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TO: SPECIAL RAPPORTEUR ON FREEDOM OF EXPRESSION AND OPINION
E-mail: hrc-sr-freedex@un.org

SUBMISSION BY MEDIA MONITORING AFRICA:

REPORT ON FREEDOM OF EXPRESSION AND THE GENDER DIMENSIONS OF DISINFORMATION

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INTRODUCTION

1. Media Monitoring Africa (“**MMA**”) welcomes the opportunity to provide this submission to the Special Rapporteur on the Promotion and Protection of Freedom of Opinion and Expression (“**Special Rapporteur**”) regarding the gender dimensions of disinformation.
2. MMA is a not-for-profit organisation based in South Africa implementing innovative rights-based approaches to expression on- and offline.¹ Throughout our work, we promote the ideals of equality and inclusion and have participated in various litigious proceedings concerning disinformation, defamation, online harassment, and gag orders, many of which have had a gendered dimension.
3. In addition to the above, MMA is actively working to address online harms, such as disinformation, hate speech, harassment, and incitement to violence. MMA launched the Real411 platform, which is a publicly accessible platform that enables members of the public to report concerns about different online harms, including disinformation.²

CONCEPTUAL ISSUES

Gender disinformation

4. MMA supports the understanding that disinformation refers to all forms of false, inaccurate, or misleading information that is designed, presented, and promoted to cause public harm or for profit. Disinformation, in the general sense, pertains to deliberate – often orchestrated – attempts to heighten anxiety, stir up negative emotions, and confuse or manipulate people by delivering dishonest information to them that causes public harm.
5. MMA recognises that while disinformation can impact and affect all persons, it can and does disproportionately affect women, members of the queer community, gender non-conforming persons, and sexual and gender minorities. We recognise that this form of disinformation is tied to patriarchal power, in which these acts of aggression and power are often gendered and enacted against perceived feminine traits.
6. Accordingly, gendered disinformation refers to deliberately created information that aims to harm women and individuals with diverse gender identities, orientations, or expressions. This form of disinformation relies on gendered characteristics and stereotypes, often to dissuade, bully, and encourage self-censorship, minimising engaging in politics and public matters. This form of misogynistic content often forms part of disinformation campaigns that are carefully crafted and strategically designed to silence and discredit voices in public discussions and discourage active participation.

¹ See <https://www.mediamonitoringafrica.org/>.

² The platform seeks to strike an appropriate balance between the right to freedom of expression and the need to tackle harmful content that is disseminated across online platforms. See <https://www.real411.org/>.

7. In recent years in South Africa, we have seen gendered disinformation manifest in various ways:
- 7.1. **Targeted attacks against female journalists:** Manipulated images of journalist Ferial Haffajee were disseminated online, portraying her, often in sexualised contexts, to falsely suggest that she has ties to certain businessmen and government officials.³ Another female journalist, Qaanitah Hunter, was targeted by politicians on Twitter, where she has been accused of deliberately “spreading lies” and being “bankrolled” by a “Master”. Similar incidents have been experienced by numerous other South African female journalists who MMA has engaged with.⁴
- 7.2. **Legal attacks and disinformation campaigns:** Most recently, we saw efforts to silence journalist Karyn Maughan by trying to have her criminally charged. This was found to be a SLAPP suit.⁵ This case highlighted that it was not just the legal challenge that sought to silence and intimidate, but the case itself was used to launch and legitimise online bullying and attacks against her.⁶ The weaponisation of the courts appears to form part and parcel of disinformation campaigns, which can be gendered in nature.
- 7.3. **Disinformation targeting the LGBTQI+ community:** Gendered disinformation also intersects with the targeting of members of the LGBTQI+ community.⁷ This year a fabricated article was shared, purporting to be published by a reputable news agency and written by renowned openly gay journalist Eusebius McKaiser.⁸ The title and contents of the article were homophobic and highlighted the exploitation of an LGBTQI+ journalist's profile to propagate disinformation against the LGBTQI+ community.⁹
- 7.4. **Fake accounts to sow discord and generate profit:** MMA participated in an Equality Court matter relating to a series of demeaning and humiliating tweets against women, and black women in particular. Concerns arose that the tweets came from a false account created by a man to give the impression that the publisher of the tweets was a white woman. Moreover, the tweets contained various falsities, which appeared to have been done intentionally to encourage racial discord and promote disunity, as well

³ Raborife, ‘Haffajee to take on ‘fake news’ Twitter trolls’ *News 24* (22 January 2017), accessible [here](#).

⁴ They have asked not to be named.

⁵ *Maughan v Zuma and Others* [2023] ZAKZPHC 59, accessible [here](#).

⁶ Bird, ‘Moti vs amaBhungane ruling – there is much to celebrate, but we need more’ *Daily Maverick* (4 July 2023) accessible [here](#).

⁷ We have seen this in the form of individuals or groups encountering online transphobia and/or homophobia from institutions or individuals seeking to discredit LGBTQI+ sources and voices in public discourse due to their non-binary gender identity and gender expression.

⁸ Africa Check, ‘No, South Africa’s Sunday Times didn’t publish homophobic article by prominent journalist McKaiser’ (31 January 2023) accessible [here](#).

⁹ The article was titled “Beware the danger of men not disclosing their sexual orientation: We must push back against the kind of famous men getting away with being double adapters”.

as directing users to other pages that sought to generate profit.¹⁰

8. Ultimately, gender disinformation elevates misogyny and diminishes the rights of women and gender-diverse persons. In addition to undermining the rights to equality, dignity, and psychological integrity, gender disinformation – by seeking to discredit and demean – also undermines women’s and gender-diverse persons’ rights to freedom of expression and the right to receive and impart information. It manifests both as an individual harm but also as a broader harm to all women and gender-diverse people.

Similarities and differences with online gender-based violence

9. MMA takes the view that gender disinformation is both a freedom of expression issue and a form of online gender-based violence. It occurs in the online realm and causes harm to women and gender-diverse persons. The harm can manifest through limiting expression or silencing; it may amount to harassment and, in some cases, can lead to the incitement of violence and other offline consequences.¹¹
10. Notably, gender disinformation can form part of or magnify different forms of online gender-based violence:
 - 10.1. **Manipulated content:** As seen with Hafajee, there is a growing trend in which content – be it images, text, videos or audio – is manipulated using technology and is disseminated without the consent of the person the manipulated content depicts. She has commented that “the designers and purveyors of cyber-misogyny have worked this out and use online attacks to silence journalists”.¹²
 - 10.2. **Doxing:** The court case of *Brown v Economic Freedom Fighters* further highlighted the gender-based harassment experienced by female journalists in South Africa.¹ The leader of a political party shared the name and cell phone number of the late well-known journalist Karima Brown. At the time, he had estimated 2.3 million Twitter followers. His Tweets suggested that she was not a journalist but a spy of the ruling party. Following the Tweets, Brown was inundated with threatening calls and messages, including deplorable insults and threats of rape, assault, and death. Brown approached the High Court, who condemned the actions, noting that “[t]heir conduct exhibited scant regard for the fact that Ms Brown, as a woman, was especially vulnerable to threats of rape and violence in a society in which gender-based violence is prevalent.”

¹⁰ See *Mavhidula (on behalf of the South African Human Rights Commission) v Matumba* (1/2020), court papers and details accessible [here](#).

¹¹ We have been advised that a prominent female journalist was followed and harassed in supermarket following a spike in online harassment.

¹² Haffajee, ‘Twitter and the rest of social media are a rising threat to media freedom — and I am part of their roadkill’ Daily Maverick (6 August 2019), accessible [here](#).

- 10.3. **Threats and incitement:** We recently saw tweets from a former political spokesperson about Maughan, noting that “we must keep on kicking this dog harder so that her owner who pays her comes out.”¹³ These attacks were in response to her recent high-profile reporting on corruption in South Africa. This was intended to dehumanise and insult Maughan, but moreover, to incite physical violence. More recently, Nicole Fritz (Director of a non-profit organisation) and her family faced threats on Twitter.¹⁴
- 10.4. **Silencing victims and survivors:** We are also seeing an emerging trend of silencing victims, survivors, and activists in online spaces.¹⁵ This type of litigation can fuel gender disinformation. Fortunately, many of these have been overturned to “ensure that women who experience sexual violence are not gagged and silenced through abusive court processes that weaponise the law against them.”¹⁶

RESPONSES OF STATES AND CIVIL SOCIETY

11. Beyond judicial interventions and the current legal framework, the executive has not made concerted efforts to combat gendered disinformation.

Judicial intervention

12. As is evident from the above, in South Africa, the courts play a crucial role in upholding the right to freedom of expression and the right to be protected against unfair discrimination based on gender or sexual orientation.
13. The recent High Court case, *Maughan v Zuma*, provides a good illustration of this. In this case, the former President, seeking to criminal charge Maughan, went as far as describing her as “the propaganda machinery of the media”, “to perpetuate falsehoods”, and “a hostile journalist who is incapable of balanced reporting”. The Court recognised that the intimidation and harassment perpetrated by the former President violated Maughan’s right to freedom of expression and media freedom.¹⁷
14. While our Courts have not yet squarely addressed gender disinformation, the judicial interventions thus far have been somewhat effective in providing relief to those on the receiving end of disinformation campaigns. However, we note with concern that the weaponisation of

¹³ The Tweet is accessible [here](#).

¹⁴ These threats emerged in response to immigration-related litigation. See Hendricks, ‘Twitter threatens to litigants in Zimbabwean Exemption Permit court case’ Ground Up (18 April 2023), accessible [here](#) and Scalabrini, ‘Public Statement: Swift action against perpetrators of threats made against HSF Director’ (19 April 2023), accessible [here](#).

¹⁵ In recent months, South African courts have been dealing with various cases relating to the use of online spaces to share experiences of GBV. There has been a rise in gag orders. See van Osch et al ‘Gender Analysis of the Digital Transformation in South Africa’ (2022) 71-72, accessible [here](#).

¹⁶ Women’s Legal Centre, ‘High Court vindicates women’s rights to speak about their rape experience as a critical way to combat the scourge of violence against women’ (2022), accessible [here](#).

¹⁷ *Maughan v Zuma and Others* above n 5.

courts appears to be an avenue through which harmful actors legitimise disinformation campaigns.¹⁸ MMA submits that those defending abuse of process and SLAPP-style cases should be enabled to bring evidence of gender disinformation campaigns to the court's attention, which in turn may be considered by courts as an aggravating factor for determining such matters.

Legal or policy frameworks

15. South Africa has a patchwork of legislation that, to varying degrees, addresses online harms and cybercrimes. However, there is no direct reference to gender disinformation.¹⁹ The Cybercrimes Act criminalises data messages which incite violence to property, threaten people, and the intentional sharing of intimate images without consent.²⁰ The Protection from Harassment Act recognises harassment via electronic communication(s) and enables victims and survivors to obtain protection orders (restraining orders) against certain forms of online harassment.²¹ The recently enacted Domestic Violence Amendment Act recognises the role of online spaces and electronic communications in facilitating or enabling domestic abuse.²² These legal frameworks could be used to address gender disinformation.

Civil society initiatives

16. As mentioned above, MMA has developed an online complaints portal – Real411, to allow members of the public to report concerns about disinformation being disseminated online.²³ To date, we have received thousands of complaints. We submit that these user-friendly platforms can play an important and meaningful role in the fight against gender disinformation. Not only does the system have the benefit of ensuring that action against content can be taken, but the content is assessed according to the same criteria regardless of the platform. In addition, Real411 also helps empower the public to take action.
17. MMA will also be launching a new platform, the Media Attack Reporting System (MARS), in August this year. The platform allows journalists to upload online attacks onto the site. In uploading the attacks, the journalist can choose to make them viewable to the public, giving people insight into the attacks faced by journalists.²⁴

¹⁸ We are concerned that legal cases can give the appearance of a legitimate cause of action – this is then misused to peddle disinformation, further seeking to silence and exclude voices.

¹⁹ See ALT Advisory, 'Endgbv.Africa: South Africa', 2022:accessible [here](#). See also, Nwaodike, C & Naidoo, 'Fighting Violence Against Women Online: A Comparative Analysis of Legal Frameworks In Ethiopia, Kenya, Senegal, South Africa, and Uganda', 2020, accessible [here](#).

²⁰ 19 of 2020 accessible [here](#).

²¹ The Protection from Harassment Act 17 of 2011: accessible [here](#). See 'Deconstruct: Online Sexual Harassment Toolkit', 2021, Pages 10 – 11, accessible [here](#).

²² Domestic Violence Amendment Act 14 of 2021, accessible [here](#).

²³ Above n 2. See <https://www.real411.org/learn>.

²⁴ In addition, by uploading online attacks, we are also creating an archive and database that can be used to advocate for systemic change and also shift. An added feature will also use artificial intelligence to combat the content in a positive manner.

SOLUTIONS AND RECOMMENDATIONS

18. As a starting point, states must recognise the rights to dignity, equality, freedom of expression, access to information, privacy, and safety and security. States should further consider creating, in collaboration with civil society and other key stakeholders, **a gendered disinformation framework** which provides definitions, examples and response mechanisms for meaningful redress. Such a framework should be made widely available, including to the courts, to help inform judicial responses.
19. The private sector, inclusive of social media platforms, can – and must – do more to guard against gender disinformation. It is inadequate for social media to prescribe that harassment and intimidation flowing from gendered disinformation be remedied by only muting, blocking, and reporting the offending profile. **Social media platforms need to act swiftly and responsibly in investigating complaints of online gendered disinformation.** This should include guidance on how they will identify and monitor gendered disinformation.
20. Practically, MMA would urge **states and social media platforms to endorse and make use of the Real411 platform, including MARS,** as a means to credibly investigate complaints of gender disinformation and have them dealt with efficiently.
21. Lastly, **civil society should continue to enable digital activism** and partner with big tech companies and the government to provide research support and assist in identifying responses to gendered disinformation, including:
 - 21.1. **Ensuring systems like Real411 are developed, resourced and disseminated** in states to help build and promote a multi-stakeholder approach to digital evils.
 - 21.2. Along with state actors, **ensuring that media and information literacy is available to all people** – both children and adults. It should be built into school curricula, covering a range of issues and enabling active, informed participation in a digital environment.
22. Finally, the **intersectionality** of gender identity, sexual orientation, race, and nationality, among others, needs to be further researched in the context of gendered disinformation. MMA submits that online harms do not always occur in a vacuum, and it is not always tied to one form of discrimination or character trait. Accordingly, MMA implores the Special Rapporteur to **recognise the existence of multiple and intersectional forms of discrimination and how this impacts gender disinformation.**
23. Please do not hesitate to contact us should you require any further information.

Media Monitoring Africa
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