

It is essential to approach gendered disinformation as a tool for gender-based violence¹ and political gain & influence² via a polarization of the population at local, regional and global levels.

In this brief paper, we will focus on gendered disinformation targeting LGBTQI+ people and most specifically trans people. Indeed, today, , we are seeing, in all parts of the world, trans people being increasingly victims of attacks, online and spilling offline, based on their gender identity and/or expression³. These attacks are being led by conservative civil society groups and political leaders often as a tool for political gain, and a distraction from political accountability⁴.

In this context, these voices are being left to express themselves, in order to allow space for debate. The fundamental issue is how this opinion annihilates the life of others (trans people). Moreover, this results in indirect censorship of trans people who no longer feel safe expressing themselves freely, rendering public spaces including international human rights spaces, unsafe⁵, as well as leads to regressive laws in many contexts (such as in the United States⁶) and attacks the body of international law and standards already in place.

1. What gendered disinformation?

These forms of attacks are being led by a global movement (albeit not homogenous) developing and amplifying several false and damaging narratives towards trans people. Below are a brief description of some of the key thematics and discourses:

- More generally, trans people are often depicted as violent and oppressive towards the rest of the population.
- Trans people are regularly being portrayed as threats to children, supposedly brainwashing them into questioning their gender identities.
- By equating gender with sex and defining it as a biological characteristic, this conservative movement portrays trans people as going against the supposedly natural and biological conception of men and women.
- They are often also portrayed as threats to (cis) women, especially trans women. Trans women would only be “men dressed up as women in order to attack the latter”.
- The above arguments are often linked to trans people being threats to a “the family” as well as culture, tradition, religion and even the nation-state.
- Moreover, trans people are often falsely represented as mentally ill (despite the most recent progress in the field of health, medicine, and international standards including at the World Health Organization).

¹<https://www.theguardian.com/global-development/2023/feb/17/gender-trolling-women-rights-money-digital-platforms-social-media-hate-politics>

² <https://www.wired.co.uk/article/the-us-is-exporting-anti-lgbtq-hate-online>

³ See for further details: https://intgovforum.org/en/filedepot_download/248/21181

⁴ See for example: <https://www.washingtonpost.com/politics/2023/05/01/republicans-transgender-rights-polls/>

⁵ https://www.youtube.com/watch?v=1_QucwEt1Pk

⁶ See: <https://translegislation.com/> and

https://www.lemonde.fr/en/international/article/2023/05/27/us-transgender-people-targeted-by-growing-number-of-bills-restricting-rights_6028186_4.html

The result is a continuum of violence from the discursive level to family rejection, public censorship for all, [including allies](#), and violence with high-levels of impact on trans people's mental health as well as physical impact, family rejection etc⁷. Indeed, trans people are regularly and incessantly being misgendered, questioned for even existing as human beings, outed, harassed, sexually abused, as online violence spills offline. This phenomenon is a pillar of gender-based violence, underpinned by the spread of misinformation regarding trans people.

2. Legal protection

Transphobic rhetoric, spread at the local, regional and global levels, are having a deeply traumatic impact on trans people and their allies. They are also fundamentally undermining existing international legal standards and practices.

Freedom From Discrimination and Violence

Firstly, as stated in numerous reports and publications “all persons should live free from violence and discrimination based on their sexual orientation and/or gender identity is not an idea from a particular part of the world: it is an international standard”⁸.

Moreover, It would be wrong to suggest that there is a conflict between fulfilling the rights of trans women and others, especially cis women. Not only does this pit the rights of cis women against trans women, it undermines the principle of the universality and indivisibility of rights. The fulfillment of the rights of all marginalized groups is intrinsically linked, and universality and indivisibility must remain at the heart of all human rights work.

It also conflicts with the affirmation that trans women are women - a position common to several UN Special procedures mandates and the CEDAW Committee. The notion of discrimination being prohibited on the grounds of “sex” has evolved considerably to address discrimination based on the social construct of gender stereotypes, rather than based on narrow understandings of physiological characteristics. Yet, the recent ‘sex-based rights’ agenda, originating from anti-trans groups, seeks to establish a new - and extremely patriarchal - meaning of what being a woman is, based on the idea that women experience oppression in society not because of their gender, but because of an outdated and essentialist idea of biological sex⁹.

⁷ For example, in the period surrounding the Gender Recognition Act consultation in the UK, when misinformation and anti-trans narratives proliferated in the media, transphobic hate crimes quadrupled (2018-2021). Referring to so-called “predators” and “violent males” when discussing the GRR legitimizes dangerous anti-trans narratives that fuel the targeted violence and discrimination against trans people:

<https://www.sexualrightsinitiative.org/sites/default/files/2023-04/Feminist%20letter%20to%20SR%20on%20VAW.pdf>

⁸ [A/HRC/35/36](#), paras. 20–33

⁹ See further details here: <https://www.awid.org/news-and-analysis/there-no-place-anti-trans-agendas-un>

Freedom of Expression

In terms of respecting freedom of expression, as enshrined in Article 19 of the ICCPR, it is stipulated that the right may be subject to certain restrictions, when provided by law and necessary for respect of the rights and reputation of others, or of public health or morals. These provisions are given context by Article 20 of the Covenant, which prohibits “racial or religious hatred that constitutes incitement to discrimination, hostility or violence.” The Human Rights Committee has established that no manifestation of religion or belief ought to propagate war, or incite national, religious, or racial hatred, discrimination, or violence.¹⁰ And under certain circumstances, the State is obliged to prohibit the advocacy of hatred against LGBT people where it constitutes incitement to discrimination or violence.¹¹

As expressed by other mandates, including the UN IE on SOGI, there is a need to protect vulnerable groups against hate speech and to be cautious of overly broad legislation that risks pitting “various groups – including the very marginalized groups that it purports to benefit – against each other in a free-speech race to the bottom.”¹²

In light of the above, and of the evidence showing the deeply negative impact of transphobic discourses, it remains crucial for political representatives especially, at the national and international levels, to publicly protect the most vulnerable groups. This must of course be done with respect to international law and standards, including in alignment to the United Nations Rabat Plan of Action’ six-part threshold test: (1) the social and political context, (2) status of the speaker, (3) intent to incite the audience against a target group, (4) content and form of the speech, (5) extent of its dissemination, and (6) likelihood of harm, including imminence.¹³

3. What works: Fighting Systemic Violence

In a context of increased tensions, polarization and fake news including on trans issues, it is indeed essential 1) to reiterate facts 2) to fight the root causes of transphobia within the framework of disinformation and gender-based violence. In this, it is important to underline the role of two key stakeholders: public authorities and private companies (of online platforms).

1) The role of public authorities:

- a. As discussed many times, including during a consultation with the SR on FoE in June 2023, requiring further regulation from States is not necessarily the cure to the problem, including in a context where States may use regulation to

¹⁰CCPR/C/21/Rev.1/Add.4, para.7.

¹¹CCPR/C/GC/34, paras. 48 and 49.

¹²“Hate-speech laws are no friend of minorities”, Spiked, 2 June 2020:

<https://www.spiked-online.com/2020/06/02/hate-speech-laws-are-no-friend-of-minorities/>.

¹³Jeroen Temperman, *Religious Speech, Hatred and LGBT Rights: An International Human Rights Analysis*, 2021: <https://doi.org/10.1163/9789004458864>.

specifically target and discriminate against vulnerable groups (including trans HRDs as well as journalists). In a context of increased hate speech and disinformation, it is essential for public authorities to make clear and [public statements](#), underlining existing data as well as laws.

- b. It is also crucial to listen to those most targeted, including in positions of representation and power. For this, visibility and access to positions of representation is key.
- c. Public authorities must also widen access to training & to data/information at all levels of the State and wider society including in schools, health sector, judiciary, in the police.
- d. In the context of public research, States must further capacity of research centers for in-depth data gathering.
- e. At the international level, we are seeing an increased polarization around the thematic in global institutions such as the UN, with the argument that LGBTQI+ rights, including trans rights, are a Western imposition, attacking traditional values including African traditions or Muslim culture. There is a role here for Western States to recall their colonial legacy and to keep the dialogue open whilst being firm on what existing international standards and legislation says.

2) The role of companies:

Pushing for censorship by private companies is not the solution here. However, it is essential for them to develop standards and models based on human rights standards. The development of the Oversight Board is for example, an important step in this direction as shown, for instance, by the [Oversight Board decisions over-turning](#) Meta's algorithmic decisions which end up being against trans people, which is in direct opposition to [Twitter's gradual regress](#) in this regard.

Case Study: France – censoring school trainings with leading trans organization, Outrans

The French trans organization Outrans was recently stopped from carrying out interventions in some schools, in Paris, on the basis of parents' and the school's late opposition. Whilst there remains some uncertainty as to what caused this precisely (and the responsibilities held by the different parties involved), Outrans remains one of the country's main organizations leading advocacy and training on trans rights.¹⁴ The school in question will now ask more mainstream LGBTQI+ organizations to lead training. However, stopping some of their training, including on trans rights, in schools might not be the answer, including in a national context of increased tensions and disputes over the matter. This will only serve to feed the increased taboo and polarization on the topic. It is important for parties to be able to express concerns, but we must call on the authorities to not allow the suppression of the voices of the most marginalized, in this case, trans groups amongst the LGBTQI+ movement.

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https://www.liberation.fr/checknews/que-sait-on-de-la-polemique-autour-dune-intervention-de-lassociation-outrans-a-lecole-alsacienne-20230524_EKGYNIBIJHADAXVMXV574ZUOQ/

It is interesting that in this context, a few weeks later, the OECD, jointly with SOS homophobie, published a report on the positive impact of leading training on LGBTQI+ matters, with civil society organizations working directly with students to raise awareness about LGBTI+ inclusion in classroom sessions (in the case of Paris, France).

The published policy brief presents the results of a randomized control trial conducted in the Paris region of France from 2018 to 2022 with over 10 000 students aged 13-18 to measure the impact of sessions by SOS homophobie, the main French association in the fight against anti-LGBTI+ discrimination and violence. The study shows the deeply positive impacts of these interventions including on student's awareness of anti-LGBT hate speech and harassment, and their levels of understanding of the community and its needs. Link to the data and report : <https://www.oecd.org/social/lgbti-rct2023.htm>