

# Information Warfare in the Digital Age: Legal Responses to the Spread of False Information under Public International Law

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**Abstract.** Disinformation, the deliberate spread of false or misleading information, presents a pressing challenge in today's global landscape. This study examines its profound impact on the international community and assesses the effectiveness of current international legal frameworks in addressing this threat. Disinformation campaigns, facilitated by digital technology, erode trust in institutions, manipulate public opinion, and exacerbate social divisions. The consequences of disinformation transcend borders, making it a formidable global issue. This research critically evaluates existing international efforts to combat disinformation, highlighting their limitations in adapting to this rapidly evolving problem. While international law acknowledges the gravity of the issue, it struggles to provide comprehensive solutions. To enhance international law's role in countering disinformation, this study emphasizes the necessity of transnational cooperation. Collaborative approaches involving nations, international organizations, and technology companies are crucial to mitigating disinformation's global impact. This study underscores the urgency of addressing disinformation's threats to global security, democracy, and social cohesion. International law must adapt to effectively combat this challenge, fostering cooperation and establishing norms to preserve peace and trust in an interconnected world.

**Keywords:** Information warfare, disinformation, international law, transnational cooperation.

## 1. Introduction

Information warfare usually refers to a combat method that obtains strategic and operational advantages in the information environment by collecting, processing, and disseminating information [1]. This kind of combat has a lengthy history. One of the examples of information being used for trickery in a war is the Trojan Horse, a wooden horse allegedly used by the Greeks during the Trojan battle to win the battle. With the assistance of today's cutting-edge information technology, it has grown stronger and gained the attention of the entire globe.

The dissemination of disinformation has developed into a significant aspect of information warfare in today's digital age. It can be challenging for people in the social media age to verify the reliability and source of information. Disinformation may pass for legitimate media stories or appear to come from trustworthy sources, making it challenging for individuals to discriminate between the two. It can travel faster and further because of this ambiguity. Moreover, disinformation is also used to further specific political, economic, or social objectives, such as deceiving the public, destroying reputations, swaying public opinion, or advancing personal agendas. Public safety and social stability are seriously impacted by this.

This study examines the multifaceted issue of disinformation through the lens of international law. It delves into the harms inflicted by disinformation on the global stage, scrutinizes the limitations of current international efforts in combating disinformation, and explores the prospects for bolstering international law to address this evolving challenge. By analyzing the existing shortcomings and proposing avenues for improvement, this study seeks to contribute to the ongoing discourse on enhancing international mechanisms for countering disinformation.

## **2. The Rise of Information Warfare and International Law's Response**

Information warfare and the widespread dissemination of disinformation have become significant challenges facing the international community today. This chapter explores the emergence of information warfare and the role of international law in addressing the spread of disinformation.

### **2.1. The Introduction of Information Warfare and Disinformation**

#### **2.1.1 Definition and characteristics of information warfare in the digital era**

Information warfare refers to the notion of the use and management of information and communication technologies by states or non-state groups in the battlespace to gain an edge over their rival. Information is a fundamental component of national power and is an extremely important national resource that supports international relations, economic rivalry, and the efficient use of armed weapons. Therefore, information warfare is defined as "the use of information to achieve national objectives" [2].

While information warfare is not a new concept, it has taken on innovative dimensions due to technological development, leading to faster and more extensive information dissemination. This paper specifically focuses on modern information warfare in the contemporary information age. The mid-20th century marked the beginning of the Information Age, defined by a quick shift from traditional sectors created during the Industrial Revolution to an information technology-driven economy. Information handling and communication have undergone profound changes as a result of these technological advancements.

In such an era, information warfare is characterized by the full use of information technology means, endowing it with four distinctive features. These features include networking, which enables multi-level and multi-dimensional information transmission and exchange through various information technology means, rendering traditional concepts and operational habits obsolete. Additionally, information warfare allows for real-time battlefield surveillance, instant feedback, and immediate command thanks to a variety of information technology tools. Precision plays a crucial role in information warfare, with various information technology techniques applied to execute accurate attacks, exact command, and precise management skills. Furthermore, information warfare operates covertly, employing various IT techniques to conceal, disguise, and deceive combat data.

#### **2.1.2 Current situation of international information disorder and disinformation**

According to NATO, the Internet simplifies communication with both the residents of a certain country and the rest of the world while enhancing data collection capabilities and information defense and disruption [3]. Under this premise, modern information warfare has led to a global phenomenon known as information disorder.

The Council of Europe defines three distinct types to examine this information disorder: misinformation, disinformation, and mal-information. Misinformation occurs when inaccurate information is spread without malicious intent. Mal-information involves disseminating accurate information with the intent to harm, often by disclosing previously private facts. Disinformation, our central focus in this paper, refers to the deliberate dissemination of disinformation with harmful intent. This form of information disorder presents significant hazards and challenges on various fronts, including politics, media, and public trust [4].

In summary, the dissemination of disinformation poses three significant risks. Firstly, it infringes upon individual and collective rights, thereby endangering personal and information security. Secondly, it fuels political unrest within society, exacerbating tensions related to race and religion while contributing to social and political upheaval. Lastly, it exacerbates the instability of the international environment and jeopardizes national interests, exerting influence on real-world political activities and decisions.

## **2.2. The International Law and Response to Information Warfare**

### **2.2.1 Definition and role of international law**

Malcolm N Shaw, the author of the book *International Law*, offers a comprehensive definition of public international law. It encompasses a body of legal rules, norms, and standards that operate outside and between states, international organizations, and, in certain cases, individuals. This body of law covers a wide spectrum of relations between states, ranging from matters of war to the regulation of various international institutions [5].

International law serves several critical functions in the international arena. First, international law provides a common framework and language for States and promotes cooperation and dialogue among them. This helps to reduce conflicts and misunderstandings and promotes mutual understanding and common development among States.

In addition, international law protects the rights of individuals and groups. International human rights law ensures that human rights are respected and protected, and international humanitarian law protects victims of war and vulnerable groups.

Finally, international law also plays an important role in international conflict resolution and reconciliation. International law provides ways and means to resolve disputes, such as negotiations, arbitration, and the role of the International Court of Justice. These mechanisms provide States with options for the peaceful settlement of disputes and contribute to the maintenance of global peace and security.

### **2.2.2 The role of international law in the context of information warfare**

In the context of information warfare, international law faces unique challenges. The rapid evolution of technology and the global nature of the information landscape require adaptations and innovations within the legal framework. International law must adapt to address the nuances of information warfare while upholding its core principles of state sovereignty, human rights protection, and conflict resolution.

To effectively respond to the threats posed by information warfare and disinformation, international law must evolve to include enforceable measures that limit the spread of misleading information. Furthermore, it should promote the development of international collaboration channels among nations. These collaborations can help combat the transnational nature of disinformation, contributing to the creation of a more harmonious international order. The subsequent sections of this paper will delve deeper into the specific challenges and potential solutions within the realm of international law and information warfare.

## **3. Challenges of International Law in Addressing Disinformation Propagation**

Due to the threat disinformation poses to international security and the limitations of the international legal framework itself, international legal governance over information disorder has been facing great challenges.

### **3.1. Threats to International Security and Stability**

#### **3.1.1 Direct and potential impact of disinformation on international security**

Disinformation, as previously discussed in this paper, significantly worsens international relations and poses a direct threat to international security. International relations encompass the complex interactions between states, international organizations, individuals, and various actors within the global society. The field of international relations has gained increasing scholarly attention, particularly after World War II, which was also the same period when international security studies emerged [6]. This relatively new subject concerning mutual survival and safety has been considered at the heart of international relations studies since the 1950s.

##### **3.1.1.1 Disinformation's role in provoking armed conflicts and misleading involved countries**

As early as more than 2,500 years ago, Sun Tzu explained the crucial impact of disinformation on armed warfare in the book "The Art of War". As information technology has advanced in contemporary culture, the influence of disinformation as a military tactic has grown steadily.

In many cases, disinformation directly or indirectly leads to the start of war. Historical examples abound: the War of Resistance against Japanese Aggression began with a lie fabricated by the Japanese army on September 18, 1931; the 2003 Iraq War was triggered by Bush's false, exaggerated, and erroneous intelligence; and the outbreak of the Russia-Ukraine conflict in 2022 has been fueled by the public opinion war between the two sides, which was filled with disinformation. These instances underscore the substantial role of disinformation in igniting wars throughout human history.

Disinformation also has the potential to mislead people during war times and seriously increase international tension. Since the outbreak of the Russia-Ukraine war, disinformation through AI deep forgery has continued to smear Zelensky's image; false videos on social media have drawn EU member states into the conflict; overseas refugees have also been continuously smeared... This dynamic exacerbates the suffering caused by the conflict.

#### 3.1.1.2 Disinformation's threat to international political security and national sovereignty

Disinformation is threatening Western democracies via potential impacts including the loss of faith in governments and the growth of strongmen politics, especially in elections. The most well-known instances are Brexit, the American presidential elections in 2016, and the referendum in the Netherlands on the EU Association Agreement with Ukraine [7].

Disinformation has also been fully utilized by a tiny number of radical separatists and foreign hostile elements to carry out acts that undermine national sovereignty. Examples include the "3-14 Incident" in Lhasa, China in 2008 and the "7-15 Incident" in Urumqi, China, both involving the malicious spread of disinformation and the globalization of domestic conflicts through new media, posing a threat to China's sovereignty and security.

### 3.1.2 Case analysis of disinformation leading to international tensions

One compelling case that underscores the power of disinformation to incite war is the Six-Day War, also known as the Third Arab-Israeli War, which occurred from June 5 to June 10, 1967. The war began with a lightning-fast Israeli airstrike.

Israel's pre-emptive strike was driven by the perceived threat posed by the build-up of Egyptian, Syrian, and Lebanese troops on its borders, which from Israel's perspective, indicated a potential three-pronged incursion [8]. A critical catalyst for Israel's decision was disinformation transmitted by the Soviet Union, suggesting that Israel was amassing forces on the Syrian border. As Isabella Ginor, an Israeli journalist, revealed, this disinformation was deliberate disinformation orchestrated at the highest levels of Soviet leadership. The aim was to provoke Egyptian action, triggering an Israeli response and subsequent Soviet military intervention against the perceived "aggressor" [9].

The disinformation ignited the Arab mood for war. Also based on considerations of his country's prestige and water resources, Nasser ordered the blockade of the Tiran Strait, on which Israel depended for its survival. Israel has asserted on multiple international occasions that it will be obliged to retaliate if the Arabs try to blockade the Straits of Tiran. Surprisingly, Israel remained circumspect about engaging in combat even after verifying Egypt's closure of the straits. The pivotal turning point arrived when Tel Aviv received intelligence confirming a military alliance between Jordan and Egypt. This revelation spurred the war hawks to action, and the Third Middle East War was initiated.

## 3.2. Conflict Between Freedom of Expression and its Abuse

### 3.2.1 The embodiment of freedom of speech in international law

Freedom of expression is a fundamental human right that recognizes the right of individuals to freely express their views, opinions, and information without interference or suppression. The core principle of free speech is necessary to protect diversity, inclusion, and public discussion. Many regulations in international law emphasize the protection of freedom of expression. For example, Article 19 of the Universal Declaration of Human Rights and Article 19 (2) of the International

Covenant on Civil and Political Rights protect the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, and through any media, either in speech, in writing or print, in the form of art, or through any other media of one's choice. Additionally, Article 13 of the Inter-American Convention on Accessibility of the Human Rights System guarantees the right to freedom of expression, paying special attention to the rights of people with disabilities, among others.

### **3.2.2 Relationship between freedom of expression and disinformation**

However, the spread of disinformation can have detrimental effects on society, such as misleading the public, inciting hatred, and undermining social stability. This tension has led to a critical debate within the international community about how to address disinformation without infringing on free speech rights.

Applying current international law limitations on freedom of expression is one strategy for resolving this conflict. For example, the International Covenant on Public and Political Rights permits contracting parties to impose restrictions on any form of expression or its means of dissemination, including online platforms. These restrictions can be imposed when they are deemed necessary to protect national sovereignty, public safety, public order, public health, or morals. Therefore, restrictions on misinformation about health-threatening activities are reasonable and necessary on public health grounds [10].

### **3.3. Limitations of the International Legal Framework**

#### **3.3.1 Controversy in formulating laws: overcoming challenges in international law-making**

One of the most significant characteristics of international law is “the lack of central authority” [11]. Unlike domestic law enacted by national legislative bodies, international law can only be formulated by agreement between countries based on equality, since states are considered to be sovereign. However, this “consensus-based” approach [12] has raised concerns about international law's legitimacy, primarily because complex international relations often hinder the agreement process. An example is the Paris Climate Agreement, where disputes over carbon reduction, duty sharing, technology transfer, finance distribution, etc. made it difficult to reach a consensus among all parties.

Negotiating international agreements often involves a “package deal” strategy, encompassing multiple issues that all parties must accept. While this approach has been employed in international law-making for some time, it remains contentious among scholars. Some see it as beneficial, while others argue that bundling issues can overly complicate negotiations, limit autonomy, and lead to insufficiently addressed concerns, particularly when there is an imbalance of power. One package deal that has come under fire is the one in the Doha round of trade negotiations in which certain nations might act as “spoilers” and seek the narrowest consensus [13].

Addressing disinformation through international law faces similar challenges, including defining restrictions on free expression, inconsistencies in definitions of disinformation, differences in cultural backgrounds, etc. Therefore, optimization measures must be proposed to try to solve these problems.

#### **3.3.2 Challenges in enforcing laws: addressing difficulties in international law enforcement**

International law lacks a dedicated enforcement agency, making it reliant on states to voluntarily uphold its principles. The current enforcement tools of international law, such as tribunals, arbitration, dispute resolution, and regional and universal courts, are not consistently applied [14]. As the prime rule in international relations, sovereignty makes it difficult to execute international law due to international intricacies including political and economic relationships between nations, cultural differences, and the coexistence of several judicial systems.

The enforcement of international law is particularly challenging in the digital age. According to the White Paper “Digital Challenges for International Law” published by the International Law Association on August 31, 2022, the emergence of new technologies in digital data, digital security, and artificial intelligence has brought us three common challenges: the relationship between public

and private actors, the political instrumentalization of international law on digital issues, and endemic digital inequalities [15].

### **3.3.3 Effectiveness limitations: evaluating the efficacy of international law in addressing disinformation propagation**

Due to the challenges and difficulties both in international lawmaking and enforcement, the effectiveness of international law is limited in addressing disinformation around the globe.

From a perspective of the legal framework, there is currently no clear treaty or convention in international law that specifically governs disinformation. While certain international legal instruments, like Article 19, Paragraph 3 of the International Covenant on Civil and Political Rights, outline legal standards for restricting freedom of expression and access to information, many legislative processes lack rigor and inclusivity. This can lead to measures with unintended adverse effects. Moreover, varying global interpretations and definitions of disinformation hinder the creation of relevant international laws, enabling behaviors that jeopardize national security.

From the perspective of legal implementation, in recent years, the number of countries taking action against disinformation has increased exponentially [16], but international cooperation in related areas is still lacking. In 2015, the European Commission released the "Countering Disinformation Plan", which stipulated some key actions to address disinformation to protect the EU's democratic system. Similar efforts have been made by countries such as China, the United States, Germany, and Japan. However, current measures to control disinformation are relatively isolated and face great difficulties in cross-border law enforcement. Issues stem from sovereignty principles, disparities in national contexts, and the intricate nature of disinformation spread through advanced technology platforms and algorithms. Effectively monitoring, tracking, and combatting disinformation in this complex landscape necessitates the establishment of robust transnational cooperation mechanisms.

## **4. Enhancing International Law's Role in Combating Disinformation Propagation**

In the age of rapid information dissemination and evolving communication technologies, strengthening international law is essential to address the global challenge of disinformation effectively. By promoting information transparency and fostering international collaboration, international law can emerge as a robust safeguard against the detrimental effects of disinformation.

### **4.1. Legal provisions for information disclosure and transparency**

#### **4.1.1 International legal requirements for information publication and disclosure**

Currently, international law provisions on the release and disclosure of information can be found in several national law treaties and agreements. For example, in the International Convention on Data Transmission of the Global Reporting Satellite System, contracting parties are required to ensure the free transmission of information and data on their territories and also to ensure the sharing of basic information such as the social culture of the country concerned. The "Information Disclosure Principles" jointly formulated by multiple organizations and social groups also provide relevant standards for information disclosure. The United Nations also regulates speech in the "International Covenant on Economic, Social and Cultural Rights" and the "International Covenant on Civil and Political Rights", which elaborates on the significance of freedom of speech and access to information, highlighting the importance of human rights in the information era.

#### **4.1.2 Role of information transparency in combating disinformation propagation**

Information transparency plays a pivotal role in countering disinformation. It encompasses openness and accountability, enabling society to scrutinize information content and reporting processes [17]. During the COVID-19 epidemic, disinformation also swept the world. In July 2020, the OECD published an article on the role of public communication in fighting the epidemic,

emphasizing to the public that “the Efficacy of anti-disinformation actions would depend on grounding them in transparency to build trust in public institutions” [18]. In September of the same year, another article related to food security was published, which once again further explained “the significance of Transparency on market conditions and policies in helping reduce market uncertainty, exposing bottlenecks and highlighting risks” [19]. Transparency also helps in managing market conditions and policies during crises, as demonstrated in efforts to prevent a COVID-19-induced food crisis. Information transparency enhances the public ability to identify disinformation, encourages information accountability, and facilitates fact-checking.

## **4.2. Establishment and Development of Transnational Cooperation Mechanisms**

### **4.2.1 Necessity of international cooperation**

Disinformation, with its propensity to traverse national and regional borders online, mandates international collaboration. Such cooperation facilitates the sharing of intelligence, data, and best practices among nations, bolstering border control efforts and collective action against disinformation. Furthermore, given disinformation's global impact across diverse cultures and languages, international cooperation can help bridge linguistic and cultural gaps, enabling more effective responses to disinformation's unique characteristics and repercussions. Lastly, international collaboration fosters technological innovation and research and development, promoting the creation of advanced tools and solutions to combat disinformation. Collaborative efforts encompass the joint research and development of automated identification tools, data analysis algorithms, and machine learning models aimed at enhancing the detection and filtering of disinformation. Concurrently, through partnerships between governments and technology firms, the sharing of user data and information traffic can facilitate innovative research and development endeavors, ultimately strengthening public trust and mitigating disinformation's adverse effects.

### **4.2.2 Establishing transnational cooperation mechanisms: international agreements, multilateral cooperation, etc.**

Effectively countering disinformation at an international level requires the development of a comprehensive legal framework. This framework can be established through international agreements that delineate the obligations and responsibilities of nations concerning disinformation governance, thereby providing guidance for transnational cooperation. While some controversies exist regarding the "package deal" in international law-making, it remains a viable and commendable strategy for addressing the complexities of disinformation proliferation. A "package deal" can bring together more countries and accommodate more diverse interest demands. In this way, the agreement reached on international law-making will be more balanced, able to take into account the interests and demands of different countries, and thus be recognized and accepted by most countries [20]. This advantage is beneficial when countries have different national conditions and interests that hinder the process of transnational cooperation.

At the same time, to respond more flexibly and effectively to the infringement of disinformation, the international community should also rationally use international soft law. Soft law, as opposed to hard law, usually refers to norms of conduct that are not legally binding in principle but have practical effects. It offers flexibility, enabling quicker establishment of legal commitments than customary international law while avoiding immediate, inflexible treaty commitments. Soft law also possesses the potential to transition into hard law, imposing more substantial sanctions that deter violations and increase costs for offending parties.

To bolster global governance, international actors, primarily sovereign nations and international organizations, should proactively establish multilateral cooperation platforms. These platforms strengthen information exchange and coordination among law enforcement agencies by sharing experience and best practices; they can also support technology research and development and innovation, and promote technical cooperation and resource sharing. Such multilateral cooperation

mechanisms constitute vital tools for global governance, fortifying transnational collaboration and enabling collective response to global challenges.

In the process of cooperation, countries must prioritize mutual benefit, sustainable development, fairness, and the promotion of peace, security, and economic growth. Simultaneously, flexibility should be maintained, allowing each nation to tailor its cooperation efforts according to its unique circumstances and without jeopardizing core national interests and sovereignty.

## 5. Conclusion

This study has explored the detrimental effects of disinformation on the international landscape, assessed the shortcomings in the international community's response to disinformation within the framework of international law, and sought to propose strategies for enhancement through transnational cooperation.

In recent years, the international environment has been changing rapidly and is full of opportunities and challenges. In complex international relations and shaky power structures, the widespread dissemination of disinformation has caused information disorder, which has greatly endangered the security and stability of the international community and harmed the interests of the people and collectives of all countries. International law has taken many measures to address this phenomenon, constantly improving governance methods and trying to establish a system. This study aims to analyze its current shortcomings and explore the improvement direction of international law in governing disinformation. We believe that international law is an extremely important tool for combating disinformation, which can help sovereign states overcome difficulties, reshape the order of information, and maintain the security of the people and the world.

## References

- [1] Bastian, N. D. Information Warfare and Its 18th and 19th Century Roots. *The Cyber Defense Review*, 2019, 4 (2), 31–38.
- [2] Stein, G. J. Information warfare: Words matter. *InfoWar*, 1998, 51-59.
- [3] NATO, Information warfare, Retrieved March 26, 2022.
- [4] Claire Wardle, Ph.D. Hossein Derakhshan, INFORMATION DISORDER: Toward an interdisciplinary framework for research and policy making, Council of Europe report, 2019.
- [5] Shaw, Malcolm N, *International law*, Cambridge University Press, 2017.
- [6] Buzan, B. and L. Hansen, *The Evolution of International Security Studies*. Cambridge, Cambridge University Press, 2009.
- [7] Gerrits, A. W., *Disinformation in International Relations: How Important Is It? Security and Human Rights*, 2018, 29 (1-4), 3-23.
- [8] NASR, S., *What WERE The causes of the six-day waR?* 2020.
- [9] Ginor I, *The Cold War's Longest Cover-Up: How and Why the USSR Instigated the 1967 War*, *Warfare in the Middle East since 1945*. Routledge, 2017. 27-52.
- [10] United Nations, *Countering disinformation for the promotion and protection of human rights and fundamental freedoms*, Report of the Secretary-General, 12 August 2022.
- [11] Cassese A, *International law*, Oxford University Press, USA, 2005.
- [12] Klabbbers J, *The making of international law*, In *International Law* (pp. 21-40), Cambridge: Cambridge University Press, 2019.
- [13] Schwab, S. C., *After Doha: Why the Negotiations Are Doomed and What We Should Do About It*. *Foreign Affairs*, 2011, 90 (3), 104–117.
- [14] Denegre, Luana M., *The Issue of Enforcement in International Law: A Case Study of the War in Ukraine*, *Undergraduate Honors Theses*, 2023, 46.
- [15] International Law Association, *Digital Challenges for International Law*, White Paper 16, 2022.

- [16] S. Bradshaw, P.N. Howard, P. N. and L. Neudert, Government Responses to Malicious Use of Social Media StratCom Coe, Riga, November 2018.
- [17] Humprecht, E., How do they debunk “fake news”? A cross-national comparison of transparency in fact checks. *Digital journalism*, 2020, 8 (3), 310-327.
- [18] OECD, Transparency, Communication and Trust: The Role of Public Communication in Responding to the Wave of Disinformation about the New Coronavirus, July 2020.
- [19] OECD, The Role of Transparency in Avoiding a COVID-19 Induced Food Crisis, September 2020.
- [20] ZHAO Jun, and MENG Linghao, Why Is It Difficult to Reach the "Best Consensus" In the "Package Deal" - the Practical Problem of Multilateral International Law-making." *Exploration and Debate*, 2022.