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Challenges to, and Manifesto for, Fact-Finding in a Time of Disinformation

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Cover Page Footnote

United Nations Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions. This text is adapted from the author's lecture on the same subject, given March 26, 2019, as part of the Klau Center for Civil and Human Rights' 2019 Roundtable: "Human Rights Fact-finding in the Era of Fake News."

CHALLENGES TO, AND MANIFESTO FOR, FACT-FINDING IN A TIME OF DISINFORMATION

AGNÉS CALLAMARD*

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INTRODUCTION

I think it is fair to say that the post-World War II global human rights system is, at the very least, questioned, if not thoroughly undermined. The unravelling of the so-called “Global Project” and its associated multilateralism have been the object of much analysis, centering on the rise of populist politics and leadership, the emergence of a multipolar international system, the rise of neoliberalism, and widening inequality, to name but a few.¹ Many have associated this unravelling with the last post-industrial revolution of the twenty-first century—the information technology revolution—warning against its impacts, largely misunderstood still, such as the undermining of democratic institutions, and of quality information and facts through the fast and massive

* United Nations Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions. This text is adapted from the author’s lecture on the same subject, given March 26, 2019, as part of the Klau Center for Civil and Human Rights’ 2019 Roundtable: “Human Rights Fact-finding in the Era of Fake News.”

¹ See, e.g., Joseph E. Stiglitz, *Globalization and Its Discontents Revisited: Anti-Globalization in the Era of Trump* (2017); See also Bernard E. Harcourt, *The Counterrevolution: How Our Government Went to War Against Our Own Citizens*, (2018); Adam Tooze, *Crashed: How a Decade of Global Financial Crisis Changed the World* (2018).

dissemination of false news.² Although the diagnosis may vary in its emphases and lead causes, the conclusions are strikingly similar. Liberal and democratic values are in jeopardy, as is the rules-based international system and the norms it embodies, both being subject to multiple attacks that, once taboo, now, quite to the contrary, are both claimed and carried out with pride.

The impacts of these sharp transformations in the technological, economic, social, cultural, and political environment on the human rights framework and vision are immense, if not fully yet understood.

I propose to highlight how this environment is impacting my fact-finding work as UN Special Rapporteur, with the view to extract some more general recommendations. In keeping with the focus of this conference, I will approach the question of the impact on my work as a fact-finder, which I describe as the establishment, with impartial intent, according to standards, on a sound and sturdy basis, of an accurate account of events.

I will first present what I consider to be the main dimensions of fact-finding and then interrogate this construction of fact-finding against the backdrop of the new information ecosystem and populism.

I. THE COMPLEXITIES OF THE NEW POLITICAL AND TECHNICAL ENVIRONMENT

A. *A NORMATIVE COUNTERREVOLUTION?*

Some normative conflicts of this decade are directed at emerging norms, such as those related to gender identity. But they are also targeted at undermining norms that had already been, or so we thought, well “internalized.” They also demand undermining and stigmatizing those actors that have painstakingly constructed global norms for the protection of freedom of expression over the last seventy years. Such developments are particularly striking in old democracies. In the United States, for instance, the press is regularly criticized by the country’s President and freedom of the press and other constitutional First Amendment values are attacked or deliberately undermined. Normative conflicts thus are not driven only by authoritarian regimes and their leaders; they may be initiated too from within liberal democracies or find resonance and many allies within those democracies.

The current conflicts, driven as they are by political leaders, the “street,” and the online world, may feel closer to a normative counter-revolution than to the norms’ contestations of the second half of the twentieth century.

B. *AN ATTACK ON FACTS AND EVIDENCE*

According to author Dorothy Sayers, “[f]acts are like cows. If you look them in the face hard enough they generally run away.”³

² See generally BRIAN MCNAIR, *FAKE NEWS: FALSEHOOD, FABRICATION AND FANTASY IN JOURNALISM* (2017); See also EDWARD S. HERMAN AND NOAM CHOMSKY, *MANUFACTURING CONSENT: THE POLITICAL ECONOMY OF THE MASS MEDIA* (2nd ed. 2002).

³ DOROTHY L. SAYERS, *CLOUDS OF WITNESS* 67 (1926) <https://gutenberg.ca/ebooks/sayers-clouds/sayers-clouds-00-h-dir/sayers-clouds-00-h.html>.

I think there are facts that have sustained the test of intense scrutiny and extreme gazing, including human rights facts. But Sayers' warning against the solidity of facts—or rather our belief in the solidity of facts—does resonate in the new political and information ecosystem of the twenty-first century.

It seems as if social media eats at facts with great appetite. To continue with the cow metaphor, they chew at them, regurgitate, and reprocess them.

The technology itself does impact our understanding of facts, largely because of its speed, global ubiquity, and mass-phenomenon.

Borrowing from Mégret, the Internet has, if anything, made facts both less and more accessible, and ensured that every “fact” is immediately in competition with a variety of “counter-facts.” The vast availability of facts and yet the poverty of what often passes as facts is something that the more institutional and formal exercises of fact-finding must reckon with. One of the ironies of the turn to facts then is that it occurs against the background of a world in which nothing has ever seemed more virtual, and where it has never seemed as easy to contest the uncontestable.⁴

1. *The Use or Manipulation of the New Tools*

There is little doubt that the new modes of sociality enabled by the various so-called “new” social media may be a central contributing factor to the growth and ubiquity of so-called “fake news” and hate speech in the public sphere and thus to the loss of trust in facts.⁵ This phenomenon may be linked to “polarization entrepreneurs,”⁶ feeding on the “online disinhibition effects”⁷ and the echo chambers effect of the Internet.⁸ The online speech of polarization entrepreneurs, like their offline speech, dehumanizes, attribute guilts, constructs threats, asserts the existence of hidden enemies, raises alarm about survival and the future, and construct bit by bit final solutions.

These new modes of sociality disseminate and infuse these beliefs with rumors and factually incorrect narratives presented as facts. There, evidence points to a level of organization and planning that is not well conveyed by the seemingly chaotic digital space. Campaigns based on rumors, lies, and vilification are well orchestrated.⁹

A University of Oxford report released in July 2018 found “evidence of formally organized social media manipulation campaigns” in forty-eight countries in 2018, up from twenty-eight countries one year earlier. All but one

⁴ Frédéric Mégret, *Do Facts Exist, Can They Be “Found,” and Does it Matter?*, in *THE TRANSFORMATION OF HUMAN RIGHTS FACT-FINDING* 27, 37 (Philip Alston and Sarah Knuckey eds., 2016).

⁵ Sindre Bangstad, *Hate Speech: The Dark Twin of Free Speech*, SINDREBANGSTAD.COM (Oct. 25, 2015), <http://www.sindrebangstad.com/hate-speech-the-dark-twin-of-free-speech/>.

⁶ See CASS R. SUNSTEIN, *GOING TO EXTREMES: HOW LIKE MINDS UNITE AND DIVIDE* 34 (2009).

⁷ See generally John Suler, *The Online Disinhibition Effect*, 7 *CYBER PSYCHOL. & BEHAVIOR* 321 (2004), http://www.academia.edu/3658367/The_online_disinhibition_effect.

⁸ See, e.g., CASS R. SUNSTEIN, #REPUBLIC: *DIVIDED DEMOCRACY IN THE AGE OF SOCIAL MEDIA* (2017).

⁹ See, e.g., Jonathan Corpus Ong and Jason Vincent A. Cabañes, *Architects of Networked Disinformation: Behind the Scenes of Troll Accounts and Fake News Production in the Philippines*, NEWTON TECH4DEV NETWORK (2018), <http://newtontechfordev.com/wp-content/uploads/2018/02/Architects-of-Networked-Disinformation-Executive-Summary-Final.pdf>.

country currently under some level of International Criminal Court investigation is included in this list.¹⁰

Cyber troops, fake accounts, and bots are employed to manipulate public opinion online, to manufacture consensus, and subvert democratic processes. In most countries this involves the spread of junk news and misinformation during elections, military crises, and complex humanitarian disasters. A bot is a program written to give an automated response to posts on social media, creating the perception that there is a tidal wave of public opinion. Because bots are machine-driven, they can manufacture thousands of posts per minute. A fake account is a manufactured online identity, sometimes known as a troll, depending on the account's behavior. Often, dozens of these fake accounts work together along with anonymous pages, strengthening each other's reach for Facebook's algorithms. These networks can work with or without bots.

There is nothing "organic" or inherent to the digital technology in this phenomenon. Instead, there are individuals and leaders keen on using the unprecedented capacities of the technology for ends varying from political opportunism to spreading ideas and ideology which could not have spread and found such an audience otherwise.¹¹ The main casualty is trust in institutions and in facts.

2. Trust

When Edelman released its 2018 Global Trust report, it described its results as documenting a "shattering loss" of trust in public institutions, specifically within the United States but also beyond its shores. A loss of trust with "the biggest victim" being "confidence in truth." It explained that:

Persistent references to fake news, linked to headlines around foreign government election manipulation have, unsurprisingly, had a cumulative, deep effect on the public. The inability to stem the perceived surge in disinformation has proven toxic: sixty-three percent of the U.S. general population finds it difficult to distinguish between what is real news and what is fake.¹²

It concluded that "this year's shattering loss of trust . . . represents a hinge moment in history And we have not yet seen leadership in any area that promises to put us back onto a trajectory of trust."¹³

¹⁰ See SAMANTHA BRADSHAW & PHILIP N. HOWARD, CHALLENGING TRUTH AND TRUST: A GLOBAL INVENTORY OF ORGANIZED SOCIAL MEDIA MANIPULATION 3 (2018) (The report warned that the practices of democracy are violated by the strategies and techniques employed by cyber troop operations, and they actually do work to democracy's detriment).

¹¹ See generally Agnes Callamard, *The Control of "Invasive" Ideas in a Digital Age*, 84 SOC. RES.: INT'L Q. 119 (2017).

¹² Lisa Ross & Stephen Kehoe, *America in Crisis*, EDELMAN (Jan. 21, 2018), <https://www.edelman.com/post/america-in-crisis>.

¹³ *Why Trust Matters in Business and Governance – the 2018 Edelman Trust Barometer*, PROSHARE (May 29, 2018), <https://www.proshareng.com/news/World%20of%20Business/Why-Trust-Matters-in-Business-And-Governance---The-2018-Edelman-Trust-Barometer-/40179>.

If Latour's position that facts derive their authority from trust is correct, or just partially correct, then the behavior of political leaders, with the assistance of a technology whose impact we have yet to fully understand, is eating at the very heart of what makes a fact a fact; it is eating at its authority.

3. *Facts and Knowledge*

Research on atrocity crimes has not only emphasized the role of ideologies but also the way people acquire knowledge. In his research on atrocity crimes, Maynard has pointed out that the public fails to absorb prominent ideological discourse not because they are mindless or unusually gullible victims of brainwashing but because they are dependent on epistemic authorities for most of their political knowledge. The assimilation of toxic beliefs requires the instruction of others, of not only people with moral authority such as political leaders, intellectuals, clergy, and community elders, but also simply other peer-group members. This applies as well to beliefs of hatred and fears.¹⁴

Maynard built on the work of linguists and sociologists, such as Baurmann, who emphasizes that “[a]lmost all of our knowledge is acquired, not by our own autonomous exploration, but by relying on information from others [T]he quality of our beliefs is not dependent on the quality of our individual insight but on the quality of collective knowledge acquisition.”¹⁵ He further suggests that:

[M]ost of our knowledge is acquired by trusting the testimony of some kind of authority. If a social group is characterized by a high degree of mistrust towards the outer society or other groups, then the members of this group will rely solely on the authorities of their own group for their acquisition of knowledge.¹⁶

Social media has not weakened the centrality of epistemic authorities. On the contrary, it has permitted the creation of communities of “knowledge” and “facts” with their own authorities and leaders, strengthened or consolidated through bots, trolls and fake accounts when required.

II. IMPLICATIONS: FINDING A PUBLIC FOR FACTS

A. *FACT-FINDING IN THE PHILIPPINES*

The information technology revolution has impacted our ability, as fact-finders or fact-checkers, to find an audience for facts.

¹⁴ JONATHAN LEADER MAYNARD, IDEOLOGIES AND MASS VIOLENCE: THE JUSTIFICATORY MECHANICS OF DEADLY ATROCITIES 86–87 (2014), <https://pdfs.semanticscholar.org/5aab/8d4d6fecfe3ada7393b901771a1e6727cd7c.pdf>.

¹⁵ Michael Baurmann, *Rational Fundamentalism? An Explanatory Model of Fundamentalist Beliefs*, 4 EPISTEME 150, 152 (2007).

¹⁶ *Id.* at 150.

The complexity of the human rights situation in the Philippines escapes any quick analysis of the finding of facts. This is, in my opinion, one of the worst human rights disasters falling within my mandate, and outside an armed conflict. What I wish to highlight here is the impact of disinformation, lies, and propaganda on fact-finding into the alleged extrajudicial killings by security officials of some 7,000 persons over the last two and a half years, in addition to some 15,000 persons killed by unknown assailants.

In the Philippines, where the median age of its 100 million people is twenty-three years old, more than ninety-four percent of Filipinos on the Internet are on Facebook.¹⁷

The weaponization of the Internet in the Philippines is, to cite journalist Maria Ressa, “a chipping away at facts, using half-truths that fabricate an alternative reality by merging the power of bots and fake accounts on social media to manipulate real people.”¹⁸

Studies by Rappler found that one nest of twenty-six fake accounts can influence nearly three million Facebook pages and that about 50,000 Facebook accounts can be used in targeted campaigns for or against an individual. These have been largely used to defend President Duterte, but they have also been used to attack Senator Leila de Lima and Vice President Leni Robredo. At least 300 websites have been documented spreading fake news in the Philippines.¹⁹

1. *How Does This Impact Fact-Finding?*

It indirectly impacts the search for facts because fact-finders working on the arbitrary killings of the poor, alleged drug pushers, and small criminals, are threatened for doing so. Threats against human rights fact-finders are nothing new. What is new is the mass and scale of the threats.

It greatly impacts the other functions of fact-finding: alerting and searching for accountability, including truth-telling. The weaponization of the Internet has meant that there is seemingly no public for facts. The public opinion is prepared not just to believe the lies but prepared to accept the consequences of the lies: killings.

The “facts” presented by President Duterte and those associated with him regarding the extent of the drug problem in the Philippines, the manufacturing of the drug problem in the Philippines, and the notion that a major threat is about to destroy the Philippine society have all been well accepted by people eager for quick explanation and solutions to the continuing social and economic problems, including poverty and inequality. There seems to be a wide acceptance of executions, especially of drug pushers. While the government may reject the allegations and its responsibility, its supporters are particularly quick to accuse human rights defenders or the UN to be soft on crime and to protect the rapists, thieves, and killers.

¹⁷ OXFORD BUSINESS GROUP, *THE REPORT: PHILIPPINES 2016* 13, 207–08 (2016).

¹⁸ Maria A. Ressa, *Propaganda War: Weaponizing the Internet*, RAPPLER (Feb. 7, 2019), <https://www.rappler.com/nation/148007-propaganda-war-weaponizing-Internet>.

¹⁹ *Fake News: Sound Bites on a Burning Topic*, UNESCO COURIER (July-Sept. 2017) <https://en.unesco.org/courier/july-september-2017/fake-news-sound-bites-burning-topic>.

“People are more confused than enlightened these days, and I can only blame technology,” said Vergel Santos, chairman of the board of the Center for Media Freedom and Responsibility at #HackSociety’s panel on Technology and the Public Debate.²⁰ “Technology has no morals. Technology has no values,” added Santos.²¹

B. *A PUBLIC IN SPITE OF THE ABSENCE OF FACTS: JAMAL KHASHOGGI, LEAKS, AND INTELLIGENCE*

The inquiry into the killing of Saudi journalist Jamal Khashoggi at the Saudi Consulate in Istanbul raises fact-finding challenges related to leaks and intelligence. The finding of facts over the last six months, largely by journalists, has been driven by leaks, anonymous sources, and so-called “intelligence.” What I have learned from the inquiry thus far is that there are major differences between intelligence and evidence.

There may be some similarities between the processes of intelligence-collecting, fact-finding, and evidence-gathering, but at heart, they are very different exercises.

Generally, intelligence-gatherers operate in preparedness for an event that may or may never take place or in pursuit of information (rather than evidence) that might provide an institution, government, or corporation with an advantage. It is an open-ended process unless a significant event does occur. There is rarely a definitive point where enough intelligence has been harvested. But at some undefined stage, even though it may be fraught with contradictions, there will come a time when an intelligence service or operative simply has to take a stab at assessing what their “product” means. It is often an educated guess, at best. Others may be asked to make an independent assessment or interpretation of the same material, but those are nevertheless still educated guesses. There is rarely room for objective scrutiny or rarely is there an opportunity for anyone outside intelligence circles to challenge an assessment or interpretation.

The potential risks of manipulation and instrumentalization are particularly high when the main sources of information are provided by intelligence services. Expecting intelligence services to provide “proof” in the legal sense is unrealistic. However, human rights fact-finders may have different objectives and follow different standards. In the best scenario possible, human rights fact-finding may seek to establish facts “beyond any reasonable doubt.” In many other situations, human rights fact-finders may seek to establish credible facts in the sense that there is a reasonable basis to believe that the underlying act or event occurred. We infer findings because this is the only logical inference that may be done.

We expect our work to be closely scrutinized, challenged, and subjected to detailed analyses. We are, in reputational terms at least, personally accountable for it. We expect to be required to justify what we have or have not done and to be held reputationally and personally accountable for our work.

²⁰ Maria A. Ressa, *How Facebook Algorithms Impact Democracy*, RAPPLER (Feb. 6, 2019), <https://www.rappler.com/newsbreak/148536-facebook-algorithms-impact-democracy>.

²¹ *Id.*

In researching and exposing the killing of Jamal Khashoggi, there has been a concerning trend towards a valuing of intelligence over facts and evidence. It is a convenient way of operating: one can pick and choose which intelligence to take and when. A cynic might say that one can flip between one interpretation and another when it is suitable. The cynic would also say that there is an ability for officials to allow themselves to be easily misled.

C. HOW IS INTELLIGENCE TURNED INTO EVIDENCE? WHOSE RESPONSIBILITY IS IT TO DO SO?

The first approach would be for intelligence to be scrutinized. I attempted to do this with certain recordings by authenticating clone copies of recordings. But the metadata of the recordings included information regarding the methods and sources of the gathered intelligence. This is information that no intelligence agency would agree to divulge. So, turning this kind of intelligence into evidence is a challenge for me or for anyone else who may investigate without a court order demanding copies and in the absence of an open and inquisitive review by the defense. While some versions of the recordings may be made available to a Turkish court, or indeed to an international tribunal, it is unlikely to be provided to judges operating in a different jurisdiction.

There are other ways that it can be done that are far more time consuming, including triangulating information with other sources and comparing the information on the recordings with other facts and sources, such as CCTV.

III. THE NECESSITY OF HUMAN RIGHTS SOUL-SEARCHING

The crisis we are confronting may not just be extraneous, external to human rights work. It may be from within as well. At the very least, the many challenges to the values, norms and standards of the human rights projects demand that we interrogate the human rights vision and how we implement it, to determine whether we may have, indirectly, contributed to its questioning and undermining.

Fact-finding can only be understood in relation to the framework against and through which facts are assessed. The human rights framework is a value-based, normative, and legal representation of the relationship between states and citizens, between people and groups with power over individuals. In view of the normative onslaught, we may be tempted to resist all changes, to focus solely on protecting all that had been achieved, and to sacralize the human rights framework. But a sacred framework is a framework that is no longer fact-based but derived from traditions, customs, and beliefs.

All living, adaptive, and normative frameworks must be contested and we have to accept, welcome, and demand contestation. When questioning the dominant meaning, challenging a court to see beyond a hegemonic representation or experience, and demanding legal experts and special rapporteurs to question their viewpoints, all of these confer to human rights work greater resilience and sustainability.

A. *THE PRIVATE SPHERE*

Over the past decades, the human rights framework has been contested from within, demanding more comprehensive and inclusive interpretations of foundational texts. Such contestation has included a revised understanding of what constitutes torture, cruelty, and degradation, who the victims of torture are, and what fact-finders ought to focus on when looking for patterns or instances of torture. I have applied a similar approach to violations of the right to life. These violations had been traditionally characterized as falling solely within the public domain, meaning unlawful killings involving state actors, including in conflict situations. However, this characterization has had the effect of excluding gender-related killings, which take place mainly in the private sphere.

And yet the universality of rights cannot be taken as excluding the private domain. Acknowledging that gender-based killings may constitute arbitrary killings or arbitrary deprivation of life, even when committed by non-state actors, provides rights-based claimants the foundation for redress for rights-based claims, and for institutional and regulatory change. To do so, I have questioned, on the basis of jurisprudence and academic work, the meaning of “arbitrary” and the notion of “intent” in arbitrary killings for instance.

B. *HUMAN RIGHTS OBLIGATION OF NON-STATE ACTORS*

The prevalent formalist framework of human rights has privileged a strict definition of human rights as only individuals’ rights against the state. International law is “a body of rules which—according to the usual definition—regulates the conduct of the *States* in their intercourse with one another.”²² According to this perspective, international human rights developed in response to state action during “the barbarity of the Second World War.”²³ Thus, it is intended as law for states.²⁴ And therefore, “human rights obligations are imposed upon States . . . and have no binding force for the insurgents.”²⁵

The implication is that many people’s experiences of abuse, threats, fears, violence, and death are not accounted for by the human rights framework or, if they are, it is only through indirect legal means.

I have in mind, in particular, reference to the violence of private actors in Central America, violence by criminal cartels, and violence by gangs.

The human rights community, over the years, has had limited insight into these experiences. It privileged a focus on the state’s responsibility to protect. But can we suggest that this is the only human rights framework to understand these situations and the victims?

In my opinion, the unwillingness of the human rights experts to address directly violence by criminal cartels or armed groups has meant that we have had very limited ways of engaging with millions of communities around the

²² Rosalyn Higgins, *Conceptual Thinking about the Individual in International Law*, 4 BRIT. J. OF INT’L STUD. 1, 2 (1978) (citing H. KELSEN, PRINCIPLES OF INTERNATIONAL LAW (2d ed. 1966)).

²³ LINDSAY MOIR, THE LAW OF INTERNAL ARMED CONFLICT 194 (2002).

²⁴ *Id.* at 44–45.

²⁵ *Id.*

world that experience violence daily at the hands of armed groups that control their villages or people.

In my experience, when people demand that we actually *see* them, and *listen* to them, through the human rights framework, which had, until now, largely ignored them, the search for facts becomes eminently more complicated and mired with layers of political choices. We have to challenge far more deeply our choice over which humanity we will present, protect, and defend through the exercise of fact-finding.

C. THE MESSY WORLD OF HUMAN RIGHTS?

Human rights can be messy, and it is not black and white. Human rights is concerned with the nature and consequences of the relationship between power and to relative powerlessness, and the forging of factual accounts of that relationship and of its consequences for the parties involved. It is always inevitably engaging of questions of power and thus, necessarily and unavoidably, political. Can we better acknowledge the complexity and messiness of the human rights project without losing the certainty it gives to those seeking responses, truth, recognition, and justice?

D. OVERLAPPING FRAMEWORKS

A traditional and widespread understanding and approach to human rights fact-finding involves selecting and evaluating facts as compared to international human rights law.

However, for an inquiry into Jamal Khashoggi's death, such an approach is necessary but it may not be sufficient. For instance, his death raises questions of jurisdiction over the adjudication of the killing. These questions go to the heart of the search for accountability, even though these jurisdictional questions go beyond fact-finding into the killing.

The killing also raises complex international legal issues that go beyond human rights. On the other hand, the facts of the killing of Mr. Khashoggi necessarily demand that these other bodies of international law be considered, appreciated, and evaluated because they are at the heart of the circumstances and implications of the killing. For example, the fact that the killing took place in a consulate, thereby violating the Vienna Convention on Diplomatic and Consular Relations, is essential to the finding of facts.

More problematic, the inquiry raises difficult questions related to individual liability. As a special rapporteur, I am not expected to determine individual culpability. But I am not expressly prohibited from doing so. I am not a court of law and I do not have the resources or mandate to make strict legal findings or consider questions of legal liability. However, I believe that there are legal inferences that can be drawn from the facts and it is one of my responsibilities to name these inferences, including that possible suspects should be further investigated for possible indictments, if they have not yet been.

The recognition of the complementarity of legal frameworks to account for fact-finding matters particularly when fact-finding is understood in relation to its purposes: truth telling, accountability, recognition, and social change. Fact-finding goes beyond looking for facts proving or disproving violations. It also

demands fact-finders to look for, identify, and recommend possible avenues for accountability or change.

With regard to my inquiry into the killing of Mr. Jamal Khashoggi, one dominant issue is the search for accountability. I cannot limit my work to finding facts about the killing. In my view, this will be half or less of the work done. The key challenge for a special rapporteur or a fact-finder is to identify the avenues through which adjudication, justice, remedies, truth-telling, and so on will be delivered, effectively.

CONCLUSION

As special rapporteur, finding facts and revealing them is my stock and trade. By reporting to the Human Rights Council, I am duty-bound to ensure that my advice is fully centered on facts.

But between my role as a fact-based messenger on one hand, and an audience made up of member states, other stakeholders, and the public at large on the other, there lies many challenges.

Amplification under international human rights law and norms of the facts that I have found is only one part of the story. The other side of the Rubicon coin is the question of the audience for such facts and its interest, willingness, appetite, ability, and for some, the responsibility to absorb and act on those facts.

In conclusion, I will offer the following, a manifesto for fact-finding as a pathway to knowledge and justice:

(1) Fact-finding for the exercise of our humanity: Lies must be challenged and in this we are all implicated. The precious, fragile, but essential part that facts interpreted by or through international standards plays in the advancement of human rights is something we must defend more vigorously. And the invaluable part facts play in paving the path to trust in governance and the rule of law and thus to a social cohesion on which people may rely upon with confidence, is something we have underestimated. And it is time this be stopped.

(2) Fact-finding for consequential accountability: it includes facts for the purpose of trial and formal justice but also facts for the purpose of political accountability.

(3) Fact-finding for inclusive accountability: it demands that we question our choice over which humanity we present, protect, and defend through the exercise of fact-finding with the view of ensuring the greatest inclusivity.

(4) Fact-finding to promote leadership for truth and the truth's essential role in governance of the governor.

(5) Fact-finding as an epistemic authority: fact-finding ultimately gives meaning beyond the direct meaning of the facts. Fact-finding gives meaning to the unconscionable, the abhorrent, the experiences, and the exercise of power.