Input for report on disinformation

Intervozes - Coletivo Brasil de Comunicação Social is a civil society organization that has been working for 18 years for communication as a human right and for freedom of expression, a condition for the existence of a democratic society. The collective is present in 15 Brazilian states and the Federal District. It is also part of networks of entities that operate nationally and internationally for the implementation of digital rights, such as the Coalition Rights on the Network, formed by more than 40 entities in Brazil, and the Association for the Progress in Communications (APC). Among our actions are monitoring and inspection of the actions of the Executive, Legislative, Judiciary and companies that provide communication services; production of reference material and campaigns; political articulation with social movements and organizations; monitoring of violations of rights in the traditional media and on the Internet, with the formulation of complaints to national and international bodies.

In recent years, Intervozes has been conducting a series of researches on the issue of disinformation, analyzing its effects in the Brazilian context and the measures adopted by several agents to minimize the problem (big digital platforms, checking agencies, government, and the justice system, among others). Besides, it drew up a series of recommendations on the topic. Intervozes is also part of the group of Latin American organizations that prepared the document "Standards for the democratic regulation of big digital platforms that guarantee freedom of expression online and a free and open internet". It has also discussed how the business models of digital platforms ("digital monopolies") favor the dissemination of disinformation and put freedom of expression at risk. The organization also followed throughout 2020 the processing of bill 2630, which is being discussed in the Brazilian National Congress to combat disinformation.

Therefore, Intervozes presents this report to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, to present a contribution to the global debate on the theme from a Latin American perspective, and the particular case of Brazil. We thank you for the opportunity to collaborate with the special rapporteur and we make ourselves available for future collaborations.

1. *What do you believe are the key challenges raised by disinformation? What measures would you recommend to address them?*

Disinformation is a growing problem worldwide, affecting political systems, influencing election results, and causing several social problems, as it happens during the Covid-19 pandemic. In Brazil, for example, the intentional spread of disinformation for political purposes in the 2018 elections is being investigated. During the pandemic of the new coronavirus, the spread of disinformation, including on the part of the federal government, has contributed to the *disinformative disorder* that affects the country and that has led many people to take medications without proven efficacy and to fear the vaccines that are beginning to be applied. In addition, disinformation disproportionately asserts the most vulnerable groups, such as women, and the black, indigenous and LGBTI+ populations.

If disinformation has already become a problem in consolidated democracies, it has even more damaging effects in countries like Brazil. Here, the absence of plurality and diversity in the media already compromised freedom of expression and the right to information. These rights are even more threatened in the face of the monopolies of big digital platforms, the lack of access to the Internet for a large part of the population, and the lack of education for the media.

Faced with this problem, initiatives by the legislative branch to combat disinformation arise, such as, in Brazil, bill 2630/2020, which is being discussed in the National Congress. On the one hand, this type of project presents risks to freedom of expression, mainly because it fails to define what would be disinformation and because it puts the power to moderate users' content in the hands of big digital platforms. On the other hand, in the face of increasing pressure from society, the big digital platforms have adopted unilateral and non-transparent measures to combat disinformation. These measures, as shown by a study conducted by Intervozes, not only increase the "police power" of these platforms, but they have not been effective in the face of the problem of disinformation.

Intervozes believes that the problem of disinformation is complex. For this reason, a series of measures are necessary to empower Internet users and promote a plural and diverse media environment, as we intend to show in this report. Among them, combating digital monopolies and oligopolies, promoting media education, protecting users' personal data, demanding transparency from digital platforms concerning the functioning of their algorithms and their business models, prohibiting electoral campaigns in digital media, and punishing the artificial and industrial use of instant messaging platforms.

2. What legislative, administrative, policy, regulatory or other measures have Governments taken to counter disinformation online and offline?
- What has been the impact of such measures on i) disinformation; ii) freedom of opinion and expression; and iii) other human rights?
- What measures have been taken to address any negative impact on human rights?

The Brazilian federal government has not developed any administrative measures or public policies to contain disinformation. On the contrary, as numerous researches[1] and investigations conducted by freedom of expression defenders have shown[2], the Brazilian government uses disinformation as a tool and weapon of political dispute[3] willing to combat criticism it receives from the media and civil society sectors. Throughout 2020, especially around the Covid-19 pandemic[4] and the environment agenda[5], there were countless episodes of propagation of disinformation by the government, including through official communication channels of the Presidency of the Republic[67].

By acting in this way, the executive branch fosters a generalized context of disinformation, with significant consequences, especially for the right of access to information and the right to health during a global pandemic, which has already killed more than 235 thousand people in Brazil. The systematic dissemination of fake content also impacted the outcome of the 2018 and the 2020 elections in Brazil, with many candidates - including the current president Jair Bolsonaro - being elected based on massive disinformation campaigns against his opponents and also about the country's real situation.

Considering the seriousness and the scope of the misinformation in Brazil, some initiatives have been taken by states and local administrations, by the Legislative, and also the Judiciary. City halls such as Aracaju[8], for example, located in the northeast of the country, organized campaigns to address misinformation about Covid-19, aiming to provide more agile responses to the population based on real data and facts. The São

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[1] https://saude.estadao.com.br/noticias/geral,bolsonaristas-impulsionam-desinformacao-nas-redes,70003427449
[2] https://rsf.org/pt/brasil
[3] https://intervozes.org.br/violencia-e-divergencia-de-opiniao-e-desinformacao-e-liberdade-de-expressao-afirma-governo-na-cidh/
[4] https://apublica.org/2020/04/a-rede-de-fake-news-que-derrubou-mandetta/
[5] https://www.metropoles.com/brasil/bolsonaro-ataca-ongs-na-amazonia-nao-consigo-matar-esse-cancer
[6] https://www.bbc.com/portuguese/brasil-52077132
[7] https://ciencianarua.net/posicionamento-da-presidencia-sobre-vacinacao-repercute-em-grupos-antivacina/
[8] https://ciencianarua.net/posicionamento-da-presidencia-sobre-vacinacao-repercute-em-grupos-antivacina/

Paulo City Department of Education provided training courses on so-called "fake news" and digital education for teachers and citizens[9]. In the city of Rio de Janeiro, the Social Assistance Secretariat organized a series of meetings with community leaders to spread information about the pandemic[10]. In the state of Ceará, the government launched the Antifake CE platform, which provides fact-checking and receives complaints about health-related misinformation[11].

Such measures have contributed to expand the circulation of verified information about the new coronavirus and also to foster a critical view about online content, contributing to the protection of individual and collective health. In the Legislative, several municipalities and most Brazilian states have proposed laws to combat disinformation. Most of them establish the application of fines for those who disseminate, by electronic or similar means, "fake news" about epidemics, endemics and pandemics in the states[12].

Such initiatives, however, may present risks to the exercise of freedom of expression, mainly because they use very broad and subjective concepts of what could be characterized as "disinformation"; for targeting ordinary citizens who, in a country with our inequalities, often share content without having the necessary training or conditions to verify its veracity; because they can menace the work of the press, which could be accused by political authorities of spreading misinformation; and because some laws are also silent as to which body would be responsible for analyzing the reported content and determining its veracity or not, generating the risk for restricting legitimate discourses, depending on the political context.

In the Federal Legislative, bill 2630/20[13], already approved in the Senate, is the main initiative in terms of tackling disinformation. The text brings positive measures such as the labeling of automated accounts; the expansion of transparency obligations by social network sites and private messaging services, mainly about advertisers; duties for public authorities related to the use of official accounts on digital platforms and government online advertisement; and principles of due process in content moderation practice by social network sites, such as notice, right to appeal and reparation in case of undue content removals by the companies. These are measures to ensure freedom of expression and also other human rights online.

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[9] https://educacao.sme.prefeitura.sp.gov.br/acoes-da-secretaria-municipal-de-educacao-visam-combate-as-fake-news/

[10] https://prefeitura.rio/assistencia-social-direitos-humanos/projeto-resenha-contra-covid-19-combate-fake-news-sobre-a-pandemia/

[11] https://diariodonordeste.verdesmares.com.br/politica/covid-19-governo-do-estado-lanca-plataforma-para-combater-fake-news-relacionadas-a-pandemia-1.2240188

[12] https://g1.globo.com/politica/noticia/2020/05/17/coronavirus-21-estados-e-o-df-propoem-projetos-para-multar-quem-divulga-fake-news-na-pandemia.ghtml

[13] https://www.camara.leg.br/propostas-legislativas/2256735

The bill, however, still establishes measures that can negatively impact fundamental rights such as privacy and freedom of expression. Based on the idea that all users must be identified in order to use social networks and private messaging services, PL 2630/20 establishes a regime of mass identification of users by creating the concept of "identified account" and stipulating that users must present valid identity documents in case of simple accusations or denounces of simulated identity.

The responsible for requesting proof of identity will be the platform, which will have a 'police power' to judge violations of Brazilian laws, considering that the bill obliges them to develop measures to "detect fraud in the registration and the use of accounts in disagreement with the legislation". Forcing users to provide official identity documents for platforms will make compulsory an even greater collection of personal data that, if exposed or used in an unethical way, may turn the population even more vulnerable to disinformation.

Another section of the bill states that "private messaging services must keep records of messages sent in mass forwardings, for a period of 3 months, safeguarding the privacy of its content". "Mass forwarding" is considered as the sending of the same message by more than 5 users, up to 15 days, to groups and transmission lists. The bill determines the record of data of who sent the message, the date and time of the forwarding, and the total number of users who received the message. Access to the records can only occur through a court order, for the constitution of evidence in a criminal investigation and in criminal procedural instructions.

The measure is presented as a mechanism for "traceability" of the message flow, an alleged resource necessary for the investigation and accountability of the group of individuals who would have participated in the dissemination of a certain content considered illegal. The legislative "innovation" is presented based on a mistaken argument, according to which this would be the only form of investigation in the face of applications based on end-to-end encryption technologies.

The requirement directly strikes the principles of the General Data Protection Law (Law No. 13,709 of 2018), according to which data collection must be strictly necessary for the purposes of a given service. By urging to record these data a priori, the bill reverses the principle of the presumption of innocence in the Brazilian Federal Constitution. In addition to the massive identification, the obligation to keep these data subjects the whole population to risk in the face of vigilant policies, measures of misuse of their data by companies, and, also, mass leaks.

Before an offensive on freedoms and rights by Brazilian authorities, such mechanisms impose even greater risk on users and those who wish to use their legitimate right to

criticize authorities and political and economic groups - such as journalists, researchers, parliamentarians, and even citizens.

Finally, also brings concerns the composition for the Transparency and Responsibility Council, a multistakeholder technic body intended to monitor the implementation of the law, carry out studies and recommendations on freedom, responsibility and transparency on the Internet. The council will also be responsible for drafting a code of conduct for social networks and private messaging services, publishing indicators on the sector's compliance with this code, and evaluating the transparency reports sent by the companies.

According to the bill, the Council will be composed of 21 members, with a two-year term, including representatives of the Senate; the Chamber of Deputies; the National Council of Justice; the Brazilian Internet Steering Committee; representatives of civil society, academia and the technical community; access to the internet and content providers; among others. Such composition should be revised, aiming at a greater numerical balance between the sectors represented and the participation of bodies whose mandate is directly related to the objectives and principles of the Law. It does not seem appropriate the presence of representatives of the Chiefs of the Civil Police and the Federal Police, nor Anatel (National Telecommunications Agency) and Conar (National Advertising Self-Regulation Council) on the Council. The representation of companies should also include the representation of fact-checking agencies, central to the process of addressing disinformation and which are outside the Transparency and Accountability Council.

Such proposals drew the attention of the international community and, in addition to internal mobilization in Brazil, were the subject of statements by dozens of international human rights and digital rights organizations, as well as by United Nations rapporteurs for privacy and freedom of expression[14].

The first version of the bill brought other risks to freedom of expression, such as a subjective definition of "disinformation" and the obligation of social networks to analyze content based on this definition, and remove it if problems were detected. The strong opposition of civil society and freedom of expression organizations - such as Intervozes, the Coalition Rights on the Network, and the National Forum for the Democratization of Communication -, of the technical community and human rights associations and journalism representation were fundamental to remove such risks from the bill.

In addition to false or distorted news against candidates, the contestation, based on disinformation, of the electoral process has also increased. The research "Online

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[14] http://plfakenews.direitosnarede.org.br/

Misinformation and Elections in Brazil: The circulation of messages about distrust in the Brazilian electoral system on Facebook and YouTube (2014-2020)"[15] points out that the volume of messages circulating on the Internet whose target is the electoral system is permanent and growing, even in non-electoral years. Disinformation related to the elections was practically the only focus of Electoral Justice throughout 2020. While the Superior Electoral Court (TSE) was concerned to quickly respond to the disinformation campaign that the electronic ballot boxes and their counting system underwent, "fake news" against candidatures circulated abundantly. In this field, the task of combating the phenomenon of disinformation was practically all transferred to digital platforms and their internal decisions.

Virtually no tools have been made available by the Electoral Court by its official channels for receiving cases of distribution of fake news against candidacies, as recorded in a special series of articles by the Coalition Rights on the Network on the website Congresso em Foco[16]. The exception was the partnership with WhatsApp, which offered citizens a channel for complaints against misinformation and mass shootings. As a result of this partnership, more than a thousand accounts were banned from the application due to the suspicion of mass firing, in a universe of 4,759 complaints made between September 27 and November 15. However, TSE informed that, in the partnership, it would be up to "just forward complaints" to the Facebook group's application, whose role is to block suspicious accounts. Facing the inaction of the electoral court, the collective Transforma MP and the Brazilian Association of Jurists for Democracy (ABJD) asked the court to also forward to the Electoral PPO the news of possible electoral illicit mass shootings[17].

To have an idea of judicial institutions, understood in a broad sense, slow pace in dealing with the topic of disinformation, it was only on November 26 that the Electoral PPO offered the first complaint based on this theme in the 2020 campaign. On this date, the Regional Electoral PPO in Rio de Janeiro filed a lawsuit against Marcelo Crivella and Andréa Firmo (Republicanos Party), candidates for City Hall, for attributing to their adversary, Eduardo Paes (DEM), "facts that they know are untrue to influence the electorate", that were considered "false propaganda".

There are plenty of complaints to investigate and to sentence. Patrícia Campos Mello, a journalist at Folha de S. Paulo[18], reported that at least five companies were offering mass

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[15] http://bibliotecadigital.fgv.br/dspace/handle/10438/30085
[16] https://congressoemfoco.uol.com.br/opiniao/colunas/justica-eleitoral-fez-pouco-contra-desinformacao-violencia-politica-e-uso-de-dados/
[17] http://www.transformamp.com/coletivos-transforma-mp-e-abjd-enviam-requerimento-ao-tse/

[18] https://www1.folha.uol.com.br/poder/2020/10/empresas-burlam-regras-e-mantem-disparos-em-massa-de-mensagens-eleitorais.shtml

shootings to candidates, a conduct prohibited by the TSE. The PPO of the 1st and 2nd electoral zones, in São Paulo, instituted an investigation procedure to investigate complaints about mass shooting by WhatsApp and extraction of data from Instagram and Facebook voters in the municipal election.

Since the 2018 presidential elections, four actions await sentences by the TSE - two filed by the Brasil Feliz de Novo coalition (PT-PC do B-PROS) and two by the Brasil Soberano coalition (PDT-Avante) - dealing with reports of illegal mass shooting by WhatsApp and which would have benefited Jair Bolsonaro (then PSL) and Hamilton Mourão (PRTB). Prioritizing the progress of these actions does not seem to have been the choice of the current members of the Court, including its president, Luís Roberto Barroso, and vice president, Luiz Edson Fachin - who have held positions in the electoral court since May last year. If the complaints are considered valid by the TSE, the Bolsonaro-Mourão mandate may be revoked.

Started in 2019, the Federal Supreme Court (STF) Inquiry No. 4781 determined the blocking of Facebook, Instagram and Twitter accounts by popular Bolsonaro`s supporters such as businessman Luciano Hang (Havan), former deputy Roberto Jefferson (PTB), ex-feminist Sara Giromini and bloggers Allan dos Santos and Bernardo Küster, and gained momentum in 2020, despite questions[19] about the interpretation of the court's internal regulation that support the investigation. The Supreme Court considered the inquiry created by then chief-justice Dias Toffoli, in June, by ten votes to one, constitutional. The unfolding of the inquiry put civil society in a difficult position, in a polarized context, to point out problems in the STF rule. At the time, it was up to Intervozes and other civil society organizations to point out the problems in the rule. The suspension based on expressions like "subversion of order" and "incentive to break institutional and democratic normality" can be used against social movements and activists. Intervozes also highlighted[20] that freedom of expression is not an absolute right, but that "its limitation must occur in a strict and justified way, observing the principles of legality, necessity, and proportionality". "One abuse does not justify another one", concludes the statement.

The lack of action on the part of the State to combat disinformation can be measured by the increase in cases of political violence on the Internet, a phenomenon related to the disinformation that circulates freely on the networks. The MonitorA project[21], which collects and analyzes comments directed at candidates from all political spectrum to understand the dynamics of violence during the elections, pointed out that in the first

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[19] https://irisbh.com.br/inquerito-do-stf-contra-fake-news-avanco-ou-retrocesso/
[20] https://www.uol.com.br/tilt/noticias/redacao/2020/07/24/suspensao-de-bolsonaristas-e-desproporcional-e-fere-liberdade-de-expressao.htm
[21] https://www.internetlab.org.br/pt/?s=MonitorA+discurso+de+%C3%B3dio&post_type=post

month of the 2020 election campaign, 93,335 tweets mentioned the 123 monitored candidates in Bahia, Minas Gerais, Rio de Janeiro, Rio Grande do Sul, Santa Catarina and São Paulo, 11% of the tweets had some aggressive content. Among those who had some kind of engagement (likes and/or retweets), 1,261 were cursing directly at the candidates. The survey "Political violence against black women", carried out by the Marielle Franco Institute with 142 black candidates from 21 states and 16 parties, showed that virtual violence was the main type of violence reported by respondents, making up 78% of the total (eight every ten black candidates interviewed suffered online violence).

3. What policies, procedures or other measure have digital tech companies introduced to address the problem of disinformation?
- To what extent do you find these measures to be fair, transparent and effective in protecting human rights, particularly freedom of opinion and expression?
- What procedures exist to address grievances and provide remedies for users, monitor the action of the companies, and how effective are they?

Intervozes carried out a study on the measures adopted by the main digital platforms regarding disinformation [22] . The following platforms were analyzed: Facebook, Instagram, YouTube, Twitter, and WhatsApp. The complete analysis is presented in the annex.

The researched shows that digital platforms do not present structured policies and processes on the problem of disinformation and develop specific and reactive actions to combat the phenomenon. In general, they avoid the analysis of uninformative content, but end up doing it. None of the companies reported working with a unified concept of disinformation. Also, it was found that several terms were used, such as "false news" and "misleading information". Despite the polysemy of the term and the intense debate both in society and in academic circles about it, the explanation of a concept would be an advance as a way of giving transparency on what type of content can be impacted by the analysis, signaling or sanctions measures. Not addressing it directly does not alleviate the problem and leaves room for others, such as unilateral and unclear decisions.

Besides, none of the companies reported having a specific structure to address the issue of disinformation, which can make it difficult to coordinate initiatives within each organization. In the context of the growth of automated decisions by platforms, it was not clear in the explanations given to this research the criteria for using natural persons in the analysis and decision on measures of content moderation.

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[22] https://intervozes.org.br/publicacoes/fake-news-how-platforms-combat

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Regarding the moderation of uninformative content, verification of content, mainly by external agencies, is a practice present in most platforms. When they occur, checks are carried out according to the platform's categorizations, a necessary guideline to avoid different treatments by each checker. Even so, naturally, the complexity of analyzing the "shades of gray" between one and the other extreme entails risks of questionable assessments, which is why the verification should have effective due process mechanisms to mitigate abuses and errors. On platforms where the content is checked, it is "flagged". Political and academic agents pointed out the ineffectiveness of this mechanism; studies have shown that alerts even call attention to content. Even with this "side effect", it seems to be a necessary tool.

Moderation also covers ads and driven content. In such cases, there are restrictions on content already considered uninformative. The extension of disinformation measures to advertisements is essential because this is the economic dimension of the practice of producing and disseminating false news as a business, which is exploited by the "factories of deceptive content" and also by the platforms themselves, which benefit from the collection of incentives. In the case of advertisements with speeches by politicians, the measures come up against exceptions to the speech of these agents adopted by some companies.

For most of the period analyzed by our research, platforms resisted removing uninformative content as they do in other categories, based on what is unilaterally defined in their guidelines. But that attitude began to change in the context of the new coronavirus pandemic, with a profusion of misinformation about the disease and about "miraculous ways" of cure. The serious health risks have put pressure on platforms to respond more quickly and harshly to this. In this context, the admission of exceptional situations of withdrawal in cases of evident risk of serious damage seems a reasonable possibility, as long as it is connected to rules of due process that allow the contestation, the assessment of resources by people and the reparation in case of error in applied moderation, which is not guaranteed on any of the analyzed platforms.

The reduction in reach, a measure more present in cases of disinformation, ends up assuming almost a condition of exclusion and appears as a measure of high impact on the contents, but whose efficiency has not been fully proven.

Studies mentioned in the research point to a reduction in the speed of dissemination of disinformation, but the limitation of the reach does not prevent such uninformative content from circulating. It is necessary to deepen investigations on the subject, with emphasis on investigations that can effectively focus on the operation of professional groups that use platforms with systems that allow circumventing these limitations.

Part of the analyzed platforms provides more information in the case of verified content. One type of action is the display of articles from the checking agencies themselves with the information obtained on a given subject. Another is the provision of "contextual" information, as Facebook and YouTube call it, or "trusted sources", as Twitter calls it. On certain topics, such as vaccines, the explanations given are from health authorities.

Newspaper and official media content can also be provided. WhatsApp, by not doing content verification, does not display context information. But it included a "magnifying glass" to facilitate research on the topic. However, in the Brazilian reality of offering "free services" (applications whose use does not generate consumption of franchise data), this tool may be inaccessible to many users, who do not have data to access other sources, which reinforces the need for guarantee of universal access to the Internet in the country as part of the fight against disinformation.

As part of this effort, a platform strategy was to bring more information about the source of the publications. On Facebook, by clicking on a button (i), the user can have data about the page and its administrator. In the case of advertisements, Facebook and Instagram also started to provide additional information on the candidates' pages and election propaganda, such as the identification of the sponsors of that paid message and the "ad library". More transparency about ads or paid content in general, which must be identified explicitly, is essential.

In the aforementioned context of the pandemic, the platforms have implemented several mechanisms for accessing and recommending official information on the topic, especially from the World Health Organization (WHO) and national health authorities. Facebook published WHO guidelines on the pandemic in user feeds. Twitter reinforced its tool # KnowFacts and created a tab within the "Explore" section.

WhatsApp created the Coronavirus Information Hub in partnership with WHO, UNICEF, UNDP, and IFCN to provide guidance and information from official sources, in addition to providing resources to expand fact scanners in the application. The social network has also created a service through which the user can receive information from official sources about the coronavirus, as well as a bot to answer questions about the disease. Nevertheless, access to these mechanisms depends, in general, on active search by users, who have not even been notified directly to become aware of these tools, which could be done without causing any harm.

Some initiatives had already been promoted in the area of health in the area of vaccines, given the growth of movements against treatment. Twitter included a warning when a user was searching for the matter, directing it to health authority websites.

However, from the point of view of information about how it deals with uninformative content, the low transparency of the platforms called attention. In addition to not having structured policies to combat disinformation, the existing measures are not presented in an organized manner - except for YouTube, which launched a page on disinformation on the platform in October 2020. Much of the work in this research was, therefore, exactly the search and organization of information scattered in news on the official websites and on the "help" or "FAQ" (Frequently Asked Questions) websites of each company. If understanding the strategies and the set of initiatives has proved challenging for the research team, imagine for a user not dedicated to this work. Comparing two themes, while platforms develop clear and detailed policies on how they use users' personal data and how to access privacy settings, for example, disinformation guidelines are long overdue in this regard. The lack of recognition of the seriousness of the problem and the implication of the platforms ends up creating obstacles for communication with users on the topic to be effective.

Besides, perhaps the most problematic element is the lack of balance in the actions promoted. Once again, information is scarce and dispersed. Except for Europe, where the co-regulation model required the submission of periodic reports, internationally and in Brazil, in particular, it was not possible to identify any type of evaluation document of this type that would indicate the effectiveness or not of the measures adopted. In the transparency reports and information centers, as in the case of Facebook and Twitter, the topic of disinformation was not included. In this way, the measurement of the concreteness of the actions is restricted to the companies' allegations, approaching more than unprovable promises.

Platforms have also adopted measures that, even though they are not directly aimed at combating misinformation, have an impact on these contents. The fight against false or inauthentic accounts appeared as one of the main related measures adopted by the platforms. Facebook does so using the concept of inauthentic behavior and coordinated inauthentic behavior, which can be removed. Instagram started to implement identification confirmation mechanisms if patterns of possible inauthentic behavior were verified, resulting in a reduction in the circulation of users who do not provide identification. Twitter also removes fake accounts and has expanded the requirements for opening accounts, such as email and phone number. WhatsApp started using artificial intelligence-based tools to map vetoed behavior and ban accounts. YouTube removes accounts opened to impersonate another channel or another person, under the policy of impersonation. Counterfeiting is pointed out, among others, when the channel copies the profile or the general appearance of another or when a channel falsifies another existing news channel, among other counterfeiting actions.

4. Please share information on measures that you believe have been especially effective to protect the right to freedom of opinion and expression while addressing disinformation on social media platforms.

In Brazil, for the protection of rights, especially from a normative point of view, the most effective measure is the Brazilian General Data Protection Law (LGPD, in the Portuguese acronym), which was passed in 2018 and became effective in 2020. The law inaugurates a new period of affirmation of data protection as a right. According to the rule, practices that favor misinformation, such as the commercialization of data and their use to send advertising, are prohibited.

The Brazilian General Data Protection Law affirms a *guarantor* vision present in other rules, such as the European Union's General Data Protection Regulation (GDPR). According to article 6 of the LGPD, personal data processing activities should observe good faith and ten principles explained in the text, including data processing for purposes that are legitimate, specific, explicit, and informed to the data subject; necessity, which consists in limiting the processing to the minimum necessary; free access, which is the guarantee of easy and free consultation on the form and duration of the processing, as well as on the completeness of their personal data; and security, defined as the use of technical and administrative measures capable of protecting personal data from unauthorized access and accidental or unlawful situations of destruction, loss, alteration, communication or dissemination.

The rule provides that the citizen has the right to obtain, at any time, information from public and private entities with which the data controller, such as a social networking platform, has shared data.

There are doubts, however, about the ability of institutions to quickly internalize the provisions of the law and develop a proactive posture in the inspection, even because the punishments will only be effective in August 2021. The challenge becomes greater considering that the Brazilian government has chosen an institutional model that links the Brazilian Data Protection Authority to the Presidency of the Republic, which leaves doubts as to the administrative autonomy of the Authority concerning its duties - including the supervision of the government's own data processing operations. Furthermore, indications of military personnel to make up the Authority's Council have generated criticism about the character that has been conferred on it[23].

Going beyond the normative sphere, it is worth mentioning the creation and articulation of several fact-checking initiatives in Brazil. According to Duke Reporters' Lab, a

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[23]   https://direitosnarede.org.br/2020/11/10/cdr-e-access-now-enviam-carta-denuncia-para-comissao-europeia-conselho-da-europa-e-global-privacy-assembly/

worldwide mapping of fact-checking sites developed by Reporters' Lab, a journalism research center at Duke University's Sanford School of Public Policy, there are ten fact-checking sites in Brazil[24]. The number is certainly larger. Such initiatives, although they should be seen as neither proprietary of the truth nor neutral, in the opinion of Intervozes, contribute to the qualification of the public debate, providing information that can also help in the fight against disinformation.

In September 2020, the National Network for Combating Disinformation[25] (RNDC, in Portuguese) was launched, currently comprising more than 80 projects and institutions of various natures that work and contribute in some way to combat disinformation in Brazil, especially content related to the coronavirus pandemic. This type of strategy helps to protect the right to freedom of opinion and expression, since it favors the search, reception, and dissemination of information and ideas by these groups, and potentially by society in general, while giving visibility to the issue of disinformation.

Also regarding the issues of freedom of expression and opinion, among others, we see that, as in countless cases in Brazilian history, it is the social movements and organizations that constitute and assert rights, while fighting to incorporate them into the legal system. In this sense, an important experience for the affirmation of rights associated with the digital dynamic is the Coalition Rights on the Network[26], a network of entities that brings together more than 40 academic and civil society organizations in defense of digital rights, with the following main themes: access, freedom of expression, protection of personal data, and Internet privacy.

The Coalition played a prominent role in the drafting and approval of the General Law for the Protection of Personal Data, as well as in debates about disinformation. Throughout 2020, the Coalition was a central agent in discussions around Bill 2630/20, which established the Brazilian Law on Internet Freedom, Responsibility, and Transparency. When it was presented, the bill contained restrictive and vigilantist proposals. The Coalition's action caused changes in its content, avoiding the approval of a norm that would end up giving platforms the power to moderate Internet content by themselves. On the other hand, by the Coalition's initiative, important proposals on the transparency of platforms, right to privacy, and protection of personal data were included, among other aspects.

Brazilian organizations have also cooperated with the formulation of proposals at the international level. This is the case of the document "Contributions for the democratic

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[24] https://reporterslab.org/fact-checking/
[25] https://rncd.org/
[26] https://direitosnarede.org.br/

regulation of big platforms to ensure freedom of expression online"[27], proposed by Intervozes, Observacom, Instituto Brasileiro de Defesa do Consumidor (IDEC), Desarrollo Digital, among other Latin American organizations.

The document brings initial recommendations for the democratic regulation of big digital platforms, as a response to the growing intervention of these companies in the content of their billions of users. Instead of the private control of information, which has been considered a threat to freedom of expression, it points to the perspective of co-regulation and details measures especially on platform transparency and greater algorithmic control by users.

5. Please share information on measures to address disinformation that you believe have aggravated or led to human rights violations, in particular the right to freedom of opinion and expression.

Disinformation is intrinsically linked to the configuration of the Internet around digital monopolies and the business model they have adopted, based on capturing and processing user data. The current Internet model, despite having multiplied the production of content and the diversity of voices, maintains this concentration mainly through the forms of distribution, resulting in a lack of diversity and informational plurality, as a research carried out by Intervozes showed[28]. Associated with this, the dispute for the users' attention and attempts to modulate their behavior are now widely used with a view to commercial exploitation of the network, actions that have ended up opening space for the strategic use of disinformation.

It interests the platforms and other companies involved in the various businesses associated with such practices that users remain permanently connected, clicking to produce information about themselves and others. Information that will later be processed by groups that will use it to, among other possibilities, offer ads or political content, which has also favored the promotion of extremist speeches via algorithms in search of engagement.

The solution to the problem is, therefore, to review the structure and business model of digital platforms, otherwise, they will continue to offer remedies incapable of stopping a form of communication that today has become one of the main challenges to democracies

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[27]   https://www.observacom.org/wp-content-uploads-2020-09-estandares-regulacion-grandes-plataformas-internet-pdf/ and https://www.observacom.org/wp-content/uploads/2019/08/Contributions-for-the-democratic-regulation-of-big-platforms-to-ensure-freedom-of-expression-online.pdf

[28] http://monopoliosdigitais.com.br

around the world, or to privatize decisions such as the maintenance or removal of content on the Internet, with enormous risks to freedom of expression.

Disinformation has not only become profitable for digital platforms. A whole ecosystem of agents (such as marketing agencies, factories of likes, etc.) has been formed to operate the production and distribution of content, including disinformation, from the collection and processing of personal data obtained, in many cases, without consent. It also provides support for the actions of groups that use the information for political and economic gain. In Brazil, there is evidence that, since the beginning of Jair Bolsonaro's government, these agents have used public resources and structure to operate this scheme. This whole set of agents needs to be identified and investigated.

Without these processes being put into effect, what we see is the adoption of measures unilaterally by the digital platforms. Two examples deserve to be mentioned because it is notorious that groups already discriminated against have suffered this type of censorship. The organization Coding Rights had a post on lesbian visibility day removed from the stories on its Instagram account in 2019. In 2019, the Central Única dos Trabalhadores (CUT) had eight pages linked to it taken offline on the same day[29].

Research carried out by Intervozes[30] that analyzed the actions of the main platforms in the face of disinformation pointed out that, while it is true that there are exceptional cases (such as Covid-19 and an incitement to violence) that may justify quick measures by the platforms, on the other hand, a democratic society cannot be held hostage or depend exclusively on the action of companies in confronting significantly harmful content. Attention should also be paid to the fact that many times what can or cannot circulate depends on what the companies themselves set in their Terms of Use.
Finally, this scenario has been aggravated by the omission of agencies and institutions that should act against cases of disinformation. In the scope of the Brazilian Judiciary, for example, cases are pending trial on the mass shooting of the Bolsonaro campaign in 2018, which could, had the trial occurred, have led to the disarticulation of companies that continue to offer this type of service.

6. Please share any suggestions or recommendation you may have for the Special Rapporteur on how to protect and promote the right to freedom of opinion and expression while addressing disinformation.

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[29] https://www.cut.org.br/noticias/facebook-tira-do-ar-cinco-paginas-de-entidades-ligadas-a-cut-no-mesmo-dia-65f3.
[30] https://intervozes.org.br/publicacoes/fake-news-how-platforms-combat

The intentional production of disinformation to generate damage is not a new phenomenon, but it gains different outlines due to the widespread access to the connection and mobile devices, the popularization of media production, the consolidation of a handful of platforms that support content generated by third parties – whose business is based on data collection, micro-segmented advertising and audience maintenance – and the migration of content sharing to instant messaging systems, such as WhatsApp and Telegram. Below, we list the ten proposals identified as central by Intervozes to combat disinformation[31][32]:

1. Punish the artificial and industrial use of instant messaging platforms

Behind disinformation campaign strategies on WhatsApp are companies using automated and bulk messaging methods. Sending bulk messages based on automated systems is a practice prohibited by the Superior Electoral Court (Tribunal Superior Eleitoral: TSE), but progress is required in the identification and punishment of these companies. During the electoral period, WhatsApp, a company of the Facebook conglomerate, announced it was banning hundreds of thousands of accounts from its application. These profiles are suspected of sharing "fake news" and were tracked with the help of a filter that automatically identifies spam. According to the company, the list includes numbers of agencies that sell bulk messaging, but so far none of these companies has been investigated. Why? There is no legislative proposal that can lead to a healthy information flow if crimes are not investigated and those responsible are duly punished.

2. Right of rapid and proportional reply

To combat disinformation, it is also necessary to seek speedy instruments to repair damage, given the scope and speed of the distribution of messages that trigger the guarantee of the right of reply, and enable any reply to reach the widest, potentially affected audience. When granting the right of reply, the judiciary must take into consideration the scope and speed of publication of content that motivated the request for redress and propose measures that have widespread repercussions. The dissemination of denial or clarification messages should reach users affected by the misleading content at the same speed or even, in specific cases (such as in the final stretch of an election), more quickly.

3. Protect personal data and monitor its use

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[31] https://intervozes.org.br/publicacoes/10-ways-to-combat-disinformation/
[32] https://veneta.com.br/produto/desinformacao-crise-politica-e-saidas-democraticas-para-as-fake-news-epub/

Much of the operation to distribute in bulk form disinformation intentionally generated to cause harm is based on the use of personal data. The General Data Protection Law (Lei Geral de Proteção de Dados: LGPD) (Law 13.709/2018) was approved precisely to guarantee the rights of data subjects, create legal bases for this treatment and monitor the use of this important asset in the information age. If the LGPD were respected, the effectiveness of disinformation practices could be reduced and, thus, discouraged. One of the measures recommended by the NGO Safernet is the prohibition of the use of the target audience's profile to direct advertising through promotions, including any information related to sensitive aspects such as racial or ethnic origin, religious beliefs, affiliations to unions or organizations of a religious nature, data regarding health or sex life. It is necessary, however, for the National Data Protection Authority (Autoridade Nacional de Proteção de Dados: ANPD) to have the political autonomy and financial independence to undertake the work of education, monitoring and sanction of the law. It is also worth updating the electoral legislation to adapt it to the LGPD, giving citizens control of the way that parties and electoral campaigns currently use their data.

4. Prohibit advertising by candidates and online campaigns

Twitter recently announced that it would no longer accept political advertising on its platform. Advertising paid for by candidates and political advertising as a whole will be restricted. This is because Twitter understands that political adverts on the internet present entirely new challenges to civic discourse: optimization based on messenger machine learning, and multiple segmentation, unverified misleading information, and deepfakes - undetectable montage. All this with increasing speed, sophistication, and overwhelming scale. If Twitter can do this, why don't the other platforms follow its lead? In the same way that during the age of broadcasting it was determined that campaign insertions would be governed by rules in order to provide visibility proportionate to the size of alliances, rather than to the candidates' economic power, the rule for the Internet cannot be that who pays the most, wins. The aim of Internet advertising paid for by candidates will also have a positive impact on the distribution of paid disinformation online. In 2018, the organization SaferNet presented 14 proposals related to this issue to the Superior Electoral Court (Tribunal Superior Eleitoral: TSE). These included the prohibition of so-called hidden posts or dark posts, paid posts directed at a specific audience which the rest of the population cannot see; and prohibition of payment for adverts and promotions containing political content in foreign currency, according to a document delivered to, but not assimilated by, the court. We would add the need, during the electoral period, for platforms to be open with the TSE about publications with a greater audience reach, including those that are not promoted, which mention candidates, coalitions, and parties, so that the body can proactively analyze the need to take measures, such as offering the right of reply or suggesting restrictions to the reach of certain content.

5. Integrated access to Internet applications

Today most Brazilians access the Internet through broadband on mobile phones and do not have continuous data packages. In Brazil, therefore, Internet use is limited to a few applications, through so-called zero-rating (or zero tariff) agreements, which the telephone providers enter into with certain platforms. In this model, navigation ends up restricted to these applications, so that any information checking or the reading of an article in its entirety on the website of origin, for example, are compromised, strengthening the phenomenon of disinformation through images and headlines, which often use arresting strategies in search of clicks, without presenting the facts in their complexity.

The containment of disinformation, therefore, necessitates expanding access to quality connections at affordable prices and to the whole Internet. To this end, one important measure is the prohibition of navigation-blocking once mobile data has been used up, guaranteeing the Mobile Network Service and Multimedia Telecommunications Service providers the freedom to reduce navigation speed, provided this does not invalidate the right to access.

6. Transparency and autonomy in relation to algorithms

It is essential to consider the effect of new content distribution models on the construction of the public sphere. In this sense, the impact of algorithms to filter and prioritize content when searching for news and information on platforms is significant. Bias in choosing information has always existed, but the potential that exists today for a citizen to be unconsciously confined to a specific spectrum of political information is completely different and creates a bubble effect, one of the negative, unforeseen and unintentional results of this business model.

To repair damage, it is important to allow the user to choose the content they visualize (in news feeds, search results, news access services, and the like) and be transparent about the criteria algorithms use for ordering and/or targeting if possible explaining effects to the user. Big platforms must provide custom filtering mechanisms in a transparent, revocable/editable manner, which is under the user's control so that it is the user who finally decides the content they wish to prioritize and they do so (for example, they may prefer to see content posted by chronological order rather than based on the definition of their profile), while activities to prioritize online content should be accessible to the user (feeds, search results and others). Commercial agreements that interfere in the organization of content must be visibly displayed alongside content.

It is also essential that positive measures are taken to promote diversity and plurality on platforms, enabling the use of algorithms to expand communication flow, as opposed to

the current situation, in which, due to algorithm prioritization, certain content does not have the desired Internet reach.

7. Breaking digital monopolies and oligopolies

As with traditional media, the concentration of digital media prevents diversity and plurality in public debate, weakening democratic societies. In this sense, given the specificity of communication, because of its symbolic (cultural/social/political) nature, activities to promote competition and antitrust policies need to be allied to theories and practices to protect and promote freedom of expression, pluralism, and diversity.

Given this understanding, regulators and the authorities responsible for the application of competition and public communication policies should develop ex-ante analyses and actions to predict the impact of economic concentration on diversity and plurality. Once markets are defined, it is very hard to correct asymmetries, which end up becoming structural.

Restrictions on horizontal, vertical, and cross-ownership should be introduced for agents with significant market power. In the case of big platforms, where the same agent has several businesses, these should be broken up.

8. Incentives for responsible, plural and diverse journalism

Diversity of voice and position is an essential factor for the health of democracy. It is, therefore, necessary, as required by the Brazilian Constitution, to establish rules to prevent media monopolies and oligopolies and develop mechanisms to encourage the production of responsible content aimed at promoting the public interest. Further, regarding the application of public funds to media outlets, it is essential to establish objective and widely disseminated rules that consider not only audience, but also diversity and commitment to the public interest, in line with Article 221 of the Brazilian Constitution. Although these guidelines are intended for public communications, they should also guide the investment of public funds in the media sector in general.

9. Media education (media literacy)

Finally, it is necessary to create instruments to promote critical analysis of traditional and new media by the population as a whole and on a large scale. Although schools are certainly privileged arenas for training, they are not the only ones. It is worth noting that any media training needs to go beyond an analysis of content and address the economic structure of the media in Brazil and the world, as well as the country's regulations and other jurisprudence. This is the only way to train citizens to be critical of the information flow, taking account of content and the political and economic interests of media

companies, something not necessarily visible in individual analysis of text, video, and other productions.

Specifically, based on multi-sectoral participation, it is necessary to develop a proposal for a wide-scale educational process that involves the media and schools; to incorporate media education into the school curriculum, based on the premise of the school as a locus for reflection about what happens in people's lives; as well as to support, through public policy activities, media education developed by civil society organizations from diverse territories.

10. Transparency in server communication

Due to the absence of procedures that guarantee the storage of public server communications and their periodic availability for public oversight, it is worth discussing the need for the regulation of the official communication channels available to servers, as well as for processes to safeguard and store these records and subsequently make them available for public access by Brazilian society.