1986, para. 46.

<sup>13</sup> Human Rights Committee general comment No. 34 (2011), para. 49.

<sup>14</sup> [E/CN.4/2000/63](#), para. 42.

<sup>15</sup> General Assembly resolution 59 (I), para. 1.

<sup>16</sup> Human Rights Committee general comment No. 34 (2011), para. 18.

<sup>17</sup> Inter-American Court of Human Rights, Advisory Opinion OC-5/85 of 13 November 1985, para. 70.

additional grounds or restrict expression beyond what is permissible under international law. In order to be lawful, any limitations to freedom of expression that seek to prevent or restrict disinformation must therefore comply with the legitimate grounds for restriction listed in article 19 (3).

16. The Human Rights Committee has held that journalists' "prosecution... for the crime of publication of false news merely on the ground, without more, that the news was false" violates human rights,<sup>18</sup> and has observed that, in circumstances of debate concerning public figures in the political domain and public institutions, the value of uninhibited expression is particularly high.<sup>19</sup> With regard to defamation laws, the Human Rights Committee has affirmed that such laws "must be crafted with care to ensure that they comply with paragraph 3, and that they do not serve, in practice, to stifle freedom of expression ... At least with regard to comments about public figures, consideration should be given to avoiding penalizing or otherwise rendering unlawful untrue statements that have been published in error but without malice."<sup>20</sup>

## **B. Prohibition of propaganda for war and of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence**

17. Article 20 (2) of the Covenant requires that propaganda for war or advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence be prohibited by law.<sup>21</sup>

18. As articles 19 and 20 of the Covenant complement each other and must be read jointly, States should ensure that any limitation that is found to be justified on the basis of article 20 also complies with article 19 (3) of the Covenant.<sup>22</sup> In this regard, the six factors outlined in the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, developed by a high-level expert group in 2013, can provide helpful guidance. These include the context of the statement, the status of the speaker, the intent to incite the audience against a target group, the content and form of the expression, the extent of its dissemination and the likelihood of harm.<sup>23</sup>

## **C. The right to participate in public affairs**

19. Article 21 of the Universal Declaration of Human Rights and article 25 of the Covenant guarantee the right to participation in public affairs. The Human Rights Committee has affirmed that, in order to ensure the full enjoyment of rights protected by article 25, the "free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. It requires the full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the Covenant."<sup>24</sup> The Human Rights Council has taken note of the guidelines for States on the effective

<sup>18</sup> [CCPR/C/79/Add.116](#), para. 24.

<sup>19</sup> Human Rights Committee general comment No. 34 (2011), para. 38; see also *ACtHPR, Lohe Issa Konate v. Burkina Faso*, App. No. 004/2013, 2014, para. 42.

<sup>20</sup> Human Rights Committee general comment No. 34 (2011), para. 47.

<sup>21</sup> See [A/HRC/22/17/Add.4](#), para. 18, [A/67/357](#), para. 43, and general comment No. 11 (1983).

<sup>22</sup> Human Rights Committee general comment No. 34 (2011), para. 50.

<sup>23</sup> [A/HRC/22/17/Add.4](#).

<sup>24</sup> Human Rights Committee general comment No. 25 (1996), para. 25.

implementation of the right to participate in public affairs,<sup>25</sup> which call upon States to create and maintain a safe and enabling environment that is conducive to the exercise of the right to participate in public affairs, including by ensuring the independence and pluralism of civil society, the conditions for an independent and diverse media, and “an open and honest interaction between public authorities and all members of society, including those most at risk of being marginalized or discriminated against”.<sup>26</sup> The guidelines further call upon States to ensure meaningful participation at different stages of decision-making by, inter alia, proactively “disseminating information in clear, usable, accessible, age-appropriate and culturally appropriate formats, and in local languages, including indigenous and minority languages”.<sup>27</sup>

### III. State approaches to tackling disinformation

20. States have a crucial role to play in combating the impacts of disinformation, both with regard to their own actions and relating to their duty to protect against human rights abuses by third parties, including business enterprises.<sup>28</sup> Addressing the multifaceted phenomenon of disinformation is a complex task. Human rights and freedom of expression standards, developed over time, provide suitable guidance for the challenges raised by disinformation, establishing normative signposts for a well-informed citizenry to engage in democratic processes. By creating the conditions for human rights, pluralism and tolerance to flourish, States can help reduce the risks associated with disinformation.<sup>29</sup>

#### A. Promising pathways for States to address disinformation

21. Recent approaches to addressing disinformation have illustrated some helpful pathways to combat the ill effects of disinformation, while sufficiently protecting the rights to free expression, to privacy and to public participation.

##### 1. Regulatory approaches focused on transparency

22. Some States have started to explore regulatory tools requiring platforms to increase transparency in their operations, rather than moderating the regulation of individual pieces of content, in order to enable more independent auditing of companies’ services and operations.<sup>30</sup> Typically, efforts to regulate transparency have focused on the implementation of community standards, including about companies’ interventions with content related to disinformation; on increased clarity around advertising, particularly political advertising and how it is funded; on how personal data are being handled and used for microtargeting; and on widening access for researchers and others to data held by platforms, for instance data on messaging apps, which can enable a deeper understanding of disinformation-related dynamics.

23. In the European Union, the proposed Digital Services Act, developed on the basis of a broad participatory process, imposes a number of obligations on “very large

<sup>25</sup> Human Rights Council resolution 39/11.

<sup>26</sup> A/HRC/39/28, para. 19 (h).

<sup>27</sup> Ibid., para. 69 (c).

<sup>28</sup> Human Rights Council resolution 17/4.

<sup>29</sup> See [www.broadbandcommission.org/wp-content/uploads/2021/02/WGFoEDisinfo\\_Report2020.pdf](http://www.broadbandcommission.org/wp-content/uploads/2021/02/WGFoEDisinfo_Report2020.pdf).

<sup>30</sup> See <https://unesdoc.unesco.org/ark:/48223/pf0000377231?posInSet=1&queryId=e067a514-30a4-4240-b7d4-a3e651a4d78c>.

online platforms” that have particular societal and economic impact.<sup>31</sup> These obligations include reducing financial incentives for disinformation, ensuring transparency in political advertising, cooperating with fact-checkers and facilitating access for researchers. The Code of Practice on Disinformation of the European Commission provides for monitoring frameworks that require platforms to gain access to and regularly report on how they implement the Code’s provisions.<sup>32</sup> In addition, the European Commission draft proposal for a European Union regulation on transparency in relation to political advertising seeks to strengthen users’ right to privacy and to reduce the spread of disinformation.<sup>33</sup>

24. Other approaches to addressing the harmful effects of disinformation have focused on “information operations”. Like the label “disinformation”, terms such as “information operations”, “active broad-based manipulation campaigns”, or “coordinated inauthentic behaviour”<sup>34</sup> are used to describe a wide range of diverse online actions. One useful rubric for analysing information operations focuses on the “ABC” elements: actors, behaviour and content.<sup>35</sup> Experts have pointed to the need to address the “actors” (those responsible for the content) and the “behaviour” (the manner in which information is disseminated), rather than the “content” as such, in order to effectively counter information operations while protecting free expression.<sup>36</sup> Information operations can undermine a broad range of human rights and democratic processes. The impact of information operations during and relating to armed conflicts is of particular concern, although the phenomenon is not new.<sup>37</sup> These harmful consequences have prompted calls for States to “take measures to protect the human rights of individuals within their jurisdiction from violation by information operations or activities carried out by other States and non-state actors”.<sup>38</sup>

25. Some regulators are seeking to address such operations by focusing on the use of automated bots, which is a frequent feature of information operations.<sup>39</sup> In California, United States of America, the jurisdiction home to some of the largest global tech companies, the Bolstering Online Transparency Act requires that bots, or the person controlling them, reveal their “artificial identity” when used to sell a product or influence an individual such as a voter. This law became effective in 2019, and some have called for caution about its potential impacts on privacy and effectiveness.<sup>40</sup> As with all regulations in this evolving space, active monitoring and

<sup>31</sup> Platforms that reach at least 45 million users in the European Union; see Digital Services Act, article 25.

<sup>32</sup> <https://digital-strategy.ec.europa.eu/en/policies/code-practice-disinformation>. Some, however, regret that the new regulation does not protect users with a “right to encryption” and note the risks of possible illegitimate content removal orders; see [www.patrick-breyer.de/en/digital-service-act-shows-eus-unwillingness-to-take-digital-age-into-its-own-hands/](http://www.patrick-breyer.de/en/digital-service-act-shows-eus-unwillingness-to-take-digital-age-into-its-own-hands/).

<sup>33</sup> Submission from the European Union; see also <https://cdt.org/wp-content/uploads/2022/03/2022-03-23-CDT-Europe-Online-Political-Ads-Briefing-paper.pdf>.

<sup>34</sup> See [https://cdn.annenbergpublicpolicycenter.org/wp-content/uploads/2020/07/Freedom\\_and\\_Accountability\\_TWG\\_Final\\_Report.pdf](https://cdn.annenbergpublicpolicycenter.org/wp-content/uploads/2020/07/Freedom_and_Accountability_TWG_Final_Report.pdf); <https://about.fb.com/news/tag/coordinated-inauthentic-behavior/>; and <https://opiniojuris.org/2021/06/02/the-oxford-statement-on-international-law-protections-in-cyberspace-the-regulation-of-information-operations-and-activities/>.

<sup>35</sup> [https://science.house.gov/imo/media/doc/Francois%20Addendum%20to%20Testimony%20-%20ABC\\_Framework\\_2019\\_Sept\\_2019.pdf](https://science.house.gov/imo/media/doc/Francois%20Addendum%20to%20Testimony%20-%20ABC_Framework_2019_Sept_2019.pdf).

<sup>36</sup> See [www.ivir.nl/twg/](http://www.ivir.nl/twg/) and [www.demdigest.org/a-disinformation-abc-actors-behavior-content/](http://www.demdigest.org/a-disinformation-abc-actors-behavior-content/).

<sup>37</sup> See <https://blogs.icrc.org/law-and-policy/2021/03/30/fog-of-war-and-information/>.

<sup>38</sup> <https://elac.web.ox.ac.uk/the-oxford-statement-on-the-regulation-of-information-operations-and-activities#/>.

<sup>39</sup> For a definition of bots, see [www.accessnow.org/cms/assets/uploads/2018/11/AI-and-Human-Rights.pdf](http://www.accessnow.org/cms/assets/uploads/2018/11/AI-and-Human-Rights.pdf).

<sup>40</sup> See [https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=BPC&division=7.&title=&part=3.&chapter=6.&article](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=7.&title=&part=3.&chapter=6.&article) and [www.icnl.org/wp-content/uploads/2021.03-Disinformation-Policy-Prospectus-final.pdf](http://www.icnl.org/wp-content/uploads/2021.03-Disinformation-Policy-Prospectus-final.pdf).



review of regulatory impacts are essential and depend on access for researchers to the required data.

26. Given the need to avoid abusive or manipulative approaches to addressing disinformation, creating a strong firewall between executive functions and any oversight and regulatory mechanisms is particularly valuable. In order to ensure effective appeals and redress, regulatory bodies need to ensure overall coherence with other enforcement structures, such as national regulatory authorities overseeing data protection, audiovisual media regulation or consumer protection, as well as companies' third-party oversight bodies.<sup>41</sup>

## **2. Promoting robust public information regimes and wide-ranging access to information**

27. In its resolution 76/227, the General Assembly highlighted the need for “the dissemination of factual, timely, clear, accessible, multilingual and evidence-based information” and emphasized “the need for all relevant stakeholders to address the challenge of disinformation”. Maximizing transparency and access to information is a central requirement for building trust in public institutions, governance and processes. When governments, politicians and public officials operate transparently, maintain regular communication with the people they serve, provide timely, evidence-based information and are open to scrutiny, they contribute to building legitimate, accountable, effective institutions, which can reinforce public trust in the information system and reduce susceptibility of people and communities to disinformation.<sup>42</sup>

28. In the context of the COVID-19 pandemic, to address the spread of disinformation, some States have conducted broad public health information campaigns, in different languages and formats, making efforts to reach the most marginalized. For example, the Government of Estonia reported creating a webpage with an associated phone line that made recommendations pertaining to the crisis, such as social distancing, vaccination and mask protections, available to the public in multiple languages.<sup>43</sup> The Government of the Dominican Republic reported that its national Institute of Telecommunications has made the population aware of the risks of disinformation.<sup>44</sup>

29. At the global level, the United Nations Verified campaign, led by the Department of Global Communications, has encouraged the publishing of fact-based and scientific information during the pandemic, while promoting digital media literacy.<sup>45</sup> In collaboration with more than 200 partners around the world, Verified has produced and disseminated more than 10,000 pieces of content in over 60 languages – from low fidelity memes to music videos – and reached more than a billion people, especially those most in need, including marginalized youth, people living in poverty and refugee women. Similarly, in August 2021, the African Union, the United Nations Children’s Fund (UNICEF) and the ONE campaign launched a TikTok initiative to counter disinformation about COVID-19 vaccines on social media. Bringing together African celebrities and health experts, the campaign addresses vaccine hesitancy and is mainly directed at young people in Africa.<sup>46</sup>

<sup>41</sup> See <https://dsa-observatory.eu/2022/02/04/the-enforcement-aspects-of-the-dsa-and-its-relation-to-existing-regulatory-oversight-in-the-eu/>.

<sup>42</sup> Human Rights Council resolution 49/21, sixteenth preambular para.

<sup>43</sup> Submission from Estonia.

<sup>44</sup> Submission from the Dominican Republic.

<sup>45</sup> <https://shareverified.com/about/>.

<sup>46</sup> [www.unicef.org/southafrica/press-releases/one-unicef-and-african-union-join-forces-tiktok-strengthen-vaccine-confidence-africa](http://www.unicef.org/southafrica/press-releases/one-unicef-and-african-union-join-forces-tiktok-strengthen-vaccine-confidence-africa).



30. During key political events, such as elections, peace processes, protest movements or global gatherings, the need to protect the free flow of information and debate is particularly critical.<sup>47</sup> Political leaders have a powerful influence on public discourse and on the perceptions of their followers about an election and its outcome.<sup>48</sup> Considering the value of freedom of expression for democratic debates, international human rights experts have called on States to consider supporting positive measures, such as the “promotion of independent fact-checking mechanisms and public education campaigns, while avoiding adopting rules criminalizing disinformation”.<sup>49</sup>

### 3. Protecting free and independent media and dialogue with communities

31. Journalists, civil society and academia also make an essential contribution to countering disinformation.<sup>50</sup> Free, plural media, supported by self-regulation mechanisms, and an open and pluralistic civic space enable the public to access independent, evidenced-based information from diverse sources, and are preconditions for democratic debate and critical to reducing disinformation.<sup>51</sup> As an example, in public health contexts, the Joint United Nations Programme on HIV/AIDS and the World Health Organization have both stressed that lessons learned from previous epidemics strongly encourage responses that prioritize a human rights approach, focusing on evidence, empowerment and community engagement.<sup>52</sup>

32. Unfounded attacks on news media, individual journalists and critical civil society voices can undermine media work and limit access to information, increasing the risks that rumours and disinformation will spread. Nevertheless, journalists and civil society representatives continue to face physical and psychological threats and violence,<sup>53</sup> including relating to their efforts to report or speak out on sensitive issues.<sup>54</sup> The Special Rapporteur on the right to freedom of opinion and expression stated that “if independent public interest media cannot survive – let alone thrive – disinformation will flourish, journalists will be further imperilled and societies’ right to information will be undermined”.<sup>55</sup>

33. The Human Rights Council has also expressed concern that the economic impact of the COVID-19 crisis has increased the vulnerability of journalists, weakened media sustainability, independence and pluralism, and increased the risk of disinformation by limiting access to a wide range of reliable information and opinions.<sup>56</sup> An independent, diverse and adequately resourced media, with high standards of

<sup>47</sup> In the Presidential Statement (S/PRST/2022/5) adopted by the Council, Member States noted with great concern the increasing amount of disinformation and misinformation directed against United Nations peacekeeping operations.

<sup>48</sup> A/76/266.

<sup>49</sup> [www.ohchr.org/sites/default/files/Documents/Issues/Opinion/JointDeclarationDigitalAge\\_30April2020\\_EN.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/Opinion/JointDeclarationDigitalAge_30April2020_EN.pdf).

<sup>50</sup> General Assembly resolution 76/227, para. 6.

<sup>51</sup> See Human Rights Council resolution 49/21, thirteenth preambular para., and General Assembly resolution 76/227, para. 7.

<sup>52</sup> [www.unaids.org/sites/default/files/media\\_asset/human-rights-and-covid-19\\_en.pdf](http://www.unaids.org/sites/default/files/media_asset/human-rights-and-covid-19_en.pdf) and <https://apps.who.int/iris/bitstream/handle/10665/338000/9789240015814-eng.pdf?sequence=1&isAllowed=y>.

<sup>53</sup> See <https://unstats.un.org/sdgs/report/2022/>.

<sup>54</sup> See A/HRC/51/13, paras. 24–26, and <http://unesdoc.unesco.org/images/0026/002655/265552E.pdf>.

<sup>55</sup> A/HRC/50/29, para. 85.

<sup>56</sup> Human Rights Council resolution 45/18; submission by UNESCO.

journalism, can rebalance the relationship between news media and online platforms<sup>57</sup> and contribute to effective efforts to counter disinformation.<sup>58</sup>

#### 4. Building digital, media and information literacy

34. In its resolution [76/227](#), the General Assembly called upon States “to counter all forms of disinformation through policy measures, including education, capacity-building for prevention and resilience to disinformation, advocacy and awareness-raising”. In today’s quickly evolving information ecosystem, it is critical to recognize that each person can play a vital role in addressing disinformation. Media and digital literacy initiatives to enhance the capacities of policymakers, educators, information and media professionals, youth organizations and disadvantaged populations to identify, dispel and debunk false and misleading information are crucial.<sup>59</sup>

35. Some States have carried out digital and media literacy programmes to enable more resilient and meaningful participation online. For instance, the Public Broadcasting System of Mexico created “Infodemia”, an initiative undertaken with partners, including the United Nations. This initiative provides users with digital education to build their capacity to understand the use of social networks and to identify and prevent risks in terms of privacy and data protection.<sup>60</sup> In Poland, the project “Media Literacy Education of the Modern Poland Foundation”, supported by the Government, provides free educational resources to improve access to information.<sup>61</sup>

36. In some countries, these educational tools and methodologies are provided to the populations most at risk of being left behind. According to States’ reports, schools in Colombia and Estonia provide media literacy courses to young people on how media and digital networks function.<sup>62</sup> In the past 10 years, more than 13 million Colombians, including young persons with disabilities, are reported to have taken part in the “En TIC Confío+” and “Con Sentidos TIC” programmes, which seek to prevent online harassment and violence through digital courses addressing the abusive phenomena of, inter alia, sexting, cyberdependence, grooming, child sexual exploitation and cyberharassment.<sup>63</sup>

37. Other States have developed educational systems that uphold human dignity, nurture tolerance, and promote a culture of dialogue and respect for diversity in order to build trust<sup>64</sup> and increase mutual understanding and social cohesion, which are essential to overcoming the underlying causes of spreading disinformation.

38. Some States reported that they have worked cooperatively with journalists and civil society organizations to research the complex phenomenon of disinformation or to conduct fact-checking. For instance, the European Digital Media Observatory, supported by the European Union, is a cross-border, multidisciplinary community of independent fact-checkers and academic researchers, who leverage their knowledge of local information environments to detect, analyse and expose disinformation campaigns in Europe. The Government of Poland reported that the Polish Press

<sup>57</sup> See [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/779882/021919\\_DCMS\\_Cairncross\\_Review\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779882/021919_DCMS_Cairncross_Review_.pdf).

<sup>58</sup> See [www.ohchr.org/Documents/Issues/Expression/JointDeclaration3March2017.doc](http://www.ohchr.org/Documents/Issues/Expression/JointDeclaration3March2017.doc).

<sup>59</sup> See Human Rights Council resolution [50/15](#) and [www.unesco.org/en/communication-information/media-information-literacy/about](http://www.unesco.org/en/communication-information/media-information-literacy/about).

<sup>60</sup> Submission from Mexico.

<sup>61</sup> Submission from Poland; see also <https://nowoczesnapolska.org.pl/about-us/>.

<sup>62</sup> Submissions from Colombia and Estonia.

<sup>63</sup> Submission from Colombia.

<sup>64</sup> See [A/HRC/37/55](#), para. 48, and [www.weforum.org/agenda/2019/05/how-finland-is-fighting-fake-news-in-the-classroom/](http://www.weforum.org/agenda/2019/05/how-finland-is-fighting-fake-news-in-the-classroom/).

Agency (Polska Agencja Prasowa) and the agency GovTech Poland have launched a project named “#FakeHunter” aimed at exposing and refuting false information related to COVID-19.<sup>65</sup> Such efforts may be helpful in countering disinformation, provided that there is room for expressing diverse views and debate.

39. Fact-checking and other efforts to counter disinformation are more credible and effective when approached in a multi-stakeholder manner, as cooperation between Governments, civil society organizations, companies and other stakeholders is essential. For example, the United Kingdom of Great Britain and Northern Ireland reported having established a counter disinformation policy forum that brought together social media companies, academics, fact-checkers and researchers with the objective of identifying the means to address disinformation in line with human rights norms.<sup>66</sup> Some non-governmental organizations have developed innovative tools and approaches, including songs and peer-to-peer exchanges, to reach affected communities and build trust to combat disinformation.

40. Some States have also reported efforts to equip the public with tools to help them verify the reliability of the information they come across. For instance, the Austrian Institute of Technology, with other stakeholders, has developed forensic media tools (artificial intelligence tool “defalsif-AI”) to give users a reliable way to assess the authenticity and credibility of text, video and audio materials on the Internet and thus to detect disinformation, deep fakes and other misleading content, especially in the context of politically motivated disinformation.<sup>67</sup>

## **B. Challenges arising in State attempts to regulate disinformation**

41. While States have taken a number of helpful steps to counter disinformation, many current efforts to counter disinformation raise significant human rights concerns.<sup>68</sup> Given the challenges in defining disinformation, it is not surprising that some measures adopted by States or companies in recent years to counter disinformation have resulted, whether unwillingly or knowingly, in undue restrictions on freedom of expression. In some cases, efforts to combat disinformation have been used by governments and political and other public figures to restrict access to information, particularly online, at key political moments; to discredit and restrict critical reporting; and to target, prosecute and silence journalists, political opponents, whistle-blowers and human rights defenders.<sup>69</sup> Approaches that seek simple solutions to this complex problem are likely to censor legitimate speech that is protected under international human rights law. Such overbroad restrictions are likely to exacerbate societal ills and increase public distrust and disconnection, rather than contribute to the resolution of underlying problems.<sup>70</sup>

42. State efforts to address the impacts of disinformation should avoid approaches that impose an undue burden on the freedom of expression or are susceptible to politicized implementation. Not all inaccurate information is harmful, and only some harms – such as those that in fact implicate public health, electoral processes or national security – may warrant State intervention. Even when there is a legitimate public interest purpose, the risks inherent in the regulation of expression require a carefully tailored approach that complies with the requirements of legality, necessity and proportionality under human rights law.

<sup>65</sup> Submission from Poland.

<sup>66</sup> Submission from the United Kingdom of Great Britain and Northern Ireland.

<sup>67</sup> Submission from Austria.

<sup>68</sup> [A/HRC/47/25](#), para. 85.

<sup>69</sup> See [A/HRC/44/25](#), para. 10, and [A/HRC/51/13](#), para. 24.

<sup>70</sup> Submission from Article 19.

43. Civil society organizations have tracked recently adopted laws to address various notions of “fake news”, “false news”, disinformation and defamation in at least 83 States.<sup>71</sup> The High Commissioner has noted that laws designed to address vaguely defined concepts of “disinformation” often contravene human rights law, lead to the criminalization of permissible content and significantly restrict information flows around the globe.<sup>72</sup> UNESCO also noted that responses to disinformation are often fragmented and introduce measures that restrict the right to freedom of expression and access to information at the centre, with insufficient attention given to empowering people, including through support for media and information literacy programmes.<sup>73</sup> A regional body also reported that some Governments have used the harms caused by disinformation “as a pretext to introduce disproportionate restrictions to press freedom”.<sup>74</sup>

44. At the same time, existing laws based on defamation, cyberbullying and harassment have been used effectively to counter instances of disinformation. Although not directly designed to address disinformation as such, these long-existing legal frameworks, when crafted in compliance with the legitimate restriction grounds under article 19 (3) of the Covenant, can be applied to reduce the spread of particularly harmful disinformation without imposing new restrictions on freedom of expression.<sup>75</sup>

45. A review of State efforts to address disinformation raises the following six areas of concern:

(a) *Lack of effective participation in the legislative process.* In many cases, regulatory responses to disinformation have been considered in haste and adopted without broad consultation. In the absence of an open and participatory consultation process with citizens, civil society groups, media entities and other stakeholders, there is a risk that measures adopted to tackle disinformation are not fully informed by realities on the ground, are misconceived in scope, and result in self-censorship and undue restrictions on freedom of expression.

(b) *Vague definitions of disinformation.* Many laws fail to define with sufficient clarity and precision what information is within their scope, and fail to clearly identify and tailor responsive and proportionate approaches to the harms they seek to prevent, leaving room for subjective interpretation, misapplication and abuse. For instance, international human rights mechanisms have raised concerns about “false information laws” that create space for restricting and criminalizing a large range of content, such as “false, offensive or harmful information”,<sup>76</sup> information that may be “provoking public opinion”,<sup>77</sup> information that may be “prejudicial” to the country’s public tranquillity or public finances,<sup>78</sup> information that “damage[s] the reputation of public institutions”,<sup>79</sup> or “rumours and untrue reports”.<sup>80</sup> Such provisions fail to meet the requirements set by human rights law for appropriate, lawful restrictions on free expression, including the need for restrictive measures to

<sup>71</sup> A/HRC/51/13, para. 24.

<sup>72</sup> Ibid., para. 60.

<sup>73</sup> Submission from UNESCO; see also [www.unesco.org/reports/world-media-trends/2021/en](http://www.unesco.org/reports/world-media-trends/2021/en) and <https://unesdoc.unesco.org/ark:/48223/pf0000378158>.

<sup>74</sup> [www.coe.int/en/web/moscow/-/statement-by-the-council-of-europe-commissioner-for-human-rights-dunja-mijatovic](http://www.coe.int/en/web/moscow/-/statement-by-the-council-of-europe-commissioner-for-human-rights-dunja-mijatovic).

<sup>75</sup> See [www.icnl.org/wp-content/uploads/2021.03-Disinformation-Policy-Prospectus-final.pdf](http://www.icnl.org/wp-content/uploads/2021.03-Disinformation-Policy-Prospectus-final.pdf).

<sup>76</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26674>.

<sup>77</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25158>.

<sup>78</sup> [www.ohchr.org/Documents/Issues/Opinion/Legislation/OL\\_SGP\\_3\\_2019.pdf](http://www.ohchr.org/Documents/Issues/Opinion/Legislation/OL_SGP_3_2019.pdf).

<sup>79</sup> CCPR/C/TUN/CO/6, para. 45.

<sup>80</sup> CCPR/C/BHR/CO/1, para. 53.

be strictly limited to protect a relevant legitimate purpose and the requirement to take the least intrusive approach possible to achieve that aim.

(c) *Excessive or disproportionate sanctions.* Some laws seeking to tackle disinformation provide for severe criminal sanctions, including imprisonment. Disproportionate punishment, especially when coupled with the overbroad scope of many disinformation laws, creates a serious risk of discouraging speech that should be protected under human rights law and that is important for free exchange and public discourse in societies. In particular, the risks of harsh, excessive or disproportionate sanctions may deter journalists and human rights defenders from carrying out their key roles in free and democratic societies and encourage self-censorship. At the onset of the COVID-19 pandemic, the High Commissioner expressed concern over restrictive measures in some States, noting that they had undermined public debate, restricted criticism of government policy and suppressed freedom of expression.<sup>81</sup> Concerns have also been raised by international and regional human rights mechanisms about arbitrary arrests and convictions of individuals in the name of combating disinformation.<sup>82</sup>

(d) *Outsourcing content moderation to private companies.* Some laws compel social media companies to respond to disinformation on their platforms, including through intermediary liability regimes, making business enterprises the de facto adjudicators of content, generally without sufficient transparency safeguards to assess human rights impacts or effective accountability mechanisms.<sup>83</sup> This is particularly problematic when intermediary liability regimes are likely to incentivize companies' overcompliance with take-down requirements, even when these do not conform to international standards, due to a lack of clear criteria for implementing restrictions and the fear of being subject to legal liability and potentially severe penalties. Even within platforms, such measures are often inconsistent across languages. Furthermore, such provisions may encourage a binary approach to managing information – take down or leave up – often without independent oversight. Such an approach fails to allow for more effective responses, is subject to the resource allocation priorities of businesses, and could increase mistrust in institutions and enhance the scope for abuse.

(e) *Internet shutdowns/blocking of websites and outlets.* Some temporary or extended Internet shutdowns, including restricting access to the Internet and blocking certain websites or platforms, have been explained as measures to tackle disinformation. Over the past decade, Internet shutdowns have often been imposed during periods of heightened tension, including around elections.<sup>84</sup> While the spread of disinformation during such periods may exacerbate adverse impacts on human rights, Internet shutdowns have broad impacts on a full range of rights and may even contribute to human rights violations and abuses, including by limiting their visibility.

<sup>81</sup> [www.ohchr.org/en/press-releases/2020/06/asia-bachelet-alarmed-clampdown-freedom-expression-during-covid-19](http://www.ohchr.org/en/press-releases/2020/06/asia-bachelet-alarmed-clampdown-freedom-expression-during-covid-19).

<sup>82</sup> See [www.coe.int/en/web/moscow/-/statement-by-the-council-of-europe-commissioner-for-human-rights-dunja-mijatovic](http://www.coe.int/en/web/moscow/-/statement-by-the-council-of-europe-commissioner-for-human-rights-dunja-mijatovic);  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25159>;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26457>;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25211>;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25741>;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25248>;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25532>;  
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23771>;  
 and [www.ohchr.org/en/press-releases/2020/04/venezuela-health-emergency-no-excuse-further-restrict-human-rights-say-un?LangID=E&NewsID=25849](http://www.ohchr.org/en/press-releases/2020/04/venezuela-health-emergency-no-excuse-further-restrict-human-rights-say-un?LangID=E&NewsID=25849).

<sup>83</sup> A/HRC/38/35, para. 68.

<sup>84</sup> A/HRC/50/55, para. 25.

Given the indiscriminate reach and broad negative impacts of shutdowns, they very rarely meet the human rights requirements of necessity and proportionality. As the Organization for Security and Cooperation in Europe Representative on Freedom of Media stated, “the answer to counter disinformation can never be found in a blanket ban; a complete shutdown of the Internet; or fully blocking media outlets from their possibility to disseminate information”.<sup>85</sup>

(f) *Role of public officials.* Disinformation can be particularly pernicious when it is spread by political or public officials, yet addressing it in such contexts poses significant additional challenges. In some cases, such figures have portrayed the arguments of their opponents as “false”, rather than as simply different from their own, or categorized journalists’ mistakes as “lies” for their own political or ideological gain.<sup>86</sup> Freedom of expression experts have underlined that State actors have a particular duty in this context and “should not make, sponsor, encourage or further false information”.<sup>87</sup> As the Inter-American Court of Human Rights has established, “public officials ... are in a position of guarantors of the fundamental rights of the individual and, therefore, their statements cannot be such that they disregard said rights so that they must not amount to a form of interference with or pressure impairing the rights of those who intend to contribute to public deliberation by means of expression and dissemination of its thought”.<sup>88</sup>

### C. Disinformation and the role of technology companies

46. While States play a central role in efforts to address the impacts of disinformation, business enterprises, particularly media companies, online platforms, including social media companies, and technology companies, must also increase engagement to meet the evolving challenges posed by disinformation, given their responsibilities to respect human rights by addressing any adverse human rights impacts that they may have caused or contributed to, directly or indirectly. The General Assembly and the Human Rights Council have encouraged online platforms, including social media companies, to review their business models and ensure that their design and development processes, business operations, and data collection and data processing practices are in line with the United Nations Guiding Principles on Business and Human Rights.<sup>89</sup> Online platforms, including social media companies, have developed key channels for connecting people and facilitating public participation, sometimes opening new spaces for groups previously marginalized from communication environments. Even so, new digital media environments often contribute to both accelerating the pace and widening the spread of disinformation. In response to these concerns and to the increased pressure for regulation, some social media companies have worked to adapt their content moderation norms and practices in order to provide more information to the public about their interventions and to develop or improve channels for the public to request or challenge interventions.

47. Several social media companies have recently developed or provided further details on their moderation policies concerning disinformation, spam, manipulated

<sup>85</sup> [www.osce.org/files/f/documents/7/c/513313.pdf](http://www.osce.org/files/f/documents/7/c/513313.pdf).

<sup>86</sup> See [www.palermo.edu/Archivos\\_content/2021/cele/papers/Disinformation-and-public-officials.pdf](http://www.palermo.edu/Archivos_content/2021/cele/papers/Disinformation-and-public-officials.pdf).

<sup>87</sup> [www.ohchr.org/Documents/Issues/Expression/JointDeclaration3March2017.doc](http://www.ohchr.org/Documents/Issues/Expression/JointDeclaration3March2017.doc).

<sup>88</sup> [www.corteidh.or.cr/docs/casos/articulos/seriec\\_195\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_195_ing.pdf).

<sup>89</sup> See General Assembly resolution 76/227, Human Rights Council resolution 49/21, A/HRC/50/56, [www.ohchr.org/sites/default/files/Documents/Issues/Business/B-Tech/key-characteristics-business-respect.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/Business/B-Tech/key-characteristics-business-respect.pdf) and [www.ohchr.org/sites/default/files/Documents/Issues/Business/B-Tech/B\\_Tech\\_Foundational\\_Paper.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/Business/B-Tech/B_Tech_Foundational_Paper.pdf).



media, “fake engagement” or coordinated inauthentic behaviour.<sup>90</sup> For example, as part of a series of reports on coordinated inauthentic behaviour, Meta reported that, in 2021, it had removed 52 networks found in 34 countries that had “engaged in coordinated efforts to manipulate or corrupt public debate for a strategic goal, while relying centrally on fake accounts to mislead people about who’s behind them”.<sup>91</sup> At the start of the COVID-19 pandemic, a group of companies made a joint commitment to combat fraud and misinformation about the virus, elevating authoritative content on their platforms.<sup>92</sup>

48. Technology enterprises have increasingly relied on a range of tools to respond to disinformation. Content moderation regarding disinformation usually takes the form of labels, warnings or removal of content. Other mitigating measures include promoting access to the most authoritative sources,<sup>93</sup> restricting the financial incentives of disinformation by demonetizing content, making disinformation less visible in newsfeeds, timelines or search results, and reducing its reach by penalizing clickbait.<sup>94</sup> Sometimes, these measures are supported by fact-checking initiatives, in partnership with trusted flagger partners. In some cases, technology enterprises provide for appeal or review processes against content removals, including through third-party oversight bodies.<sup>95</sup> These steps, however, remain insufficient to fully address the scale of the challenges posed by disinformation. More needs to be done, as noted in section IV below.

49. Technology enterprises are also developing approaches to provide new features that can grant users greater control over their online experiences. Some business enterprises enforce strict advertising policies that require transparency for users regarding the targeting, actual reach and amounts spent on the advertisements they see. Other efforts aim at demonetizing content to prevent disinformation from being profitable. Such approaches are to be encouraged.

50. Under the United Nations Guiding Principles on Business and Human Rights, business enterprises have a responsibility to have a human rights due diligence process in place to identify, prevent, mitigate and account for how they address their – actual or potential – impacts on human rights.<sup>96</sup> In dealing with disinformation, companies should, therefore, adopt clear and easily accessible policies consistent with human rights, with strong protections for public discourse on matters of public interest, and carry out periodic reviews of the impact of their policies on freedom of expression – including the right to access information – and the human rights of rights holders.

51. To meet their obligations to protect against human rights abuses caused by companies, States should apply a combination of legal and policy measures to require technology companies to respect human rights.<sup>97</sup> This includes ensuring that

<sup>90</sup> See <https://newsroom.fb.com/news/2016/12/news-feed-fyi-addressing-hoaxes-and-fake-news/>; <https://support.google.com/youtube/answer/10834785?hl=en>; [https://blog.twitter.com/en\\_us/topics/company/2022/introducing-our-crisis-misinformation-policy](https://blog.twitter.com/en_us/topics/company/2022/introducing-our-crisis-misinformation-policy); and [www.tiktok.com/community-guidelines?lang=en](http://www.tiktok.com/community-guidelines?lang=en).

<sup>91</sup> <https://about.fb.com/news/2022/01/december-2021-coordinated-inauthentic-behavior-report/>.

<sup>92</sup> See [www.theverge.com/2020/3/16/21182726/coronavirus-covid-19-facebook-google-twitter-youtube-joint-effort-misinformation-fraud](http://www.theverge.com/2020/3/16/21182726/coronavirus-covid-19-facebook-google-twitter-youtube-joint-effort-misinformation-fraud).

<sup>93</sup> See [www.youtube.com/howyoutubeworks/product-features/news-information/](http://www.youtube.com/howyoutubeworks/product-features/news-information/).

<sup>94</sup> See <https://about.fb.com/news/2018/05/hard-questions-false-news/> and <https://help.twitter.com/en/rules-and-policies/enforcement-options>.

<sup>95</sup> See <https://about.fb.com/news/tag/oversight-board/>.

<sup>96</sup> See A/74/486, para. 42, [www.ohchr.org/sites/default/files/Documents/Issues/Business/B-Tech/identifying-human-rights-risks.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/Business/B-Tech/identifying-human-rights-risks.pdf) and [www.ohchr.org/sites/default/files/Documents/Issues/Business/B-Tech/taking-action-address-human-rights-risks.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/Business/B-Tech/taking-action-address-human-rights-risks.pdf).

<sup>97</sup> See [www.ohchr.org/sites/default/files/Documents/Issues/Business/B-Tech/b-tech-foundational-paper-state-duty-to-protect.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/Business/B-Tech/b-tech-foundational-paper-state-duty-to-protect.pdf).



technology enterprises take the actions necessary to protect against harms from disinformation, including conducting regular human rights impact assessments, enhancing transparency and accountability, and providing users with access to their data and respecting their right to privacy. In addition, large technology enterprises in particular should be subject to monitoring in order to ensure that their business models, design and development processes, business operations, and data collection and data processing practices are in line with the Guiding Principles on Business and Human Rights.

52. Limited access to information concerning online environments poses a major challenge to addressing the impacts of disinformation. Much of the information needed to better understand the spread of disinformation and how best to combat it is only possessed by the companies involved. Lack of wider access to that data limits the ability of researchers to understand the processes in digital platforms, including the contribution of artificial intelligence-assisted curation, and limits the ability to find effective solutions to these concerns. Credible research on disinformation would also require contextual information and linguistic knowledge, as well as in-depth understanding of the multiple media and political, social and cultural environments that contribute contextually to the circulation and impact of disinformation. Given this lack of readily available information, current research tends to insufficiently reflect the realities of numerous countries, notably those with diverse cultural and economic development, which are particularly affected by the spread of disinformation.

53. Despite technology advancement, automated content moderation systems – even in English – continue to have considerable rates of error. These concerns tend to be greater in other linguistic contexts, as automated systems can replicate originating biases embedded in their design and development.<sup>98</sup> According to a recent survey,<sup>99</sup> there are instances in which the majority of users have limited access to moderation tools or oversight mechanisms due to the fact that policies and tools have not been translated into the needed languages. Even if terms of service are increasingly being translated, transparency reports, tools to support users and other communications posts from platforms are far less accessible for non-English-speaking users and almost non-existent in many languages.<sup>100</sup> Furthermore, a glaring disparity in resources devoted to content moderation in languages other than English and in contexts beyond those most immediate to the companies' headquarters also has an enormous impact.<sup>101</sup>

54. Different research streams will provide valuable new insights into, for instance, the impact of algorithm ranking and content attribution in the consolidation of opinion groups or their potential radicalization. Some studies have underlined that people are more likely to be drawn to content that confirms their predispositions,<sup>102</sup> while other studies indicate that persons consuming more extreme forms of content tend to actively search for that content.<sup>103</sup> Other research is exploring whether recommender systems that allow or weight algorithms to offer individually tailored recommended content consumption may contribute to and amplify polarization and disinformation.<sup>104</sup> Research could also explore how advertising systems contribute to amplifying the

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<sup>98</sup> See [www.osce.org/files/f/documents/8/f/510332\\_1.pdf](http://www.osce.org/files/f/documents/8/f/510332_1.pdf).

<sup>99</sup> <https://internetlanguages.org/en/summary/>.

<sup>100</sup> See A/HRC/38/35, para. 40, and [www.gp-digital.org/marginalised-languages-and-the-content-moderation-challenge/](http://www.gp-digital.org/marginalised-languages-and-the-content-moderation-challenge/).

<sup>101</sup> A/HRC/38/35, para. 56.

<sup>102</sup> See <https://rerank-lab.org/papers/suppanutCIKM2019analyzing.pdf>.

<sup>103</sup> See <https://cpb-us-e1.wpmucdn.com/sites.dartmouth.edu/dist/5/2293/files/2022/04/YouTube.pdf>.

<sup>104</sup> See [www.oii.ox.ac.uk/news-events/news/how-social-media-echo-chambers-emerge-and-why-all-your-friends-think-trump-will-lose/](http://www.oii.ox.ac.uk/news-events/news/how-social-media-echo-chambers-emerge-and-why-all-your-friends-think-trump-will-lose/).

potential repercussions of disinformation, how amplification tools are used to conduct targeted information campaigns online, and how online campaigns at times complement the spread of disinformation through traditional media channels and Government information systems.

## **IV. Conclusions and recommendations**

### **A. Conclusions**

55. **Digital technologies are often used to supercharge the global spread of disinformation. While they are not the only cause of the problem, urgent steps need to be taken by both States and business enterprises to address this challenge. Despite there currently being no simple technological solution to countering disinformation and no readily available way of identifying it, there are a number of ways to more effectively address disinformation, as discussed in this report.**

56. **States bear the primary responsibility to counter disinformation by respecting, protecting and fulfilling the rights to freedom of opinion and expression, to privacy and to public participation. States also have a role to play in mitigating the harms caused by disinformation, while working to address the root causes and societal tensions that allow disinformation to flourish, in order to foster respect for human rights, online and offline, and to support a plural civic space and media landscape.**

57. **To be effective in countering disinformation, responses need to be multifaceted and context-specific, and should be grounded in respect for the right to freedom of expression. In particular, strategies to counter disinformation should be clear about what disinformation they are seeking to tackle and identify the key players and obstacles in a particular context; remedies should be developed accordingly.**

58. **Countering disinformation requires lasting investment in building societal resilience and media and information literacy, thereby empowering individuals to identify, critically analyse and counter disinformation, with a view to enabling their full and effective participation in public affairs. As highlighted in the report of the Secretary-General entitled “Our Common Agenda”,<sup>105</sup> it is paramount to promote integrity in public information, which requires Governments to be transparent, accurate and accountable. A free and plural public debate is critical for an informed public that is resilient to disinformation.**

59. **Taking these steps is essential to finding sustainable, effective responses to disinformation. At the same time, care should be taken to ensure that overbroad responses to disinformation do not themselves undermine trust and diminish rights.**

### **B. Recommendations**

60. **With a view to combating the harmful impacts of disinformation and renewing stronger relationships of trust and confidence between people and their governments, the Secretary-General recommends that States:**

(a) **Recognize that a multifaceted approach anchored in the protection of and respect for human rights, in particular the right to freedom of expression, is**

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<sup>105</sup> [A/75/982](#).

indispensable for combating disinformation. This includes effective access to information from different sources and free media, open spaces for participation and debate, education that fosters critical thinking and targeted regulation of business enterprises in the communications domain;

(b) Invest in meaningful, inclusive and safe participation at all levels, from local to global, and respect the rights to freedom of opinion and expression, to association and to peaceful assembly, in recognition of the role of community engagement and civil society involvement in enhancing societies' resilience to polarization;

(c) Provide information to the public, in accessible formats, and adopt or strengthen access to information laws in accordance with international human rights standards;

(d) Ensure that responses to disinformation comply with international human rights norms and are not misused against political opponents, human rights defenders, journalists, civil society actors or those holding minority views. To that end, States should avoid adopting general prohibitions on the dissemination of information based on vague and ambiguous concepts, including "false news". States should adhere to international human rights principles when countering disinformation and ensure that any restrictions on the right to freedom of expression are provided for by law, serve a recognized legitimate interest, and are necessary and proportionate to protect that interest;

(e) Ensure a greater degree of transparency regarding measures to counter disinformation, including through public disclosure of any requests to business enterprises relating to content moderation, and expressly permitting business enterprises to also report on such requests;

(f) Establish independent oversight to ensure accountability for enterprises' actions in terms of implementing any transparency and other obligations and commitments and redress for users;

(g) Encourage technology enterprises to publicly disclose information on their content moderation policies and practices, to embed human rights impact assessments in their efforts to respond to disinformation and to provide researchers with access to data in a manner that respects user privacy;

(h) Guarantee a free, viable and plural media landscape, providing strong protections for journalists, human rights defenders and whistle-blowers, and consider supporting transparent self-regulatory mechanisms by media that promote and protect the highest standards of professionalism;

(i) Discourage public officials from disseminating disinformation through measures such as professional codes of conduct, and adopt measures aimed at holding them accountable for expressions amounting to advocacy of national, racial or religious hatred that constitute incitement to discrimination, hostility or violence, as prohibited under international human rights law, in line with the United Nations Strategy and Plan of Action on Hate Speech. Public officials should never denigrate, intimidate or threaten the media;

(j) Refrain from imposing measures that prevent or disrupt general access to the dissemination of information, online and offline, including Internet shutdowns;

(k) Invest in education systems that further critical thinking about media and information, and digital literacy, including through collaborative efforts with civil society and academia, to provide individuals with the tools to identify and evaluate information and sources.

61. Technology enterprises shall respect human rights, avoid causing or contributing to adverse human rights impacts through their activities and address adverse impacts with which they are involved. In particular, the Secretary-General recommends that they:

(a) Disclose policies and practices relevant to countering disinformation, including mitigating measures such as removals, labelling, suspension of accounts, demonetization and de-amplification of content; provide detailed information on how these measures are taken across geographical areas and languages; and ensure independent monitoring and measuring of their impact;

(b) Publicly report on Government requests relating to content or data in relation to the spread of disinformation and maximize transparency to shed light on their responses;

(c) Expand their transparency and reporting regarding the user data collected and used, in particular political advertising and related funding;

(d) Take action against coordinated attacks, including those targeting critical voices and journalists, including women journalists, and report on any steps taken in that context. Devote greater resources to such efforts during key political events, such as election periods, peace talks, protest movements or global gatherings;

(e) Provide access, as appropriate, for researchers to relevant data and information to understand the dynamics related to disinformation and inform evidence-based policies and regulatory measures;

(f) Ensure independent complaint-review mechanisms and provide users with effective remedies;

(g) Conduct due diligence in relation to the effects of their products, policies and operations, in line with their responsibilities under the United Nations Guiding Principles on Business and Human Rights, including by conducting human rights impact assessments, involving independent reviewers, and reviewing their business models;

(h) Pay consistent attention to potential human rights impacts across States, and ensure that the implementation of disinformation policies is consistent and sufficiently resourced across States of operation to ensure that such policies are responsive to local languages and contexts;

(i) Engage diverse stakeholders in the design and ongoing assessment of the impact of policies and strategies aiming at addressing the spread of disinformation and support civil society from every region of the world to enable their full participation.