

## **Social Media, Hate Speech and Genocide: An Assessment under International Criminal Law**

As the recent genocidal campaign against the Rohingya in Myanmar has shown, in modern society the first step towards genocide is online hate speech through social media platforms. The purpose of the paper is to reconstruct the current framework under international criminal law, and specifically under the law of the International Criminal Court, to assess whether such a tool could be useful in providing redress for victims of genocide committed through online hate speech on social media.

As a starting point, the criminalization of hate speech will be reconstructed through an examination of the case-law of the International Military Tribunal of Nuremberg and of the ICTR, that successfully prosecuted, directly or indirectly, hate speech as incitement to commit genocide (in this regard see ICTR, *Media Case*).

The second step provides an inquiry into the current role that social media play in genocidal campaigns and attempts to configure whether the relevant conducts could be effectively criminalized under international criminal law and therefore prosecuted by the ICC, considering specifically the crime of incitement to commit genocide and the relevant mode of liability of '*complicity*'.

The last part proceeds with the individualization of the possible defendants, with the specific aim to analyse if the social media providers could be held responsible for mass atrocities. Preliminarily, in this regard it is considered that under the Rome Statute, legal entities may not be considered under the jurisdiction *rationae personae* of the Court; therefore, a specific focus will be on the possibility to consider individuals at the highest ranks of the corporate hierarchy of a social media platform as potential defendants in international criminal trials.

The paper comes to the conclusion that under the current legal framework such an individual, if certain requirements are met, may be prosecuted by the ICC.

The work is concluded with a brief reflection on the struggles of the current international justice system to provide an adequate response to the role that social media play in atrocity crimes.

Francesca Sironi De Gregorio is currently pursuing a PhD in Public International Law at the University of Palermo. Her research is focused on the role of digital evidence in international trials. Additionally, Francesca works as a teaching assistant at Catholic University of Milan, where she graduated cum laude in 2019.