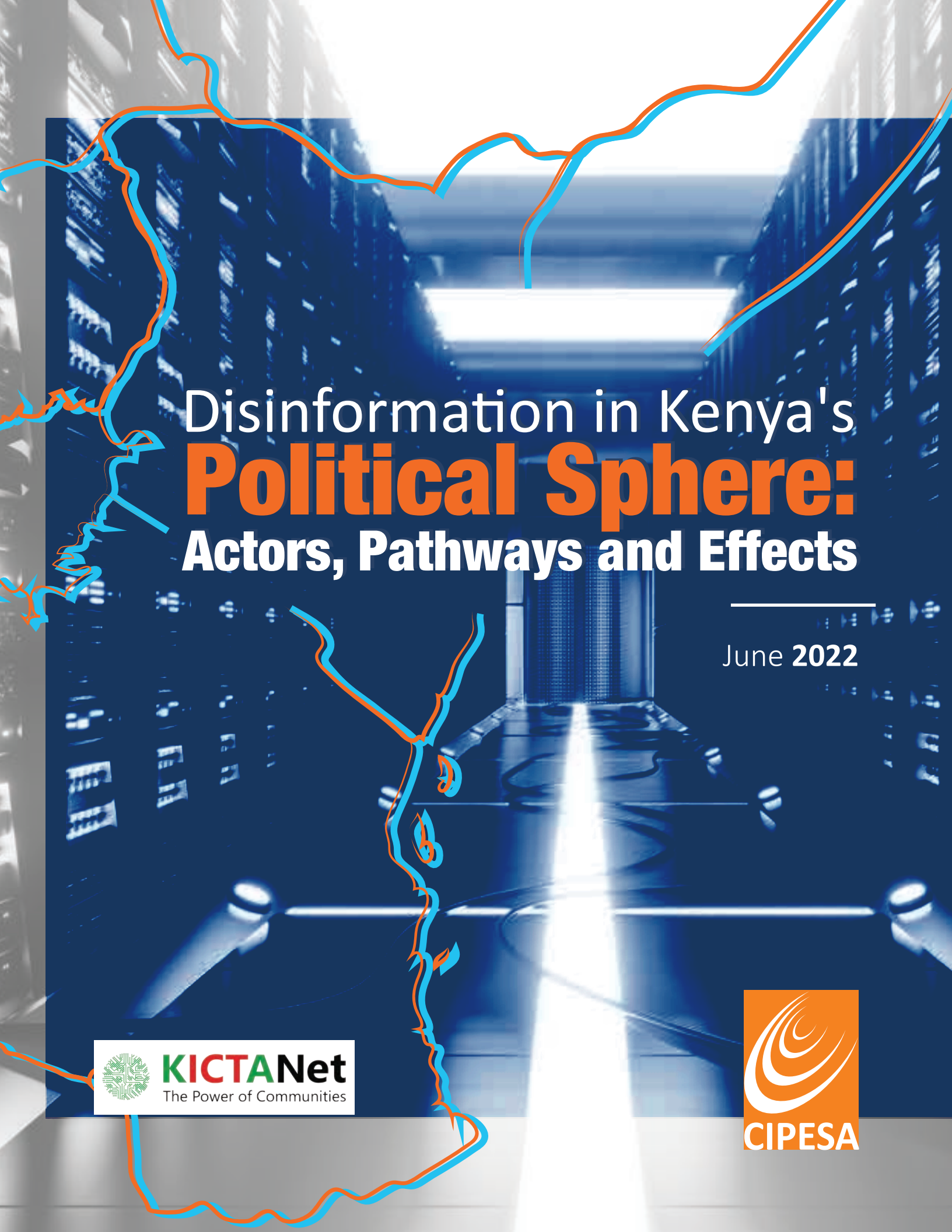




Disinformation in Kenya's **Political Sphere:** Actors, Pathways and Effects

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KICTANet
The Power of Communities



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Executive Summary

This study assesses disinformation in Kenya's political sphere. Disinformation is already in full display at national and grassroots levels, as politicians woo a heterogeneous electorate divided along ideological, ethnic, economic, and demographic lines. While there exist multiple laws, social media platform guidelines, and user awareness efforts, disinformation remains a difficult beast to tame. This is particularly so in the heated and polarised environment of Kenyan politics, coupled with the sophisticated technological tools, technical ability of its perpetrators to create and disseminate content, and a public that is not sufficiently aware of disinformation.

The data for this study has been gathered through a review of legal and policy documents from government and social media platforms, as well as interviews with respondents from the government, academia, political parties, digital content creation, and mainstream media. Through an analysis of disinformation actors, laws and policies, channels, and responses in the political sphere, this study seeks to highlight their implications on Kenya's democracy. It also fronts some possible remedies.

The study paints a picture of a multi-layered information ecosystem where disinformation is fueled by political, economic and personal interests. It is a sophisticated commercial enterprise facilitated, in part, by the ease of access to multiple digital technologies. In the period leading up to the August 2022 elections, disinformation is on the rise. Disinformation campaigns create compelling, memorable narratives expressed in various visual, audio or textual forms - such as memes, videos, blog posts, and tweets - which are easily shared on a variety of media with the effect of amplifying positions or influencing particular actors.

The range of actors within the ecosystem include politicians, political parties, strategists, content creators, digital platforms and applications, and citizens. The study also found that disinformation content is shaped through well-crafted strategies designed to create and advance enduring and specific narratives or agendas, deceive consumers or perpetuate hate speech. Further, disinformation relies on a public that does not have the resources to counter or fact-check the large volumes of manipulated information.

The study calls for better social media platform governance and responses to tackle disinformation. It also highlights the need for enhanced efforts to empower the public to be more vigilant and capable of identifying disinformation and finding factual and accurate information online. The study also calls upon various stakeholders, especially those that have significant influence in public affairs, such as government bodies, private sector entities, media, civil society and prominent personalities, to regularly and proactively share up-to-date information on both online and offline platforms to enable the public get first-hand unadulterated information about crucial events.

1 Introduction

The speed, reach, and scope of information production and dissemination has expanded exponentially in the digital era. The deluge of information available to citizens and other actors globally emerges from an amorphous ecosystem with multiple actors, with the information at any time being either factual, misleading, or outrightly false. These last two negative forms of communication have been assigned particular conceptual terms, including misinformation, disinformation, and malinformation.

The three concepts relate to types of information that have different intentions. Misinformation is imprecise or false information, that can be understood and used differently and may or may not be intended to mislead or deceive; disinformation is false information or adversarial narratives knowingly intended to deceive, cause harm or mislead; and malinformation is information drawn from reality that is used to cause harm (Dictionary.com, n.d.; Global Disinformation Index (2021); Google, 2019; Santos-D'Amorim and Miranda, 2021; UNESCO, n.d.; Wardle, 2017).

TYPES OF INFORMATION DISORDER

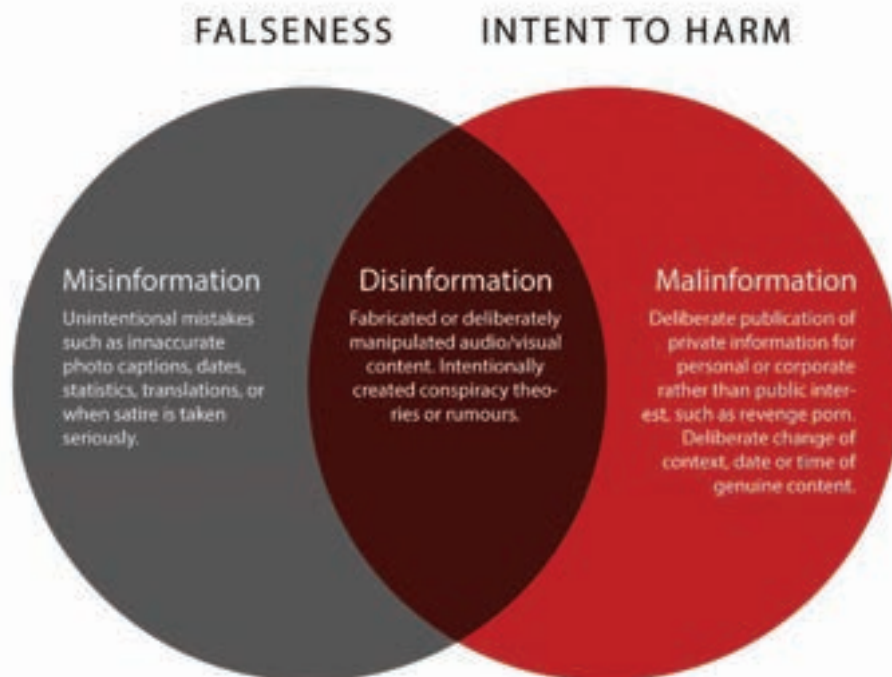


Figure 1: 3 Types of Information Disorder. Wardle, C. and Derakhshan, H (2017).

This study focuses on disinformation in Kenya's political sphere in relation to its cybersphere manifestation, legal frameworks, perpetrators, channels or pathways, interaction with democracy actors, government responses, and remedial measures.

Kenya is scheduled to hold general elections on August 9, 2022, where the electorate will vote for presidential, gubernatorial, constituency and county legislative seats. Poll preparations have commenced and the Independent Electoral and Boundaries Commission (IEBC) sought to register six million new voters in the last quarter of 2021. The IEBC is a constitutional body mandated to oversee the elections. Its recent voter registration drive experienced a low turnout, with 25% of the target registrations achieved (Mwakideu, 2021; Otieno, 2021). The low turnout witnessed during the first phase of the continuous voter registration exercise prompted the IEBC to roll out a second phase between January 17 and February 6, 2022. However, not even a second chance to register as a voter could convince the many of the youths to sign up and consequently, the IEBC experienced a low turnout once again (Otieno, 2022).

The country has experienced its share of disinformation campaigns in previous polls, with the most recent examples being the 2013 and 2017 elections (KICTANET, 2017a; KICTANET, 2017b). These studies established that the publication and sharing of fake news on social media was rampant before and after the 2017 elections. Among the reasons given for the increase in fake news circulation were the speed and anonymity with which digital technologies enable the spread and reach of information, financial profit gained by fake news purveyors, and the ability to quickly reach large audiences.

Additionally, Cambridge Analytica, a British political consulting firm, was retained to support the Jubilee party's political campaign during those polls, such as by conducting research and creating targeted messaging. Their tactics reportedly included the use of sponsored posts, attack advertisements aimed at competitors, as well as disinformation. The company primarily shared its messaging on Facebook and WhatsApp.¹ Cambridge Analytica would eventually be suspended from Facebook for illegally mining data from millions of its user profiles. In 2017, Facebook took measures to limit the spread of fake news stories by placing advertisements in mainstream print and broadcast media outlets aimed at providing the public with guidelines on how to recognise false stories.² But there has since been recognition that domestic and foreign actors can use social media and user data to manipulate political messages and influence electoral contests around the world.³

Various forms of fake news and disinformation come at a significant cost. For instance, in the 2017 post-election period which included a rerun following the dispute over the presidential results, coordinated attacks against individuals, their parties, and political institutions were rampant. There were instances where politicians whose comments amounted to hate speech were further spread on social media (KICTANET, 2017a). In Kenya, the divisive 2007 campaigns had long-lasting effects as lives were lost and many were forced to accept what they perceived as an illegitimate government (Madowo, 2018). Further, disinformation efforts may lead to exploitation where predatory actors use fragile democracies or poor states to explore different tactics for the benefit of those actors or their clients, a phenomenon Nyabola (2018) termed 'digital colonialism.'

¹ Quartz Africa, "We'd stage the whole thing": Cambridge Analytica was filmed boasting of its role in Kenya's polls,
<https://qz.com/africa/1233084/channel-4-news-films-cambridge-analytica-execs-saying-they-staged-kenya-uhuru-kenyatta-elections/>

² Ibid

³ How the Nigerian and Kenyan media handled Cambridge Analytica,
<https://theconversation.com/how-the-nigerian-and-kenyan-media-handled-cambridge-analytica-128473>

Overall, disinformation and its associated incarnations can lead to an undermining of democratic institutions and processes and citizen mistrust of electoral processes. Also, it can provide state authorities with justifications to control information flows on digital media or mute critical voices (KICTANET, 2017b).

Scholarship from various disciplines have described the political, economic, socio-cultural, legal and technological interests that drive the high-stakes nature of Kenyan political events such as the general election. Elections take place at the intersection of political power, deployment of digital technologies, the theoretical and practical recognitions of the rule of law, and socio-economic factors such as ethnicity, class, and raw political power (Abuya, 2009; Kagwanja and Southall, 2010; Kanyinga and Long, 2012; Odote and Kanyinga, 2020; Osamba, 2001). It is in this context that intensive, lengthy political campaigns take place in physical and virtual spaces, as aspiring political leaders use multiple methods to court voters and shape public opinion.

Public institutions have also experienced disinformation, particularly those engaged in political processes, such as the IEBC and the Office of the Registrar of Political Parties (ORPP). The IEBC administers and manages various polls including the upcoming general election while the ORPP regulates political parties and ensures their compliance with the law. Figure 2 illustrates a December 2021 tweet from the IEBC posted in response to a purported election recruitment claim.

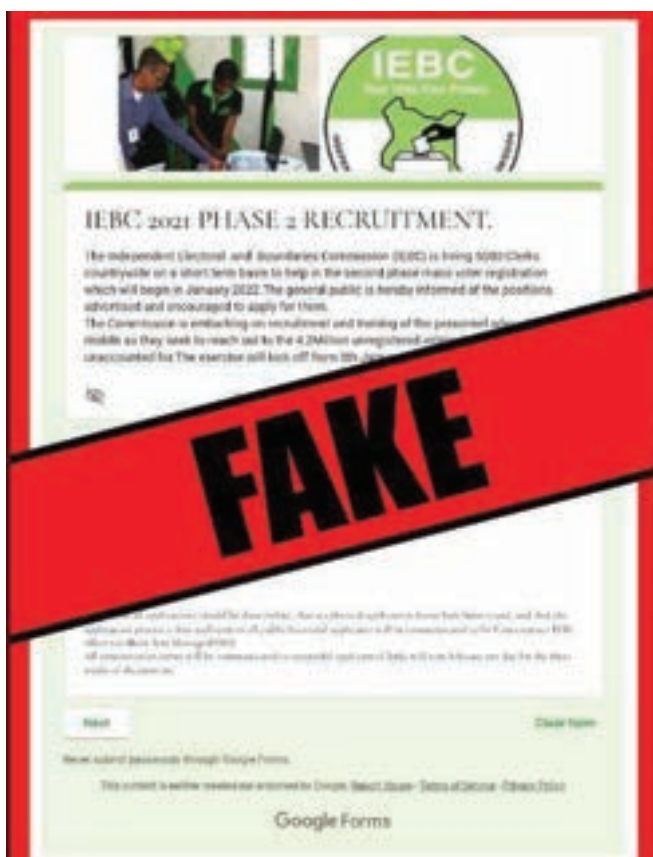


Figure 2: The IEBC stamped this election recruitment notice as fake and shared it on its Twitter handle on December 14, 2021.

This study analyses the political campaign season leading up to the 2022 poll and makes reference to the Building Bridges Initiative (BBI), a political project born out of the tumultuous 2017 poll. The BBI emerged after President Uhuru Kenyatta, leader of the ruling party, and Raila Odinga, an opposition leader, agreed to work together in March 2018, following the disputed presidential poll in 2017, whose results the Supreme Court nullified in Odinga's favour. The two leaders constituted the BBI Taskforce whose recommendations included controversial amendments to the constitution. The BBI process was challenged in court, and on March 31, 2022, the Supreme Court of Kenya rendered its long-awaited judgement regarding the initiative. It declared the BBI unconstitutional on several grounds, including the fact that it had been initiated by the president (Kiplagat 2022). Had it overcome various legal and political challenges, the BBI would have had implications on the 2022 election. It was also the source and catalyst for various distorted or false information campaigns as observed by Madung and Obilo (2021).

The study addresses disinformation in Kenya's political sphere from the following perspectives: legal framework, manifestation of disinformation, perpetrators, pathways in which disinformation is disseminated, its effects on democracy actors, government responses to disinformation, and the adequacy and effectiveness in the remedial measures undertaken by digital platforms to contain disinformation.

1.1 Methodology

This study adopted a qualitative approach in interrogating multiple aspects of disinformation in the Kenyan political sphere. This approach is useful in enabling an understanding of the meanings and interpretations that people assign to the phenomenon under observation (Creswell, 2007; Denzin & Lincoln, 2005). Various data collection tools were deployed. They included a review of documentation that included Kenya's laws, regulations and policies, reports from technology companies including Google, Facebook, YouTube, WhatsApp, Instagram and Twitter, government reports on internet usage and reach, and purposely sampled social media posts. Further, there were nine key informant interviews purposely selected from the following interest groups: digital content creators, government, journalists, politicians, academia, the legal profession, and fact checking organisations. There was also a focus group discussion (FGD) held with media content analysts working with a government regulatory body. The key informants are identified in the study by a number (e.g. 'Key Interviewee 1') and the FGD discussants as 'FGD participant'.

2 Country Context

The Constitution of Kenya, 2010 is the supreme law of the land from which multiple national and county legislation are enacted.⁴ It is an offence to deliberately create and spread false or misleading information in the country. The intersection between freedom of expression and the limitation on spreading fake news is found under articles 24 and 33 of the constitution. While the constitution grants individuals the freedom to express themselves, the expression must be within clearly prescribed limits. The limits include speech that constitutes propaganda for war; incitement to violence; hate speech; or advocacy of hatred that constitutes ethnic incitement, vilification of others or incitement to cause harm, or based on discrimination. This includes the need to ensure that one's enjoyment of their fundamental rights and freedoms, including the freedom of expression, does not infringe on another's rights and freedoms.

Beyond the constitution, other laws that touch on disinformation include the Computer Misuse and Cybercrimes Act, 2018 (CMCA), the Kenya Information and Communications Act, 2013 (KICA) and the National Cohesion and Integration Act, 2008 (NCIA). The CMCA creates the offences of false publications and the publication of false information under sections 22 and 23 respectively. Under Section 22, the law makes it an offence for a person to intentionally publish false, misleading or fictitious data. It is also a crime to relay false information with the intent that such information is considered true and acted upon. A fine of five million shillings (USD 42,499) or imprisonment for a term of two years is imposed on those found guilty. The court is also at liberty to impose both penalties simultaneously.

Section 23 provides for the offence of knowingly publishing false information in print, broadcast, data or over a computer system, that is calculated or results in panic, chaos, or violence among citizens, or is likely to discredit the reputation of a person. A person convicted under the provision is liable to a fine not exceeding five million shillings (USD 42,499) or to imprisonment for a term not exceeding ten years or to both. The CMCA limits freedom of expression if used to publish false, fictitious or misleading information that incites war or violence, amounts to hate speech, advocates for hatred of an ethnic community or harms or injures the reputation of another.

Moreover, section 44(a) of KICA makes it an offence for a person using radio communication to send or attempt to send a message which they know to be false or misleading. The Act, in Section 46(1)(d), also places an obligation on licensed broadcasters to gather and present news and information accurately and impartially before airing it.

⁴ Article 2, Constitution of Kenya, 2010, https://www.constituteproject.org/constitution/Kenya_2010.pdf?lang=en

Currently, there is no law in Kenya that clearly defines or distinguishes between misinformation and disinformation. Although misinformation and disinformation refer to spreading false news, the latter more specifically alludes to doing so with knowledge and intent. Kenya's laws could be interpreted as being more inclined towards tackling disinformation. Where the law criminalises the dissemination of false information, it requires that the perpetrator be aware of the untrue nature of the information being spread. To this extent, laws such as the CMCA and KICA use terminology such as 'willfully', 'knowingly' or 'intentionally' to denote prior intent or knowledge.

There has been a consistent debate about what the state perceives as disinformation especially among bloggers and activists, as was highlighted in the Bloggers Association of Kenya (BAKE) case.⁵ A significant stride made by the government in the quest to combat disinformation was the enactment of the CMCA and the eventual setting up of the National Computer and Cybercrimes Coordination Committee (NC4) on November 4, 2021. The Committee comprises representatives from the Kenya Defence Forces, the National Police Service, the National Intelligence Service, the Ministry of the Interior, as well as representatives from the Office of the Attorney General and Director of Public Prosecutions, Communications Authority of Kenya and the Central Bank, among other agencies.

Since the enactment of the CMCA, persons who have been arrested for the dissemination of false information have been charged under sections 22 and 23 of the CMCA. Previously, section 29 of KICA was utilised but it was challenged in the case of Geoffrey Andare v Attorney General & 2 others, which led to the section being declared unconstitutional.⁶ According to a key interviewee, the Act has been weaponised as a tool to combat dissent. Bloggers and activists such as Edgar Obare⁷ and Mutemi wa Kiama⁸ are some of those who have been arraigned in court over violation of this law after threats and intimidation from unknown third parties. Activists have also been threatened with arrest and other consequences for speaking out on issues touching on police brutality. Others have even had their laptops and other equipment confiscated (Human Rights Watch, 2018).

Key Interviewee 3 observed some irony in law, such as with the CMCA which has been decried as limiting freedom of expression and right to privacy (Mburu & Muraya, 2018). Yet the same law made an effort to hold individuals accountable for what they said, as the interviewee noted in the following edited excerpt.

The Cybercrimes Act criminalises what some of us in the media do but ... it's a step in trying to get some accountability from the general public in terms of spreading information that is not true.

However, two key interviewees indicated that despite these seemingly legal arrests, the State is unable to prosecute and obtain convictions based on the CMCA. Activist Mutemi wa Kiama was released for lack of sufficient evidence after being arrested and charged with the offence of publication of false information (Kubwa, 2021). This could point to an abuse of the laws in an attempt to silence dissent amongst bloggers and activists.

⁵ Bloggers Association of Kenya (BAKE) v Attorney General & 3 others; Article 19 East Africa & another (Interested Parties) [2020] eKLR <http://kenyalaw.org/caselaw/cases/view/191276>

⁶ [2016] eKLR <http://kenyalaw.org/caselaw/cases/view/121033>

⁷ Public Statement by the Directorate of Criminal Investigations on the arrest of Edgar Obare for contravention of Section 23 of the CMCA < https://twitter.com/dci_kenya/status/1367512899044925442>

⁸ Kenya: Release and cease attacks on Edwin Mutemi wa Kiama <<https://www.article19.org/resources/kenya-cease-attacks-on-and-release-edwin-mutemi-wa-kiama/>>

3 Results

3.1 Forms of Disinformation

Political disinformation occurs in both physical and virtual spheres. Politicians, parties, supporters, and related entities tend to create and disseminate false information intended to cause harm by discrediting reputations, confusing or misdirecting supporters. In Kenya, disinformation on digital platforms can take the form of texts, images, video or audio content (Heinrich Böll Foundation, 2019) and continually evolves, incorporating new technologies as they emerge and requiring reducing levels of time, effort, and skill (Chen, et al., 2019).

The pervasive nature of disinformation via images, for instance, was alluded to in a January 2022 tweet that went viral.⁹ The writer of the tweet tagged Dennis Itumbi, a well-known blogger who is part of the United Democratic Alliance (UDA) communications team, suggesting that the two could agree on the price of using the image embedded in the tweet. The image was of a large crowd. Figure 3 illustrates the tweet and its accompanying image. The green and yellow references point to the UDA party colours. The suggestion “hatuwezi kosana bei” is Kiswahili for “we will agree on the price” and is made tongue-in-cheek since the image is likely to be found online. But the suggestion alludes to disinformation occurring in the virtual political sphere.

Deep fakes - which may be defined as media where people, objects or scenes are manipulated to appear, act or interact differently than they are/exist in reality¹⁰ - have already made their entry, such as in this video.¹¹ It circulated in September 2020 and showed presidential aspirant Raila Odinga watching his fellow aspirant Deputy President William Ruto singing a gospel song in one of the Kenyan vernacular languages. Witness.org exposed the video as an illustration of a deep fake.¹²



Figure 3: Screenshot of the February 6, 2022 tweet suggesting that a communications team member for UDA could use this photo at a price.

⁹ Tess's Tweet, Trendsmap, <https://www.trendsmap.com/twitter/tweet/1490388859477184519>

¹⁰ Center for Human Rights, Report on a one-day expert workshop on understanding deepfakes and other forms of synthetic media in Sub Saharan Africa <https://blog.witness.org/wp-content/uploads/2020/02/WITNESS-South-Africa-Deepfakes-Workshop-Report.pdf>

¹¹ Viral Video of Raila Watching Ruto Sing Kikuyu, C. A. O, YouTube, <https://youtu.be/pWgDwaUrqHQ>

¹² WITNESS, South Africa Deepfakes Workshop Report, <https://blog.witness.org/wp-content/uploads/2020/02/WITNESS-South-Africa-Deepfakes-Workshop-Report.pdf>

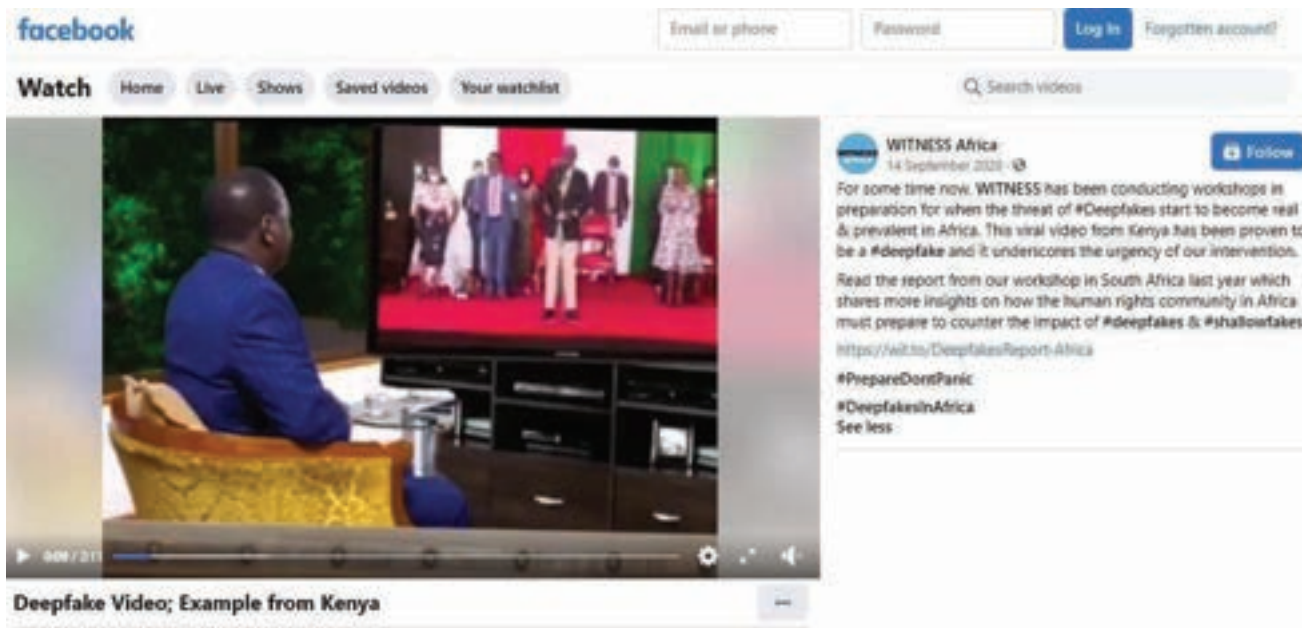


Figure 4: Screenshot of the Raila-Ruto video exposed as a deep fake. The image had circulated in September 2020.

Text messaging and social media platforms - particularly WhatsApp, Twitter and Facebook - have been central to the dissemination of disinformation related to politics and governance (Mutahi & Kimari, 2020). Posts are created on WhatsApp groups prior to being shared and then finding their way into public online spaces. Technology has thus been a primary contributor to disinformation as people are able to manipulate photos and videos using simple, easy-to-use, editing techniques and mobile software applications such as Photoshop to fit particular narratives. The effect of this manipulation has been that the final photo, video or audio clip only depicts one side of the story - often a false one.

However, to fully harness the benefits of disinformation, perpetrators will also rely on a combination of various media including videos, photos and sound recordings for the online space and hard copies of propagandist leaflets and pamphlets. Disinformation is rarely unidirectional. Instead, perpetrators employ a range of activities, ideas and symbols to realise a particular outcome which could be a particular candidate winning an election or shaping the narrative on a specific topic (Njoroge, 2008).

Political disinformation has been evident in Kenya such as when a poster circulating on social media platforms in late March 2021 claimed a prominent political journalist was planning to vie for a legislative seat on the political outfit associated with Deputy President Ruto. Ruto took office as a member of the Jubilee political party headed by the president, but the two have since parted ways, creating two distinct political camps around which aspiring politicians have allied themselves.¹³ In the case of the journalist, the poster was exposed as fake, as shown by the stamped image shown in Figure 5.

¹³ Uhuru, Ruto split widens as the DP skips key event,

<https://nation.africa/kenya/news/politics/uhuru-ruto-split-widens-as-the-dp-skips-key-event-3280350?view=htmlamp>



Targets of disinformation - such as individuals, the media, or political, government and corporate entities - have deployed the 'fake' stamp as a visual digital response to false information that is circulated on public spaces such as social media platforms. The stamp is easily shared or posted on social media.

Figure 5: Poster claiming political journalist Francis Gachuri was going to vie for a Member of Parliament seat in Kiambaa Constituency.

3.2 Tactics

One tactic employed is the use of the “keyboard armies” - where tens or hundreds of individuals monitor the internet and influence public opinion on a large scale. They are commonly referred to as “influencers” and are paid to come up with particular rhetoric, hashtags, trending topics or posts aimed at deliberately misinforming people. It is these influencers who are used for astroturfing¹⁴ and simulating widespread grassroots support for an individual, product, service or policy where very little of it actually exists (Bienkov, 2012). The goal is to make such support appear legitimate, especially from the lowest levels of society. Once other members of the community see just how popular the product, service or individual is, they are likely to offer support as well.

For example, in Figures 6 and 7 below, a misleading post went viral on social media claiming that Classic 105 radio presenter Daniel Ndambuki alias Churchill took slim tea to lose weight. Churchill later flagged it as fake. The advertisement for slim tea purports to have been endorsed by Churchill on official social media pages.



Figure 6: The false advertisement used on social media platforms purporting to be endorsed by celebrity and media personality Churchill for sale and distribution of slim tea.



Figure 7: The original image used to create the manipulated image in figure 6. The original image shows Churchill seated with a woman and his legs are stretched out while the fake post indicates that the radio presenter had crossed his legs.

¹⁴ Political astroturfing refers to a centrally coordinated disinformation campaign in which the perpetrators pretend to be ordinary citizens acting independently and sharing content en masse. See Political Astroturfing on Twitter: How to Coordinate a Disinformation Campaign.

Mass brigading, which is the opposite of astroturfing, has also become popular. For this tactic, a group of users will band together to come against one or more users who are expressing a different opinion with the aim of discrediting their stance (Andrews, 2021). Eventually, the user's opinion will be drowned out amid other comments and anyone who catches sight of it will be inclined to doubt its accuracy due to all the negativity from other users.

In the political realm, claims of political leaders leaving political parties and joining new affiliations have been rampant with supporters on both sides of the divide banding together to support the subjective popular decision. For instance, in March 2022, the letter in Figure 8 was circulated on social media claiming to have originated from Murang'a Senator Irungu Kang'ata informing the Deputy President that he wanted to leave the UDA for Azimio La Umoja Movement (a political alliance led by Raila Odinga). Ruto and Odinga are according to opinion polls the leading contenders for the position of president in the upcoming August election.¹⁵ The letter was found to be fake. Figure 9 shows further proof that Kang'ata had not left UDA.



Figure 8: Alleged letter circulated on social media informing the Deputy President of the Senator's exit from the UDA party.



Figure 9: This tweet shared by the Murang'a Senator Irungu Kangata (@HonKangata) shows a screenshot of his party registration status to dispel rumours that he had abandoned UDA.

The use of disinformation content and techniques varies greatly depending on the circumstances and is directly tied to the campaign methods adopted by the various teams. In political contests, candidates will use techniques that enable them to reach the largest audiences within the shortest time. Some of these techniques have manifested in presidential elections over the last two decades. Consequently, to reach those in areas with widespread internet connectivity, perpetrators use social media.

Most notably, according to the Channel 4 Report and investigation, in the 2013 and 2017 elections, the Jubilee party discreetly hired political consultancy firm Cambridge Analytica to spearhead its campaigns including a two-time party rebrand, undertaking 50,000 surveys, research and data collection and alleged development of propaganda against opponents, which played to the electorate's fears and was disseminated through social media platforms.

¹⁵ 'Nation' opinion poll shows Ruto and Raila in a dead heat at 42pc, <https://nation.africa/kenya/news/politics/-nation-opinion-poll-shows-ruto-and-raila-in-a-dead-heat-at-42pc--3812464>

By contrast, actors targeting populations whose social media presence or activity is minimal will rely more heavily on physical gatherings and individuals to spread information. Visual material such as posters, leaflets, T-shirts, lesos (wraps), caps and posters bearing their messages are also widely used. Spreading disinformation requires significant financial outlay, and because of this, individuals are compelled to use only those techniques that they can afford. For instance, the cost of hiring an influencer can be as high as USD \$15 per day, which can force some actors to resort to mass printing of posters and pamphlets.

3.3 Drivers and Trends

Across the African continent, disinformation has gradually increased over the past few years.¹⁶ In Kenya, the two factors contributing to this growth are the proliferation of digital technologies and the lucrative nature of disinformation (Crabtree, 2018). Statistics from the Communications Authority of Kenya (CA) show that the country has extensive mobile and internet penetration which have fuelled the growth of social media use. There has been continual growth in data and Internet subscriptions and mobile phone activities (such as texting, calling and accessing the internet) since 2008.¹⁷

In its 2021/2022 sector statistics report,¹⁸ the CA indicated that the COVID-19 pandemic resulted in the robust growth of the ICT sector and that at least 94% of the Kenyan population is covered by 4G networks. The total number of internet/data subscriptions as at December 2021 was 46.4 million¹⁹ out of a population of 48.7 million.²⁰ There had been a 12.8% increase in the use of ICT services in the fourth quarter of the 2020/2021 financial year, compared to the third quarter of the same year. Mobile data subscriptions made up more than 99% of all data subscriptions.²¹

A 2019 study²² indicated that among Kenyans, there was pervasive use of a variety of social media applications. The majority of Kenyans used WhatsApp, (88.6%), Facebook (88.5%) and Youtube (51.2%). Other platforms used were Instagram (39%) and Twitter (27.9%). The social media sites were used not only as fora to connect with others, but as source of news, entertainment and political information.

Social media is distinct from mainstream media primarily because the former is unfiltered and much of the information that is spread on the platform is unverified and veracity of facts rarely checked. However, even where information is subjected to fact-checking, the process does little to correct mis/disinformation as the sources being used to check for facts may be in dispute (Rich, Milden & Wagner, 2020). The rise of disinformation is primarily attributable to the unfiltered nature of information shared on social media. Cyber propaganda and disinformation on social media are used to shape public opinion (Maweu 2020).

The frequency of disinformation tends to spike during and in the period leading up to elections, as has been seen in countries like Kenya, the Democratic Republic of Congo (DRC), South Africa, and Uganda.²³ Key Interviewee 3 said the 2022 election period in Kenya is no different and it places a particular burden on the mainstream media.

We expect to see more of this [disinformation] during campaigns and that forces media houses to find ways to combat it. (Key Interviewee 3)

¹⁶ Domestic disinformation on the rise in Africa, <https://africacenter.org/spotlight/domestic-disinformation-on-the-rise-in-africa/>

¹⁷ Communications Authority, Sector Statistics, <https://www.ca.go.ke/consumers/industry-research-statistics/statistics/page/5/>

¹⁸ Communications Authority of Kenya Sector Statics Reports Q4 2020/2021, <https://www.ca.go.ke/wp-content/uploads/2021/09/Sector-Statistics-Report-Q4-2020-2021.pdf>

¹⁹ Ibid

²⁰ The CA sector statistics reports rely on mobile operator data which combines users with one mobile phone line and those with multiple lines.

²¹ Communications Authority of Kenya Sector Statics Reports Q4 2020/2021, <https://www.ca.go.ke/wp-content/uploads/2021/09/Sector-Statistics-Report-Q4-2020-2021.pdf>

²² Social media consumption in Kenya, https://www.usiu.ac.ke/assets/file/SIMElab_Social_Media_Consumption_in_Kenya_report.pdf

²³ Study sheds light on scourge of fake news in Africa <https://theconversation.com/study-sheds-light-on-scourge-of-fake-news-in-africa-106946>; Domestic disinformation on the rise in Africa <https://africacenter.org/spotlight/domestic-disinformation-on-the-rise-in-africa/>

Broadcasting in the country is mainly through radio and television which are utilised for entertainment, information and education. The broadcasting sector is quite robust, with a 2020/2021 report indicating an increase in the number of commercial free-to-air television broadcasters to 229 from 111 at the start of the financial year.²⁴ Both radio and television outlets are accessible to nearly all of the people of Kenya, and are a powerful medium for influencing culture, beliefs and values as well as a tool for economic growth and development (Communications Authority, Audience Measurement and Industry Trends Report for Q1 2019-2020). Accordingly, in rural areas where there is less internet penetration, disinformation is spread through other traditional media including radio, leaflets and pamphlets (Njoroge, 2008).

Recent political events, such as Kenya's 2017 election, have seen synchronised efforts at disinformation, including the registration of websites that disseminated fake news, and information shared by opinion influencers (Freedom House, 2018). Global Disinformation Index (2021) noted that even established mainstream media online publications were at risk of spreading false information based on weak operational structures, and a reduction in personnel following retrenchments and pay cuts (Global Disinformation index, 2021; Wamunyu, 2021).

Key Interviewer 3 who works in the mainstream media spoke of the challenge journalists face in combating disinformation.

These guys [sources of disinformation] keep on evolving and they find ways to get to the naïve public. So, it is upon us as the media to try and tell them the tell-tale signs that this is most likely doctored or inaccurate. I know we are not doing enough, but we are trying. We are taking baby steps to show the public what is genuine and what is not. It is a big task because not all [members of the public] are on our platforms. No media house can say they are not facing a resource challenge. (Key Interviewee 3).

Additionally, disinformation has become big business and a source of livelihoods. A 2021 Mozilla Foundation report described the “booming and shadowy industry of Twitter influencers for political hire” in Kenya (p. 3), who could earn an estimated USD10 to USD15 daily for participating in three campaigns. There were also individuals who rented out their verified accounts for a fee, as well as the use of WhatsApp groups to share content even further.

Disinformation is generated and spread within an ecosystem that includes politicians and related entities (e.g. political parties, strategic consultants, social media influencers and bloggers, and supporters). The spread of disinformation is enabled by digital infrastructures including social and mainstream media, platform providers (e.g. telecommunications companies, Internet Service Providers), and is largely targeted at citizens. Relevant government entities (such as the IEBC and the ORPP) and the mainstream media also play a role in countering disinformation campaigns against them and in providing accurate information for public consumption.

Key Interviewee 1 - a media and communications scholar – indicated that disinformation extends from national-level to ward- and village-level political races, politics, and issues. The principles, structures, and intentions of disinformation tend to be similar globally. It is the levels of sophistication and audience reach that may vary. Additionally, Key Interviewee 1 observed that as useful as the terms ‘misinformation,’ ‘disinformation,’ and ‘malinformation’ are for categorising disinformation, in reality, the distinctions may be blurred. For instance, something may begin as misinformation but become disinformation as it is received and interpreted, and then passed on.

²⁴Broadcasting Services Report, Quarter 4 2020-2021, <https://www.ca.go.ke/wp-content/uploads/2021/09/Broadcasting-Services-Report-Quarter-4-2020-2021.pdf>

Safaricom PLC, which holds the majority market share in the telecommunications sector, reported that during the 2017 election year, 50% of its communication department's time was spent monitoring fraud and fake information of different kinds (Dahir, 2018). This was an increase from approximately 10% during the 2016 financial year (Dahir, 2018). The company reported that social media platforms such as Facebook, Twitter and WhatsApp were used to distribute propaganda, especially during the 2017 general election, even as it also acknowledged that businesses, both large and small, were also targets of false or misleading information about them.

While large and small-scale businesses as well as media houses in Kenya are subject to disinformation²⁵ (Safaricom, 2021), it is most prominently used in politics, where the effects are more clearly witnessed during election periods (Maweu, 2020). Additionally, there has been increased COVID-19 misinformation since 2020. In the case between the Law Society of Kenya and the Bloggers Association of Kenya, the Law Society sought prospective protection from the court for bloggers, activists, journalists and whistleblowers facing the risk of restriction of their freedom of expression over COVID-19 related publications.²⁶



Figure 10: In a Feb. 2, 2022 post, businessman Jimi Wanjigi (@JimiWanjigi) called out a post as 'fake.' The post was from account holder Jimmy Wanjigi (@Jimmiwanjigi).

Various individuals or entities have resorted to countering false information by posting the information on social media with a 'Fake' stamp across the post as in the illustration below. In the case below, businessman Jimi Wanjigi's Twitter account (@JimiWanjigi) had described a 'fake' post from an account with a similar name as his (@Jimmiwanjigi). The tweet named several leading political figures as having joined hands to support Raila Odinga.²⁷ The tweet is seen in Figure 10.

Several key interviewees who participated in this study anticipated that there would be even more occurrences of fake news and disinformation in the leadup to the August 2022 poll, as the clamour to reach the hearts and minds of prospective voters increases. Key Interviewee 3 observed that the Kenyan citizenry enjoyed a high level of access to the internet and mobile telephony, which came with its positive attributes and challenges.

²⁵ Safaricom PLC, 2021 Sustainable Business Report, https://www.safaricom.co.ke/images/Downloads/Safaricom_2021_Sustainable_Business_Report.pdf

²⁶ Law Society of Kenya v Bloggers Association of Kenya & 6 others [2020] eKLR,

²⁷ Kenya: Raila Odinga's options to beat Ruto narrow after BBI defeat, <https://www.theafricareport.com/121670/kenya-raila-odingas-options-to-beat-ruto-narrow-after-bbi-defeat/>

We like to take pride in the fact that we are a digital economy. The penetration of the internet is quite high and the diffusion of gadgets is high. But on the downside this means that anyone can be a mercenary. You have all the tools you need to create elements of disinformation. We have more people adopting digital today than maybe five years ago. Kenyans spend a lot of time on social media. [Sources of disinformation] see that as a target where they can reach us. (Key Interviewee 3).

The participants in the focus group discussion also anticipated an increase in disinformation, with one speaking about the need to pay attention to the numbers that aspirants discuss on the campaign trail.

As we get into elections, misquoting numbers will likely increase. There will be a need to focus on what these politicians are saying on the radio. For example, someone saying 50 million [shillings] has been misappropriated by a governor. But what does each county get in allocation? That needs to be fact-checked. And numbers can be used to spread disinformation. (Focus Group Participant).

3.4 Disinformation Instigators and Agents

The information ecosystem today enables citizens to engage in political discourse separate from and parallel to that driven by politicians, political parties, and other related entities. Digital media can include, exclude or neutralise different voices. It has enabled citizens and political actors to engage in political discussions and mobilise online and for offline activities. It can also be manipulated to reinforce the positions or influence of some actors, particularly the powerful (Nyabuga and Mudhai, 2018; Ogola, 2019; Omanga, 2019). Disinformation online is not restricted and can be perpetrated by or targeted at multiple actors, including those who are not influential, politically connected, or famous.

Locally, disinformation is still largely perpetrated by individuals as the concept of PR firms has not been fully embraced. Perhaps this is because of the cost associated with using firms vis-a-vis the returns. Additionally, there may be reluctance on the part of the firms to take up work of a political nature because of the stigma and potential repercussions that may be associated with such work.

3.4.1 Social Media “Gurus”/Digital “Influencers”

Social media has by far been the biggest platform used to spread disinformation. A study by DataReportal indicates that the number of internet users in Kenya in January 2022 stood at 23.35 million, out of which 11.75 million are active on social media (Kemp, 2022). This is a significant number and those seeking to spread disinformation are aware of just how big a platform the social media space is. Social media influencers are the key to unlocking this ‘massive potential’ and anyone seeking to take advantage of it knows this. Increasingly, influencers are used to push hashtags on Twitter, Facebook and YouTube, all of which determine the country’s news cycle through features such as algorithms. By doing so, they not only skew conversations in a particular direction, but also push political ideologies and narratives that contribute to disinformation.

Disinformation is fueled by the ease of access to multiple digital technologies and the growing phenomenon of influencers for hire. This has become a commercial enterprise, where individuals are hired to promote political candidates, amplify their achievements, and in some instances malign their opponents. Key Interviewee 4 - a social media influencer - described his work in updating two politicians’ social media accounts where he presents the agenda of his clients even when he does not agree with it or when it is not completely true:

I have my own accounts which I don’t mix with politics. But for the two accounts I’m managing, people are pushing agendas in different ways. They are selling their manifestos and ideas... I’m conversant with issues of the Constitution. In [a particular area in the Coastal region], there was a politician who lied about building a certain road but that was a national government function. But because that’s what he wanted me to do, I had to do it. There is not enough civic education being done to the people to help them understand the responsibilities of the various seats [offices]. Most people have limited information. As an influencer, I’m doing what he says because he’s my boss. (Key Interviewee 4).

It is worth noting that the case above was a case of misinformation, rather than textbook disinformation. The influencer indicated that he was contracted to amplify his client’s narrative rather than to focus on the client’s opponents.

Mine is to focus on the politician and what he does. Giving information about an opponent is giving the other person mileage. (Key Interviewee 4)

Key Interviewee 1 indicated that in the political sphere, disinformation begins with a political strategy focused on identifying and articulating the issues that will resonate with the intended audience. The intention is to create a narrative that will enter the information ecosystem and ultimately influence and be further spread by a largely uncritical public. There is then an investment in the personnel who will develop the narratives that relate to the issues identified. These narratives are professionally packaged in consumable products such as memes, infographics, videos, screenshots, and posters. Visual content is of greater appeal in the current environment where citizens are constantly bombarded by multiple types of information and have no time or inclination to fact-check everything they consume. Visual content tends to be more appealing and can quickly simplify information.²⁸

The Mozilla Foundation (2021) report indicated that these activities are well coordinated with individuals behind-the-scenes providing influencers with money, instructions, and information to be shared. For many of the influencers who are hired to push hashtags and trending topics, the driving incentive is money. Few, if any, of the jobs taken up by influencers are unpaid. The country's youth unemployment rate stood at close to 39% in 2020 yet there is widespread internet access (Alushula, 2020). Youth with large groups of followers will thus readily take up such income earning opportunities. For those on the other end of the spectrum, that is, the disinformation instigators including politicians and political parties, it is their desire to win seats that motivates them. Other than influencers, more common modes of spreading disinformation include the use of WhatsApp groups and bulk messaging services. Both of these take advantage of the vast reach that they have and the ease with which false information can be spread using these methods.

3.4.2 Political Actors

Beyond the content that can be created and distributed on social media, there is also an effort to distribute the messages on mainstream media. This may be through news talk shows, which often will have representatives from competing sides of a political race. These representatives have an opportunity to sow the seeds of disinformation in an environment where there is little time or resources to confirm the information they share.

Ndavula (2020) observes that social media is a potent platform enabling a relatively level playing field for the free exchange of ideas, although influential, easily recognised and well-resourced politicians are at an advantage to shape public opinion through their online discourse. It is often political actors who are behind the multimedia content such as memes, videos, and posters that are developed by content creators who disseminate the content primarily on digital platforms such as different social media. WhatsApp is an important dissemination platform because it permits the circulation of different types of multimedia content, reaches multiple groups that have created a virtual communities built around a common interests (e.g. family, religious group, workplace, and politics), and content is shared with ease, enabling the propagation and discussion of the disinformation within and outside the groups.

Disinformation in the country, especially during the campaign period, works on various levels. At the highest level are the political parties that are looking to garner as many political seats as possible. These will range from the lowest level of a Member of County Assembly (MCA) to the presidential seat, which is the highest. Spreaders of disinformation such as influencers and bloggers will then be hired by the political aspirants looking to clinch various positions (Zawacki, 2021).

²⁸ S Shyam Sundar, Maria D Molina, Eugene Cho, *Seeing Is Believing: Is Video Modality More Powerful in Spreading Fake News via Online Messaging Apps?*, *Journal of Computer-Mediated Communication*, Volume 26, Issue 6, November 2021, Pages 301–319, <https://academic.oup.com/jcmc/article/26/6/301/6336055>; *Investigating Facebook's interventions against accounts that repeatedly share misinformation* <https://www.sciencedirect.com/science/article/pii/S0306457321002818>

Patterns exist which indicate that the disinformation in Kenya is often part of organised campaigns. Many of the hashtags and trending topics like #wakoranetwork and trending topics used to spread disinformation such as the network of corruption within the judiciary are normally not organic and instead are spread by bots and sock puppet accounts (Andrews, 2021). The creation dates on these accounts are mostly recent and it is normally difficult to find old accounts, save for those who have been purposely hired to spread disinformation, endorsing the messages. Another pattern that is usually indicative of an organised campaign is that many of the hashtags are usually in response to a news item where particular individuals seek to be sanitised.

A number of those fueling disinformation have resorted to imitating prominent citizens, politicians, corporations and even news organisations by creating fake accounts which have minute differences when compared to the original/real accounts (Volz and Barry, 2020). Only upon further scrutiny can one tell the difference. By impersonating celebrities and renowned companies, instigators hope to add what can only be described as 'believability' to their stories.

The use of well-known names or brands is commonly used as a ploy in disinformation circles as it creates a level of credibility and name recognition for the intended recipients. Figures 11 and 12 illustrate how news websites Kenyans.co.ke and Nation Media Group have had to counter the spread of disinformation using their brands.



Figure 11: The website Kenyans.co.ke denied the quote by politician Martha Karua and the use of its brand name in this post carried on Twitter on Jan. 24, 2022.



Figure 12: As this tweet from August 17, 2017 illustrates, media houses have long been battling the use of their brands in the passing on of political disinformation. The Daily Nation's front page has been manipulated in the photo on the right but countered by a post of the correct front page as shown on the left.



Social media is usually at the heart of these disinformation efforts. Popular political figures, influencers and activists with huge following such as Robert Alai,²⁹ Cyprian, Is Nyakundi³⁰ and Abraham Mutai³¹ have been found to at times post wrong or inaccurate information and their followers spread it as the gospel truth. In some cases, fake accounts that seem real are created to share such wrongful information.

For instance, in April 2022, posts circulated on social media and bearing the image of comedian-cum-radio presenter turned politician, Jalang'o accused him of being a mole in the Orange Democratic Movement (ODM) for the UDA party. Figure 13 shows one of the posts on a Facebook page purported to be from the verified account of Babu Owino, a Member of Parliament. However, media publisher, The Star, fact-checked and confirmed that the alleged post was missing from the MP's verified Facebook page, a clear indicator that it was manipulated for propaganda purposes.

Figure 13: A Facebook post accusing Jalang'o (left) of being a mole within the political outfit led by Deputy President William Ruto (right). The post was said to be fake.

3.4.3 Foreign Actors

In the 2017 general elections, the Jubilee Party is alleged to have used the services of Cambridge Analytica to spread fake news as part of the campaign strategy to ensure that Jubilee won. On a broader level, politicians and political parties are major instigators of disinformation. However, their involvement is normally indirect as they tend to outsource the dissemination of disinformation to other individuals who are typically paid to create and curate content which could be deliberately misleading or false.

3.5 The Pathways of Disinformation

Disinformation may be generated offline or online, but tends to be distributed via different forms of media. Key Interviewee 1 noted for example that a politician can make misleading or false comments at an in-person gathering such as a political rally. But the information can subsequently be captured in memes, still images, blogs, text messages, posters, or audio-visual content generated using digital technologies and shared on mainstream or social media. The content gains traction when audiences respond to it digitally through likes, retweets, reposts, WhatsApp forwards, and offline through the discourse that revolves around the shared content.

Key Interviewee 4 indicated that Facebook and Twitter were platforms of choice for a politician whose social media accounts the respondent managed.

²⁹ Robert Alai, Twitter, <https://twitter.com/RobertAlai>

³⁰ Cyprian Nyakundi, Twitter, <https://twitter.com/CisNyakundi>

³¹ Lord Abraham Mutai, Twitter, <https://twitter.com/ItsMutai>

The politician uses Twitter and Facebook. Facebook has a general audience where he can interact with anyone, everyone, anywhere, every time. Twitter is for the elite, where he is targeting to speak to the elite like scholars, people who are well conversant with communication. On Facebook, [politicians] want general audiences. Twitter is also where you get real-time information, like where there is information trending on a real-time issue. (Key Interviewee 4).

However, as the FGD participants indicated, Telegram is another application that is gaining traction partly because it allows large groups of people to congregate in one group, and to share information while remaining anonymous or unknown. In this edited excerpt, one FGD participant shared about a prediction on Telegram about a November 2021 incident in Kondele (in the Western part of Kenya) where violence occurred at a political gathering.³²

There's an app we are forgetting about, that is Telegram. It's a secure app. Most of the people nowadays have moved to Telegram. There are so many political groups that have been created there. Someone had dropped a text in Telegram that there would be violence in Kondele. And in that group, you won't know who it is. (Focus Group participant).

Kenya has a robust digital infrastructure and widespread use of and access to internet-enabled devices.³³ However, social media platforms are becoming increasingly notorious for spreading disinformation. This could be on WhatsApp through propaganda groups that purposely initiate fake messages which are then distributed to other groups. Facebook and Twitter are also popular sources of disinformation due to the ease with which people can create and share information that is either unverified or entirely false. They are also very popular because of the number of users. As at January of 2022, Facebook had the largest share of social media users in Kenya with 9.95 million, followed by YouTube with 9.29 million (Kemp, 2022).

Social media platforms enable content to spread fast and go viral. According to several key interviewees, political information tends to spread very fast from Instant Messaging applications such as Signal, Telegram channels, WhatsApp to web-based social networking platforms. It is also becoming easier to spread disinformation for several reasons. One is that there is little-to-no verification of the information that is shared on these platforms. Whether it is on WhatsApp, Facebook or even Twitter, people rarely bother to fact-check or counter-confirm the veracity or accuracy of the news they are spreading. This reluctance to confirm the accuracy of information is occasionally propelled by the tactics that are employed by spreaders of disinformation. These include the creation of fake accounts to mimic real ones belonging to celebrities, media personalities or companies to try and enhance the authenticity of posts or the information that they put out (Madung and Oblio, 2021).

³² Sifuna hits out at Ruto over Kondele violence blame game, <https://www.the-star.co.ke/news/2021-11-11-sifuna-hits-out-at-ruto-over-kondele-violence-blame-game/>;
Kondele update: DP Ruto reacts to police statement that he had been warned,
<https://www.standardmedia.co.ke/politics/article/2001428812/kondele-update-ruto-reacts-to-police-statement>

³³ Social Media Consumption in Kenya, https://www.usiu.ac.ke/assets/file/SIMElab_Social_Media_Consumption_in_Kenya_report.pdf

Another reason that makes social media such a perfect platform for disinformation is the business model of the companies. The companies behind the social media platforms primarily generate revenue through advertising and people can market a wide range of products including information. To have a message reach a wider audience, one pays for the message to become 'promoted.' The companies allow people to choose just how wide an audience they wish to reach and can make it as specific as a town, city, country or even worldwide. Although the companies have rules on what can or cannot be promoted, this is typically limited to illegal products and services and not misleading messages. The companies do not always proactively monitor what content is shared and may only review content that has been flagged or tagged in reports made by their users and the wider community.

Across the social media space, those who spread disinformation tend to work with a combination of WhatsApp, Facebook and Twitter as these are the most popular platforms (Madung and Obilo, 2021). A combination of the three is preferred normally because there are little-to-no filters when working with them and whatever information is shared on these platforms is likely to go viral very quickly. Additionally, according to a key interviewee, the end-to-end encrypted messaging platform Signal is another platform where disinformation is rife. There is the notion that it is 'a safe space' considering it has encryption. The belief is that what is shared on Signal is usually not on WhatsApp or Facebook.

In other instances, social media is also used in tandem with physical printouts containing the information that perpetrators wish to spread in the form of leaflets or pamphlets. The latter is normally used in places where there are few social media users and low internet connectivity such as remote or rural areas.

Social networks primarily operate through a host of features that allow users to connect by following and friending, sharing information and commenting on other people's posts (Altoff, Leskovec and Jindal, 2017). Facebook posts, for instance, have the 'share post' option while Twitter allows users to retweet content. Platforms such as LinkedIn and Twitter have the 'like' button which allows users to not only show interest or approval but also effectively publicise their action to those in their networks as circles. Both of these product design options are vital in spreading content in the online space as they allow users to share posted content with their followers or friends. Information also regularly crosses from the online space into the offline network. This happens when mainstream media and news outlets report on any trending topics, which has now become a common phenomenon in news briefings.

There are various actors along the disinformation chain and whereas some are 'repeat offenders,' many others are coming up on an almost daily basis (Théro and Vincent, 2022). Bloggers and influencers, many of whom are paid, are the most well-known repeat offenders on matters of disinformation. Locally, some of these bloggers have even been arrested on account of spreading disinformation. However, the spread of disinformation is also gaining popularity among a different group of individuals known as 'influencers.' These are typically individuals who have a large social media following and who would therefore command a wide audience whenever they post anything on their accounts. The term influencer connotes their ability to guide or sway individuals' opinions or decisions about a product, service or an individual in a certain direction based on whether they endorse or disapprove of it (Bernstein, 2019). This group of individuals is normally motivated by the financial incentive to act as spreaders of disinformation.

Topics trend whenever a specific set of words or a phrase (regarding the topic) are repeatedly used or mentioned. The reason for the trend may be from an authentically large number of mentions of the words or phrase. This is called organic growth. However, the virality of a topic may be manufactured by having individuals mention it purposely to give it traction. Influencers have increasingly been used in the country to push trends (Madung, 2021).

Yet, as two key interviewees for this study observed, the citizens also contribute to the spread of fake news and disinformation by being too trusting of the information they receive online. They then pass on information through social media platforms such as WhatsApp without verifying its authenticity. Moreover, citizens have not held their leaders accountable for their false utterances or claims that have driven disinformation.

3.6 Effects Of Disinformation On Democracy Actors

Disinformation has a destabilising effect on democratic processes for various reasons. It serves personal rather than national agendas, is fast and easy to create and disseminate, diminishes trust in democratic and political institutions, and places the burden of verifying information on institutions or individuals. The former - such as mainstream media and fact-checking organisations - cannot address the deluge of false or incorrect information that is generated and disseminated particularly on social media platforms. Individuals are not always aware of their civic rights and responsibilities or equipped to recognise false information.

Key Interviewee 3 described the dangers of disinformation and reflected on what they termed one of its “positive aspects.”

Disinformation does more harm to our credibility as media. The general public is quite naïve and when they come across material that is quite harmful, they buy it without necessarily doing their own self-verification. All they can do is accept and say that media house [where they encountered the disinformation] is terrible. I think the general credibility of the media is affected. It ruins the brand if malicious content is posted. At a personal level, I don't think the effect is felt for us as journalists other than it gives us additional work. You have to be more proactive. On the positive side, it keeps us learning and growing. It's keeping us on our toes on how to stay ahead. (Key Interviewee 3).

Table 1 provides an overview of the effect of disinformation on different actors.

Freedom of opinion and expression	The spread of disinformation resulted in the creation of laws whose initial purpose was to curb the spread of false information. However, these laws have been weaponised by the government and turned into tools used to stifle and gag people whilst curtailing their freedom of opinion and expression.
Access to reliable and pluralistic information	The disinformation counter-measures which have primarily been through enactment of new laws or amendment of existing statutes have greatly hindered access to information. People are now afraid of sharing information of whatever nature as they fear it may be used against them by the state or flagged as fake or false.
Ability to mobilise support online and to sell contesting ideas to citizens	Disinformation has worked both ways. It has improved people's ability to mobilise online support. This is because one of most popular tactics used by perpetrators of disinformation is hiring individuals and banding them together to push and popularise certain topics and ideas. In the same breath, those who oppose the ideas pushed by paid influencers risk having their accounts reported en masse by such influencers and because of this, some individuals may be afraid of criticising or going against those ideas. However, citizens also need to play a more active role in assessing the information they receive, such as by verifying information before sharing it within their online or offline networks and holding leaders accountable such as by questioning the claims they make.
Right to democratic participation	Democratic participation has also been stifled due to the disinformation counter measures that have been deployed by the government. The freedom to express political opinions such as dissatisfaction with the government or the services it renders or government officials may be treated as the willful spread of false information.

Table 1: An overview of effects of disinformation in multiple spheres

At another level, there have been numerous cases of violence being meted out against particular individuals online, which were related to disinformation. Disinformation content such as inauthentic photoshop content, personal photographs and texts may also arise when social media users are opposed to unpopular opinions by journalists, activists and other popular figures. An example is activist Boniface Mwangi who is often the subject of paid hashtags such as #BonifaceMwangiTheCon aimed at discrediting his image and questioning the motivation behind his activism. Popular journalist Yvonne Okwara was a victim of cyberbullying in April 2020 when she spoke out in defence of Kenya's first COVID-19 survivor, Brenda Ivy Cheruto, from cyber bullies and against social media users spreading misinformation about the government's efforts and response to the pandemic's outbreak in the country.³⁴

³⁴ iFreedom, Brenda Ivy Cherotich And Yvonne Okwara Victims Of Cyberbullying In Recent Times, <https://www.ifree.co.ke/2020/04/brenda-ivy-cherotich-and-yvonne-okwara-victims-of-cyberbullying-in-recent-times/>

Disinformation has the effect of skewing people's perceptions either positively or negatively. Such perceptions result whenever influencers are hired to push hashtags or get messages on diverse topics to trend on social media. Consequently, many users are likely to be convinced that the information being shared is true even without conducting any fact-checking for their own benefit. Disinformation engenders mistrust and a lack of clarity among citizens as to where they can get credible information. Yet citizens need good information to play a more active civic role, by knowing what the leaders should be doing and in assessing the use of public resources.

It has become well-known that political parties actively use disinformation to discredit opponents and because of this, they are no longer viewed as neutral entities with the people's best interests in mind. Instead, they are perceived as entities that only seek to divide the people (Madung & Obilo, 2021). Opposition politicians have also resorted to hiring influencers of their own to either counter the disinformation that is spread or try to correct the narrative. Some activists and human rights defenders who have been the subject of counter-disinformation measures by the government have either significantly reduced or completely stopped expressing themselves for fear of being targeted by the government under the guise of stopping the dissemination of fake news.

3.7 Responses To Disinformation

3.7.1 Weaponisation of Disinformation Law to Silence Critical Voices

The government has taken several measures in an attempt to curb the spread of disinformation. One has been through the enactment of new laws and amendment of existing ones to make disinformation an offence. Laws such as the Computer Misuse and Cybercrimes Act (CMCA) and the Kenya Information and Communications Act have provisions that have given the government a basis for increasing arrests on crimes envisaged under these laws. It is yet to be seen whether these arrests and prosecutions reduce the spread of disinformation.

The now lapsed Kenya Information and Communications Amendment Bill of 2019 sought to regulate the use of social media and the spread of misinformation by placing an obligation on social media users and group administrators to control undesirable content and discussions on messaging groups. The failure to comply would attract a fine of up to 200,000 KES (USD 1,699) or imprisonment of up to one year.

According to Key Interviewee 9, the government has taken measures to share information and implement full disclosure with the media. Most government Ministries, Departments and Agencies have information publicly available on their websites. They also manage and update their social media platforms and engage with the public. Additionally, they have appointed spokespersons who share information with the media.

The Commission on Administrative Justice (Office of the Ombudsman) has also played a critical role in ensuring that the public are enlightened on the right to access to information from government offices. Key concerns relate to the completeness of the information and slow or non-responsiveness due to organisational bureaucracy that impedes access to information. Furthermore, official secrecy laws and policies restrict the full disclosure of information, especially if it jeopardises the security of the country.

While the government remains silent about what engagement it makes to social media platforms, the three major platforms regularly publish transparency reports. These reports provide insights on the number of information requests and actions undertaken on requests from the various governments. For instance, Facebook responds to government requests for data in accordance with applicable law and its terms of service. In the report covering January to June 2021, the company received 17 requests with 16 being legal processes and one for emergency disclosure purposes. For Twitter, over the same period, it received two court orders for removal. Between 2012 and June 2021, it received nine government information requests, and five routine requests from government and law enforcement and one emergency request. Since 2012, Google has received 23 removal requests across its various platforms.

There have been no visible efforts on the part of the law enforcement agencies to counter disinformation stemming from within the government. It appears to be difficult for the government to police itself because law enforcement agencies are also a part of the same government. For this reason, rarely any action is taken whenever there is disinformation by other arms of government. Further, unless the information provided by the government on any issue is subjected to scrutiny and fact-checking by other entities, it is very difficult to ascertain its veracity. The government has tried to clamp down on individuals involved in spreading disinformation, including through arrests and prosecution. The establishment of NC4 is also an attempt to set up a fully functional agency to combat cybercrime including the willful sharing or dissemination of disinformation.

The laws relating to disinformation in the country are not implemented fully. There is still a lot of disinformation circulating and perhaps because of the sheer amount of information and people circulating it or purposely spreading false information, it has become difficult to rein it in. The law as it stands is, therefore, not being fully implemented. There is also unequal or unfair implementation of the law. The government only tends to act against private citizens such as bloggers and influencers who are involved in spreading disinformation especially targeted at the government or public officials. It rarely acts whenever such disinformation flows from government agencies or state actors.

3.7.2 Adequacy and Effectiveness of Remedial Measures by Platforms

Platforms use a blend of human and technological resources to detect, counter, or prohibit disinformation. After identifying disinformation through technology or the use of third parties such as fact-checking organisations, the platforms can remove content or ask the user generating the content to amend it; label the content; restrict the accounts of repeat offenders; make the content difficult to find; enable users to identify and report disinformation. The platforms also provide users with guidelines on the type of information that is published on their sites, revolving around the concepts of safety, privacy, and authenticity of content. Examples include Twitter's rules;³⁵ Facebook's community standards;³⁶ Instagram community guidelines;³⁷ and WhatsApp responsible use guidelines.³⁸

³⁵ Twitter, the Twitter Rules, <https://help.twitter.com/en/rules-and-policies/twitter-rules>

³⁶ Facebook, Community Standards, <https://transparency.fb.com/en-gb/policies/community-standards/>>

³⁷ Instagram, Community Guidelines, <https://help.instagram.com/477434105621119>>

³⁸ Whatsapp, Security and Privacy, <https://faq.whatsapp.com/general/security-and-privacy/how-to-use-whatsapp-responsibly/?lang=en>

Within these guidelines are broad areas around violence and crime, sexual or other forms of exploitation, harassment, hate speech, violent and graphic content, false news, manipulated media, spam, and rights to post the content. An example of platform collaboration with third-party entities is the fake news monitoring done by Pesacheck, a civic tech organisation in Kenya. In this example, Pesacheck confirmed that a BBI-related claim involving the Taliban was false as reflected in Figure 14 below:



Figure 14: Pesacheck disproved a claim that the Taliban in Afghanistan had issued an opinion on the Building Bridges Initiative, a political cause promoted by Kenya's President Uhuru Kenyatta and opposition leader Raila Odinga.

Companies have only been able to act on a handful of perpetrators. Disinformation is still rapidly spreading on social media platforms despite the measures taken by platforms. This is primarily due to the slow pace at which social media giants move whenever responding to reports of fake news or individuals purposely spreading the same. As a result, the rate at which disinformation is spreading is much higher than companies are able to keep track of or control.

Several actors have stepped in to mitigate the effects of disinformation. Some government agencies have been instrumental in fighting the spread of disinformation by verifying facts and information related to government projects and operations. For example, the Ministry of Health provided regular updates on the status of the COVID-19 pandemic. These updates ensured the public had first-hand information regarding the pandemic and did not have to rely on other sources. Some media houses also air fact-checking segments, especially on information that is considered controversial or disputed.

One of the biggest challenges that social media platforms face in the fight against disinformation is how to disrupt the economic incentives. Disinformation that is financially motivated is an equation that is very difficult to solve (Moserri, 2017). Stopping individuals from deliberately sharing false information means interfering with their livelihoods and in a continent where unemployment is rife among the youth, it would be difficult to convince perpetrators to stop.

The platforms also are challenged in how to strike a balance between providing users with privacy and confidentiality while upholding community guidelines that will respect users' freedom to express themselves while respecting the rights of others. An FGD participant made the following observation about Telegram, which is gaining popularity in media and youth circles. Its features include restrictions on sharing pictures, end-to-end encryption, and hosting large groups of people on one channel.

Considering the pressure put on these social media apps, in terms of spreading fake news around the world, there's been pressure on the community guidelines. If you post certain content and get warnings, it can cost you. But Telegram has less restrictive guidelines [compared to other platforms] and nowadays that's why people are moving to Telegram. (Focus Group participant).

Among the FGD participants, one individual was in a group with an estimated 70,000 members. Additionally, according to Key Interviewee 8, it does not just end with unemployment. Underemployment where people are unable to find full time employment or find jobs that match their skills is also a significant contributor to the spread of disinformation. The participant noted that “The youth are always looking for an opportunity to earn extra income and there is plenty of it to be made in spreading fake news.”

Civil society groups have taken steps to counter disinformation. This has been primarily through research to reveal its effects. Civil Society groups and fact checkers have opted to educate the public about the consequences of spreading disinformation and what can be done to curb it. The Media Council of Kenya is an independent national institution established by the Media Council Act for purposes of setting media standards and ensuring compliance with those standards.³⁹ As such, it undertakes extensive journalist training on several topics including the Code of Conduct for the Practice of Journalism in Kenya, public affairs and political reporting, governance reporting, elections reporting, health reporting, conflict sensitive reporting, and freedom of expression and hate speech.

Key Interviewee 3 pointed out that there was more to be done to fight disinformation.

I think a lot more research needs to be done on finding ways to combat disinformation. I like what platforms like [Agence France Presse] Fact Check and Pesacheck do. They issue clarifications. They even reach out to us [the mainstream media] to correct issues. So there is some effort going into improving the general public's alertness but clearly more needs to be done. We are just scratching the surface. And we are having more people joining the digital space. (Key Interviewee 3).

Notably, the lack of clarity by platforms on response times to information which has been flagged as fake is perhaps another reason why disinformation spreads so quickly. The social media platforms have no defined timelines on when to act against perpetrators. If the platforms reacted quickly to posts flagged as false, contested or controversial, then it would significantly slow down the spread of disinformation.

Another key gap is the use of artificial intelligence tools as a first level of review, which is not sufficient or ideal. Even more complex is the use of human reviewers who may not have a first-hand understanding of the disinformation content in local languages and may not appreciate the local context of the content or of its ramifications after it is posted. Additionally, the conflict between national legal provisions and the platform standards and community guidelines means that content that is considered unlawful locally is not removed from the platforms due in part to the different cultural value system of the platforms vis-a-vis that of the country.

³⁹ No. 20 of 2013

4 Conclusion and Recommendations

4.1 Conclusions

Following the 2013 and 2017 elections, it became clear that disinformation in Kenya was spreading readily on social media platforms such as Facebook, Twitter, and WhatsApp. In many cases, its spread was deliberate. Social media platforms facilitated the circulation of falsehoods, and algorithmically rewarded the most popular and outlandish posts over more substantive or factual content.

Disinformation is expected to continue spreading and thriving in the 2022 electoral season. Enabled by a robust digital infrastructure, a thriving disinformation ecosystem has emerged in the country. Its drivers include politicians, political parties, strategists, and content creators whose combined intention is to create and spread compelling narratives designed to persuade, appeal and sway voters. Disinformation content includes appealing memes and posters which quickly communicate the intended messages. Further, applications such as Telegram are emerging as new virtual pathways while popular platforms such as Facebook, WhatsApp, and Twitter remain mainstream.

Changes to the legal framework and existing social media platforms' community guidelines have not contained the creation and spread of disinformation. Social media platforms have, to a remarkable degree, displaced traditional media, and they continue to enlarge their footprint. They provide persons an opportunity to speak in public and semi-public ways, and at an unprecedented, global scale. While they are not used by all, and many parts of the world are still excluded by limited resources, infrastructure, the constraints of language, or political censorship, those who do find their way to these platforms find the tools to speak, engage, and persuade (Gillespie, 2018).

The ease with which disinformation spreads speaks to the challenge citizens face, where they lack or cannot easily find accurate, accessible information about public figures and political processes. This affects the citizens' trust in electoral processes. Media literacy among citizens and even actors such as the media and politicians is crucial. Further, civic education efforts should be put in place, not only during election campaign seasons, but especially during seasons without political contests. That way, citizens know the mandates of the different seats held by politicians - be they legislative or executive - and are able to hold their leaders to account for what they say, claim, and actually do on the citizens' behalf. Citizens should be made aware of their right to contribute to discussions related to public resources; evaluate and question leaders; and use laws and policies to keep executive and legislative leaders in check.

4.2 Recommendations

Government

- Proactively and consistently provide information to citizens in the languages of the country, and on multiple platforms offline and online. This will engender trust in government beyond electoral seasons and establish a culture of verification-for-oneself among citizens. This in turn should ease the burden on mainstream media and fact-checking organisations of correcting or addressing disinformation claims.
- Desist from selective application of laws used to counter disinformation by targeting critics, media, political opposition and human rights groups.
- Repeal repressive laws and amend existing ones such as the Computer Misuse and Cybercrimes Act, 2011 used as a tool to silence dissent. There is a need for the legislature to provide clear definitions of disinformation and ensure they conform to international human right law standards.
- Enhance training and sensitisation of law enforcement agencies as to what constitutes disinformation as well as how to combat it without stifling citizens' core human rights.
- Partner with non-state actors including the media, civil society and independent content producers to promote media literacy and raise awareness on the harms of disinformation and hate speech.
- Encourage and enhance capacity and dedicated resources to government ministries, departments and agencies to facilitate sharing of public information used to counter disinformation.
- Foster a robust judicial system that encourages and upholds freedom of expression within the Constitutional bounds and equivocal limitations under Kenyan law.
- Build capacity and capabilities for all relevant stakeholders from academia, business, government, media and civil society to counter the spread of disinformation.

Intermediaries

- Deepen collaboration with local media and civil society groups to identify, debunk and moderate disinformation through the adoption of a co-creation model of community guidelines and standards development.
- Support initiatives to help raise awareness and build the capacity of regulators, law enforcement and non-state actors to promote a free and open internet while fighting disinformation.
- Continue to support fact-checking platforms and build the capacity of journalists to conduct fact-checking while promoting pluralism and diversity.
- Work to reduce the processing and response times to complaints regarding disinformation content reported to encourage reporting and to minimise the circulation of disinformation.
- Increase transparency and accountability in content moderation measures and conduct periodic reviews of policies that are informed by broad public consultations.
- Engage with stakeholders to inform them of the policies, community standards and guidelines, including through mainstream media which has the widest reach in Kenya.
- Invest resources towards knowledge and capacity building, hiring and retention of skilled personnel that understand and appreciate regional cultural nuances.

Media

- Build the capacity of journalists and editors on fact-checking and countering disinformation online.
- Work closely with fact-checkers to identify and expose disinformation at all levels in a timely fashion.
- Regularly report on disinformation campaigns and their effects on digital rights and democracy.
- Put in place in-house measures and systems to enhance fact-checking and information verification.

Civil Society

- Engage with policymakers and media representatives on how best to promote the uptake of digital literacy and fact-checking skills initiatives that ensure that users of digital platforms are able to easily identify and report disinformation.
- Undertake strategic litigation to challenge retrogressive laws and practices that undermine access to the internet and digital rights under the guise of fighting disinformation.
- Engage national policy and law-making institutions and advocate against laws and practices that hamper the ability of journalists to provide accurate information, and hamper citizens' rights to information and free expression.
- Monitor, report and hold the government accountable for their violations of international human rights principles including restrictions on the enjoyment of digital rights.
- Collaborate and partner with other relevant stakeholders to fight disinformation, create awareness and build capacity.
- Monitor and report on the effectiveness of the measures undertaken by other stakeholders to keep them accountable in the interest of the end user.

Public

- The public has an obligation to query the truth and veracity of the news and information presented to them. Disinformation is like a tree that can only grow, spread and thrive on fertile ground, i.e. the people.
- Take an interest in growing their own media and digital literacy.

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