

CRIMINAL RESPONSIBILITY FOR DISINFORMATION ACCORDING TO INTERNATIONAL LAW

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Abstract

Media disinformation is an international crime that carries with it international criminal culpability for its perpetrators. All elements of international crime from the legal, material, moral, and international pillars are present in media disinformation. The legal pillar consists of the international texts found in international conventions, declarations, covenants, the Geneva Conventions of 1949 and their additional protocols, and others, which all stipulate combating media disinformation, whether in times of peace or armed conflict. The material pillar is only represented by behavior; therefore, it is an offense of behavior and not of results. For the establishment of international criminal responsibility, the law does not require the occurrence of the result, but only the commission of criminal acts. As for the moral element, it necessitates the presence of criminal intent, represented by knowledge and will, both of which are present in the media misinformation crime. We have noted the presence of an international element in the crime of disinformation, which necessitates a culpability criterion. We discussed the topic of international criminal responsibility, where it was discovered that jurists attributed the subject of responsibility to three orientations to explain international responsibility. The first trend is to restrict accountability to the state alone. The second trend is the consolidation of state and individual responsibility. The third tendency, which is the predominant trend in international justice, is to position it in the hands of individuals.

Keywords: Responsibility, criminal, media disinformation, international law.

1. INTRODUCTION

International human rights law recognizes the right to freedom of thought and speech. It is one of the fundamental principles recognized by the General Assembly of the United Nations and enshrined in the Universal Declaration of Human Rights. In the International Covenant on Civil and Political Rights, as well as in state legislation and constitutions recognizing this right. After the First World War, efforts were intensified to establish the personal criminal culpability of state leaders and individuals, in particular for international crimes. In addition to the diplomatic and scientific conferences that followed the First World War, war crimes and the establishment of an international criminal judiciary to determine individual criminal responsibility are the most significant of these developments. International criminal law has progressed since the initial phase of some nations codifying international crimes and incorporating them into national law. This is under international treaties concluded so that it may organize prosecutions within the confines of its jurisdiction and sovereignty. The establishment of international criminal tribunals by decisions of the United Nations Security Council or agreements between the United Nations and some countries, or between countries themselves, soon gave this phase an expansive legal dimension. The significance of the topic rests in the statement of international criminal responsibility for misinformation

because of its significance and the significant role it plays in times of peace and armed conflict, as well as the widespread dissemination of misinformation and its impact on international peace and security. Therefore, the significance of the topic becomes apparent by highlighting the grave threat of media disinformation and the harm it causes to the international community. Concerning the efficacy of international criminal responsibility rules concerning the practice of disinformation is the focus of this study. This leads us to the subsequent questions: Is media disinformation a global offense? Is it a crime under international law? Exist the components of international crime? Who are the criminally liable parties under international law? Which judicial bodies have the authority to penalize them? We will demonstrate the legal adaptation of the media misinformation crime in international law by elucidating the elements of the crime, identifying those criminally liable for media misinformation under international law, and identifying those culpable for media misinformation.

2. THE LEGAL ADAPTATION OF THE CRIME OF DISINFORMATION IN INTERNATIONAL LAW

The importance of the legal basis for the crime of disinformation comes through the legal foundations that must be available in any international crime. Although the crime is not included in this designation within the internal criminal laws, this does not preclude the perception that the mere provision for crimes similar to it in terms of nature and its constituent elements are a criminalization of the act of misleading in and of itself, as in the crimes of perjury and lying.

International criminal law defines the pillars of international crime. Criminal law is a modern branch of international law that must have the same characteristics, the most important of which is the customary character of its rules. Therefore, the idea of international crime does not exist in written texts, but it is guided by custom or international texts such as legal treaties or international agreements whose role is limited to confirming and revealing international custom without having a role in establishing international crimes¹.

There is no way to define disinformation and international crime here, as the definitions are not as important as the research in the statement of international criminal responsibility of the perpetrators of disinformation.

Section I: International Criminalization of Disinformation in the Context of the Elements of international crime:

We must research the pillars of international crime so that we can know the disinformation of the media, is it an international crime stipulated by the international criminal courts or not? And to what kind of international crimes does he belong? We know that international crime consists of four pillars, which are the legal pillar, the material pillar, the moral pillar, and the international pillar. It is only based on the availability of these four pillars, and thus it is distinguished from internal crime in that it contains the international pillar.

1. **The legal pillar:** the basic principle in criminal law (no crime or punishment except by a text) under which the individual is not punished except by the presence of a legal text that criminalizes him, but the matter is different in international criminal law, this principle does not raise a problem in the internal criminal law because the legal texts are always written, which thus facilitates the distinction between the forbidden act and the permissible

^{d1}. Mohamed Abdel Moneim Abdel Ghani, *International Criminal Law*, New University House, Alexandria, 2010, , 81 ff.

act. But, in international criminal law, it is not easy, that is, there are no written legal texts that criminalize and punish the acts which constitute international crimes because of the absence of an international legislator ².

However, this difficulty began to diminish in the face of the increasing codification campaign that received the greatest topics of international law, including international criminal law and international crime, as the most important international crimes included, for example, the Hague Conventions of 1899 and 1907, the four Geneva Conventions of 1949 and their Additional Protocols of 1977, the Convention on the Suppression and Punishment of the Crime of Genocide of 1948, the Convention against the Crime of Torture and Punishment of 1984, as well as the role of the statutes of international criminal tribunals since the Tokyo and Nuremberg tribunals. in the codification of international crimes ³.

The international rules that combat disinformation are stipulated in international treaties, conventions, and declarations, which cannot be mentioned here, specifically in Articles (19, 30) of the Universal Declaration of Human Rights, Articles (19, 20) of the International Covenant on Civil and Political Rights, Article (10) of the European Convention on Human Rights and other international and regional conventions, as well as the resolutions of the Charter of the United Nations and the Human Rights Council in the case of peace, but in times of armed conflict, it has stipulated It has the Fourth Convention of the Geneva Conventions of 1949 in Articles (14 and 51), and in the First Additional Protocol of 1977 in Articles (37, 85) first paragraph, and other miscellaneous articles. In the resolutions of the United Nations and other relevant international treaties that we cannot mention. This means criminalizing disinformation in international law with its two branches, international human rights law, and international humanitarian law, and considering disinformation an international crime under the provisions of public international law and therefore subjecting its perpetrators to punishment before international criminal courts.

2. **The material element:** The material element in international crimes consists of behavior, result, and causal relationship, and behavior in the international rule criminalizes a certain behavior such as (the prohibition of torture of a protected person in an international armed conflict as a war crime, the result, for example) a missile was fired at a hospital, which led to the destruction of the building and injured several wounded and killed dozens of civilians, and therefore what is issued from the behavior is the result that results from the crime, and crimes are divided into crimes of conduct and crimes The former violates an international norm imposing certain behavior regardless of any harm, such as the rule requiring combatants to refrain from declaring no mercy to an adversary, while the latter violates the rules that only a certain end must be achieved, regardless of the means of starvation of prisoners of war or causing massive casualties⁴.

The material element is represented by positive behavior, which is represented by the transmission of the media discourse or appeal that is directed against individuals directly and openly to push them to the partial or total destruction of a national, racial, religious, or ethnic group, and it is not required to lead to the implementation of partial or total

Falih² Ghozlan, *International Criminal Law and Justice*, a publication project addressed to third-year students of public law, Faculty of Legal and Political Sciences, University of Abu Bakr Belkaid Tlemcen, p. 21.

Muhammad³ 'Abd al-Moneim 'Abd al-Ghani, op. cit., p. 70 ff.

⁴ Judge Antonio Cassese, Paola Guetta, Laurel Pig, Mary Van, Christopher Gosenel and Alex Whiting, *International Criminal Law*, translated by Sader Publishers Library, 1st Edition, Human Rights Publications Sader, Beirut, 2015, p. 97 and beyond.

extermination, but it is sufficient that the phrases include the language of killing or incitement to it ⁽⁵⁾.

The crime of disinformation consists of saying and writing, the first enters the parts of speech from word to sentence and does not cross it in the form of speech, whether prose, singing, or shouting, which is important to be usable in the embodiment of the physical behavior of the crime, while writing includes every written whatever its form, whether printed or handwritten by any means of printing such as computer printers, photocopiers, regular printing, and others ⁶. That is, the crime of disinformation is one of the crimes of conduct not crimes of results, that is, you do not need to achieve the result nor the existence of the causal relationship that links the behavior and the criminal result.

For example, we mention that the Saudi and Emirati regimes worked to mislead international and regional public opinion by recruiting armies of electronic flies to ignite conflicts and fabricate wars and conflicts between the Arab Gulf countries, for political purposes and the implementation of random aggressive policies in the region, its features were exposed and increased with the beginning of the Gulf crisis and the blockade of Qatar, where he was surprised Those concerned in the world with a large torrent of electronic flies, recruited by the UAE regime and its Saudi counterpart to attack Qatar, and create conflicts out of nowhere, within the framework of the direction taken by the blockading countries in the region since 2015 ⁷.

The United States practiced misinformation against the Syrian regime for the latter's stand against the American-Zionist projects in the region and its support for resistance movements, through the influence of the United States on the minds of Syrians and Arab and international public opinion, but the intelligence of the Syrian regime and its work to achieve the demands of the Division and make changes in the constitution thwarted these disinformation operations, as the Syrian Electronic Army was formed voluntarily and spontaneously and was able to detect its falsification of images and facts and expose disinformation operations ⁸.

3. **Moral Element:** The moral element has two forms in international crime, namely unintentional error and criminal intent, criminal intent does not differ from its concept in international criminal law than in national law, it is also based on the elements of knowledge and will and that the consensus of all jurists recorded by international conventions, and requires international criminal law to inform the offender of the criminal facts that make up the crime for the establishment of criminal intent ⁹.

It is worth noting that international rules require (intent) in the majority of international crimes, for example, we can mention the case of (Iningster) where the accused is a Jewish detainee with the rank of commander in one of the Nazi camps who had been accused of committing crimes against humanity, especially after inflicting injuries on his fellow prisoners, during the investigation into the attack on one of his fellow prisoners, who is

Dr5- Sadiq Zughayr Muhaisen and Kazem Jaafar Sharif, The Responsibility of the Media for Incitement During Armed Conflicts, Research published in the Journal of Legal Sciences, Vol. 31, No. 4, 2016, p. 128.

Dr6- Wafaa Muhammad Abu Al-Maati Saqr, Criminal Responsibility for Spreading Rumors through Social Networking Sites, Research Published in the Journal of the Spirit of Laws, Issue Ninety-Three, Faculty of Law, Tanta University, 2021, p. 64.

Dr7- Abdessalam Ghorabi and Dr. Naima Barardi, Media Creativity in the Age of Social Networks and E-Flies Propaganda as a Model, research published in the Journal of Man and Field, University of Mohamed Boudiaf - M'sila, Algeria, Volume 5, Issue 9, 2019, p. 23.

Dr8- Farid Hatem Al-Shahf, Propaganda and Media Disinformation, 1st Edition, Aladdin Publications, Syria, Damascus, 2015, p. 36 and beyond.

Falih9 Ghazlan, op. cit., p. 23.

called (Schweiser), the Tel Aviv court did not make sure of the availability of the elements of the crime, and therefore wondered about the availability of some elements, including (intent), showing that the court required private intent rather than generality ¹⁰.

As for the unintentional error, we do not imagine its occurrence in the crime of disinformation because it is an intentional crime intended by the offender what he wants to publish and because it also consists of knowledge and will, i.e. the availability of criminal intent, but we see that this crime, despite being an international crime, does not require special criminal intent, but is satisfied with the general criminal intent.

4- International Pillar: The international pillar means the establishment of international crime, either based on a tight and continuous organization that commits crimes described as serious and does not hesitate to use terrorism and violence to achieve its goals, and its activity exceeds the borders of one state, and this type of crime may be used by a rogue state from international law to destabilize the political and security of another state. Either based on a plan orchestrated by a group of States or a particular State ¹¹.

International crime consists of two personal and objective elements, for the first element, the natural person commits the crime in the name of, or for the account of a state, organization, or non-governmental entity, it is an international crime, but if the perpetrator of the crime works for his account, the matter concerns a crime of an international nature, and the second element is the interest of the aggressed covered by international protection because international crime infringes on interests protected by international criminal law, especially human rights. An attack on this interest constitutes a breach of international public order ¹².

The international element in the crime of disinformation is available represented by the criterion (seriousness), which was indicated by the International Law Commission when it confirmed that there is consensus on the (criterion of danger) in distinguishing international crimes, and the criterion of danger can be deduced from the nature of lying and fraud, which represents a form of acts of misinformation and can also distinguish from the act of misinformation in the circle of crime through the final results of the act targeting humanity, individuals, peoples, and groups ¹³.

Section II: International Criminalization of Disinformation in the Context of international crimes:

The military tribunal in Nuremberg sentenced the defendants (Juliusstraicher and Hans Fritzsche) to death in 1946, because they committed crimes against humanity and crimes of genocide. After all, the charge was based on acts that would today fall under the pretext of incitement to genocide and were also involved in crimes against humanity, where Streicher was editor-in-chief of the hostile weekly magazine (Sturmer).), and the court found that it was a call for hatred as they launched propaganda with which they misled the image of the Jewish people as evil, destructive and disease-spreading, and thus the court considered it an incitement to murder and extermination of the German people ¹⁴.

¹⁰ Judge Antonio Cassese et al., op. cit., pp. 106 et seq.

¹¹ Al-Sayyid Abu Aita, op. cit., p. 223

¹² Mohamed Saleh Rawan, International Crime in International Criminal Law, PhD thesis submitted to the Faculty of Law, Mentouri University of Constantine, Algeria, 2008, p. 144 .

¹³ Ayman Khaled, In Proving the Legal System for the Crime of Misleading Public Opinion, article published in Al-Istiqlal newspaper, 2019, published at the following link : alestiklal.net. Accessed on 24/11/2022.

¹⁴ Wibke Kristin Timmermann, Incitement in international criminal law, International Review of the red Cross, Volume 88 Number 864 December 2006, p.827.

We can distinguish incitement from disinformation through two factors (intent, and probability), the first element is the actual call for discrimination, hostility, or violence from the mere distribution or circulation of materials, and the second element is likely that disinformation in the form of defamation accusations against individuals or groups will not reach this level, regardless of the extent of their provocation, unless they specifically promote a violent act, even if this happens, the publication is not considered incitement. Unless there is a reasonable possibility that the allegations contained therein lead directly to the damage, regardless of whether or not such damage was ultimately realized ¹⁵.

If we characterize disinformation as a crime against humanity, it must be committed in the context of a widespread or systematic attack, and the attack here does not need to constitute a military attack, but the attack in the context of crimes against humanity means (any abuse of the civilian population) or causing mental or physical injury, and the publication must be under state policy, and disinformation may amount to a crime against humanity represented in other inhumane acts. Deliberately cause severe suffering or serious injury to the body or physical or mental health, and disinformation may interfere with the delivery of food, water, or medical care, and many international courts have found that similar forms of deprivation in places of detention constitute inhumane acts, but if disinformation in any of the countries deliberately impedes the supply of relief disinformation may be adapted as well as a war crime of (starving civilians as a means of war). Attack on which attack is not a prerequisite¹⁶.

3. DETERMINING THOSE CRIMINALLY RESPONSIBLE FOR MEDIA DISINFORMATION IN INTERNATIONAL LAW

Jurisprudence differed on international criminal responsibility, as some jurists assigned it to the state, others assigned it to the individual, and the third section of the jurists assigned it to both:

Subchapter I: Place of International Criminal Responsibility: International jurisprudence differed on the determination of international criminal responsibility, there are three directions to indicate the place of responsibility, which we mention successively:

First direction - The State is criminally responsible: This trend assigns international criminal responsibility to the State only as the sole legal person addressed by the provisions of international law and therefore there is no international criminal responsibility of individuals even if they commit internationally wrongful acts ⁽¹⁷⁾. Proponents of this trend deny the idea of the existence of non-state individuals that have legal personality as subjects of international law, and because of the independence of the rules of international law from domestic law, it imposes obligations on states only because they are its persons, and they cannot be imposed on persons in any way, and therefore it is difficult to determine the international responsibility of individuals at present, and therefore criminally responsible for international crimes is only the state ⁽¹⁸⁾.

(15) Eian Katz, civilians from disinformation during armed Liar's war: Protecti. conflict ,International Review of the Red Cross(2020) ,p.671.

Janar¹⁶ Namiq, Genocide and Disinformation Methods (Selected Models), 1st Edition, Dar Ghaida for Publishing and Distribution, The Hashemite Kingdom of Jordan, 2019, p. 27.

¹⁷ Abdallah Suleiman Suleiman, Basic Introductions to International Criminal Law, University Press, Algeria, 1992, p. 124.

Muhammad¹⁸ al-Salih Rawan, op. cit., p. 251.

In the Cutting case, Mexico tried to punish an American citizen according to Mexican law, for publishing an article in the United States of America that was considered defamatory against a Mexican citizen, but the US Secretary of State (Bayard¹⁹) protested against the Mexican government, and the latter was convinced of this point of view, which prompted it to release him.

International law has strived to establish international criminal responsibility, which entails the imposition of sanctions represented by employing coercion on a State in violation of international obligations if the breach State fails to fulfill its obligations and remedy the damage it has caused ²⁰.

The second trend - dual responsibility: This view means that individuals and the state bear international criminal responsibility for all actions that take place within the state that lead to the commission of international crimes, because the state has an international personality for this must bear the responsibility for criminal responsibility as a result of committing international crimes, and at the same time, the criminal law cannot neglect the responsibility of individuals for crimes that are violated in the name of the state, and that the Nuremberg Tribunal when it announced the order of responsibility on the natural person did not. It is intended to exclude the criminal responsibility of the German State as a legal person, and the failure to mention Germany's criminal responsibility in the judgment was due on the one hand, and on the other hand, to the complete occupation of its territory by the German sovereignty under this unconditional extradition treaty ²¹.

Laterpacht believes that the criminal responsibility of the State goes beyond the repair of damage so that the State and individuals acting on its behalf or its behalf bear criminal responsibility for serious violations of international law represented in the disregard and disregard for human life ²².

International criminal law can not ignore the responsibility that falls on natural individuals as a result of criminal acts issued by the state, criminal sanctions if applied to the state must be applied to individuals also because they led the nation with their actions to commit the crime, and supporters of this trend believe that misdemeanors and felonies committed by states arise in which two types of responsibility, the first is a collective responsibility of states, and the second is an individual responsibility for natural persons and thus punishes the state according to the element of freedom of will, which is Addressing the rules of international law while punishing individuals based on well-known principles of domestic criminal law ²³.

The third trend: This trend was advocated by the supporters of the objective doctrine, most notably the jurist Duguit, who believed that states are not subjects of international law, but individuals are only subjects of this law ²⁴. So, the rules of international law address individuals only and not states.

Dr19. Essam Al-Attayah, Public International Law, 7th Edition, Legal Library, Baghdad, 2008, p. 81.

Dr20. Amjad Muhammad Mansour and Dr. Muhammad Nasr Al-Qatari, Criminal, Civil and International Responsibility of Perpetrators of Genocide before the Judiciary, Part III, Issue Thirty-Two, p. 836.

21 Nasreddine Qalil, State Responsibility for Violations of International Law, PhD thesis submitted to the Faculty of Law, University of Algiers, 2017, pp. 42 ff.

22 Tonkin, Public International Law (Theoretical Issues), translated by Ahmed Reda, Egyptian Book Organization, Cairo, 1972, p. 260.

Dr23. Nayef bin Faisal bin Abdulaziz, Criminal Responsibility of Commanders for War Crimes Committed During International and Non-International Armed Conflicts, research published in the Legal Journal (a journal specialized in legal studies and research), p. 50 and beyond.

Dr24. Essam Al-Attayah, previous source, p. 13.

The lack of acceptance of the idea of international sanction in general in international law, the majority of domestic law scholars do not imagine the existence of international sanctions in international law, and they argue that relatively modern rules of international law, and the lack of real authority that regulates the international community and the punishment of those who violate international rules, the presence of a supreme authority that regulates society is the criterion of punishment and its imposition on violators of its provisions, which is lacking in international law, and military actions carried out by countries to repel aggression such as revenge and not Sanctions imposed by the United Nations cannot be compared to those imposed by national laws, and the voting system in the Security Council has emptied them of their content because the five permanent members enjoy the right of veto ²⁵.

This view is the predominant and most likely in international action (criminal justice), for two reasons: the first is that the State is no longer the only axis around which the rules of international law revolve, but rather the emergence of the role of the individual and the need for the latter to respect the rights of others, otherwise subject to international punishment, and the second is the inability to hold the State criminally accountable as a legal person ²⁶.

In turn, we support the latter opinion as a result of the growing role of individuals at present, where they are committing the most heinous types of international crimes, especially if they commit them in their name and for their account away from the state and its laws, and the best example of this is terrorist organizations such as Daesh terrorist gangs, which were far from the countries to which they belong.

Section II - Individual criminal responsibility in international law

Individual international criminal responsibility is defined as holding the natural individual responsible for the consequences of his or her wrongful acts ²⁷.

In 1950, the International Law Commission adopted a report on the principles of international law recognized in the Charter of the Nuremberg Tribunal ²⁸.

Before the adoption of the peace treaty in 1919, attempts were made to criminalize persons belonging to an enemy State regardless of their high status without distinction of rank, including heads of state convicted of crimes against humanity and against the laws and customs of war, but these attempts were rejected by the commission that prepared the Treaty of Versailles ²⁹.

The Nuremberg Tribunal is competent to try and punish all persons who, in their capacity or as members of an organization acting for the Axis Powers, have committed one of the acts of the jurisdiction of the Tribunal and constitute crimes, including accountability and

²⁵ Falah Mazyad Al-Mutairi, *International Criminal Responsibility of Individuals in the Light of the Development of International Criminal Law*, Master's Thesis submitted to the Faculty of Law, Middle East University, Jordan, 2011, p. 15.

⁽²⁶⁾ Salah Mohammed Al-Bakoush and Adel Ali Jubran, *The International Criminal Responsibility of the Individual in International Law*, Research Submitted to the Journal of Humanities and Natural Sciences, Volume (2), Issue (6), 2021 p. 885.

²⁷ Abdullah Suleiman Suleiman, *op. cit.*, p. 123.

⁽²⁸⁾ EDOARDO GREPPI, *The evolution of individual criminal responsibility under international law* RICSEPTEMBRE IRRSEPTEMBER 1999 VOL.81 N°835, p.539

. Article 6 of the Charter of the Nuremberg Tribunal states: "The Tribunal shall have jurisdiction to try and punish all persons who, in their personal capacity or as members of an organization acting for the Axis Powers, committed an act that falls within the scope of the following crimes..."

⁽²⁹⁾ UIO :Detjuridskefakultet , Head of State Immunity at the International Criminal Court , Legal Consequences of UN Security Council Referrals for PersonallImmunities,2018 , p.11.12 .

punishment of the original perpetrator and anyone who contributed to the processing and execution of an international crime, whatever his capacity³⁰.

The head of state or senior officials are not exempt from criminal responsibility, the penalty is not mitigated and is not considered an excuse for punishment, and the responsibility is assigned to the president because he is at the top of the political organization of the state (31). As for individual criminal responsibility under the International Military Tribunal in Tokyo, it is set out in Article (5) of the Statute of the Court to expressly establish the criminal accountability of individuals, where each individual, whether he is a principal actor or a contributor, is held accountable without regard to official capacity.

The ICTY has set out the conditions for individual criminal responsibility in Article (7) of the Statute of the Tribunal, where individual criminal responsibility falls on all those who plan, order, commit or incite the crime or encourage or assist in any other form of preparation, planning or implementation, regardless of the official position of the offender, whether he is head of government, head of state or government official, and there is no excuse for the latter if the crime is committed by Subordinate.

The Statute of the Rwanda Tribunal has recognized individual criminal responsibility in Article (5), and the said article recognized the jurisdiction of the Tribunal to try individuals and their criminal responsibilities for international crimes and also recognized not to exempt individuals in their capacity or to uphold the functional capacity or immunity prescribed to them in the internal law of heads of State or obey the orders of the President. The United Nations Convention on the Prevention and Prohibition of Genocide of the Human Race shall also be adopted as "whoever commits the crime of genocide, whether the offender is a ruler, an official or a private individual", shall be punished³².

After that, renewed international efforts to establish the International Criminal Court to renew and approve the principles of the Nuremberg Tribunal according to the principles of international law to prepare a draft law on violations against peace and human security, and the drafting and preparation of the draft statute of the Court, has protested some countries to establish this Court on the grounds of violation of national sovereignty, but the General Assembly of the United Nations continued its work and held a meeting of the Committee on the project in the Italian capital, and in 1999 signed eighty-nine Entered into force in 2001, the Court considers under Article 5 the international crimes within its jurisdiction, namely war crimes, crimes of aggression, crimes of genocide and crimes against humanity³³.

Paragraphs (1 and 2) of Article (25) of the International Criminal Court showed the universal acceptance of individual criminal responsibility as recognized by international criminal law, and confirmed by the International Criminal Tribunal for the Former Yugoslavia in the judicial decision (Tadić) regarding dual criminal responsibility for violations of common Article III of the four Geneva Conventions of 1949, while the third paragraph defines the basic concepts of the concept of an individual crime, and subparagraph (3) / a, refers to three forms of the form of offense. The first is committed by the person himself, the second

Article 30 6 of the Statute of the Nuremberg Tribunal.

Article 31 7 of the Statute of the Nuremberg Tribunal.

³² Freja Mohamed Hicham, *The Role of International Criminal Justice in Combating International Crime*, PhD thesis submitted to the Faculty of Law and Political Sciences, University of Mohamed Khider Biskra, Algeria, 2014, p. 133.

Dr³³. Ali Hamid Al-Obaidi, *Introduction to the Study of Public International Law and International Humanitarian Law*, 1st Edition, Al-Atak Company for Book Industry, Iraq, 2009, p. 242 and beyond.

as an accomplice, and the third through another person (the commission of the crime by means), subparagraph (b) provides for inducement, order, or inducement, whether the crime is committed or attempted, and these three acts are a form of criminal contribution³⁴.

Subparagraph (d) provides for various forms of complicity, ordering or inciting the commission of a crime, establishing full criminal liability for aiding and abetting both. Paragraph (e) of the same article refers to the punishment of persons who commit the crime of genocide by public and direct incitement to commit the crime, to enhance the seriousness and independence of incitement to genocide. Subparagraph (f) provides for the attempted commission of the offense.

When the media of all kinds, such as newspapers, satellite channels, radio stations, or social networking sites, directly or publicly incite the commission of genocide, whether the owners are private persons or representatives of State authorities, their criminal responsibility arises, and the jurisdiction of the International Criminal Court is vested in the exercise of its jurisdiction.³⁵ That is, individuals bear international criminal responsibility, regardless of the degree of their contribution to the crime, whether he is a perpetrators, accomplices, instigators, or otherwise.

The international community has reduced impunity for perpetrators of international crimes by invoking the orders of their superiors as a reason for permitting their acts, thereby eliminating the international criminal protection of international criminal law over human rights and encouraging the commission of international crimes against them³⁶.

Concerning the responsibility of the Supreme President, Article 33 of the Statute of the International Criminal Court stipulates that:

1. If any person commits a crime within the jurisdiction of the Court, an individual shall not be exempt from criminal responsibility if the commission of that crime was carried out in compliance with the order of his Government or a military or civilian superior, except in the following cases:

- a- If the individual has a legal obligation to obey the orders of the government or the president.
- b- If the individual is not aware that the matter is unlawful.
- c- If the legality of the matter is not apparent.

2. For this article, wrongfulness shall be manifest in the case of orders to commit a crime against humanity or the crime of genocide.

This means that individuals are criminally responsible for disinformation, whether they are journalists, editors-in-chief, officials of satellite channels, and other persons responsible for the act of disinformation, whether they are contributors or accomplices to the crime,

⁽³⁴⁾ Article 25 Individual criminal responsibility , p.745 .

Posted on the link Following :

<https://www.legal-tools.org/doc/e8ad48/pdf/> . Last visited 28/11/2022.

^{Dr35}. Sadiq Zughayr Muhaisen and Kazem Ja'far Sharif, op. cit., p. 130.

^{Dr36}. Mazen Lilo Radi, The Limits of Pushing the Execution of the Orders of the Supreme President in International Criminal Law, Research Published in the Journal of Legal Sciences, Issue (1), College of Law, University of Duhok, 2010, p. 64.


before the former International Criminal Tribunals and the current International Criminal Court.

4. CONCLUSION

Our conclusion will consist of a set of results derived from our study. In addition to a statement of a set of proposals through which we attempted to diagnose the deficiencies that constitute an impediment to the eradication or reduction of media disinformation, we provide a diagnosis of these deficiencies. Consideration of media disinformation as a crime under international law and the prevalence of all elements of the crime, including the legal, material, moral, and international components. Media disinformation may constitute a crime against humanity if it is part of a pervasive or systematic attack, and a war crime if it is used to deliberately obstruct relief supplies. perpetrators should be brought before international criminal tribunals, including the International Criminal Court. There are three distinct legal approaches to establishing international criminal responsibility. The first direction evaluates the responsibility of the state alone, while the second direction assesses the responsibility of both the state and individuals. The third and most correct direction in international action assigns sole responsibility to individuals. Punishment of Individuals Violating Disinformation in Nuremberg, Tokyo, Rwanda, and the International Criminal Court. The institution of international criminal responsibility against all individuals who commit the crime of disinformation, including common citizens, journalists, military commanders, and heads of state, among others. Therefore, international cooperation and solidarity should be required to apprehend the perpetrators of crimes involving media disinformation and to implement stringent measures for international prosecution by Interpol. The Information and Communications Ministries of all nations must also prohibit the installation of devices that broadcast or transmit disinformation operations. In addition, it is crucial to take legal action against individuals and organizations that are not internationally licensed and to issue licenses to media organizations only after receiving legal guarantees that they will not disseminate deceptive content. On the other hand, the statute of the International Criminal Court should be amended to include media disinformation among the offenses within the court's jurisdiction. Finally, we recommend that the Iraqi government, represented by the Iraqi Council of Representatives, join the treaty establishing the International Criminal Court so that perpetrators of disinformation offenses can be brought to justice.

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