

Dear Committee members of CEDAW,

Thank you for opening the drafting process for the updated General Recommendation No. 19 on violence against women for comments and recommendations. I would like to express my gratitude for the respected opportunity to provide recommendations/comments for the General Recommendation.

After having reviewed the draft, I found one specific area omitted in detail and attention. I am of the opinion that the issue of technology-facilitated sexual violence (TFSV or TFVAW for violence against women as it will be referred to here) deserves to be addressed with equal urgency as other forms of violence against women (VAW), by reserving space for a more detailed description of what TFVAW is, the myriad forms of it that we know exist, and the unique legal, social, and policy responses this form of violence requires.

The following text is an explanation of the significance of including TFVAW in the updated GR 19, as well as the reasons why it should be explicitly defined as VAW in the recommendation.

1. Intersectionality in TFVAW

The draft rightfully and respectfully considers the intersectionality of sexual violence. This is also seen in TFVAW as many LGBTQ persons and especially youth are specifically targeted for harassment. The evidence that TFVAW is almost exclusively a gendered experience with women, non-white women, and sexual minorities disproportionately receiving the bulk of the abuse is overwhelming. Multiplicity in victimization from TFVAW amplifies the negative impact of the abuse and, often the damage is irreparable or ends in the permanence of death when the abuse becomes so extreme that someone decides to take his or her own life, as it too often does.

2. The significance of including TFVAW in the GR 19

One of the many reasons it is important *now* to provide more space for TFVAW in this General Recommendation is that this document offers a rare opportunity for the international community to be made aware of a universal issue and have it weighted in importance through official UN approval. The international community should view TFVAW as a real and pressing issue that also requires immediate attention. It's an opportunity to not only identify and define the forms of TFVAW that currently exist but also to erase and avoid any further confusion about whether or not online abuse towards women and sexual minorities should be considered gender-based violence. It is and it should. Currently, technology-facilitated forms of abuse are left universally uncategorized despite the overwhelming evidence that women and sexual minorities suffer in extreme disproportion from the abuse that is perpetrated online with a disturbing level of ease and impunity.

Morahan-Martin offers a keen level of perception in 2000, a year considered to be within the realm of the "dawn of the Internet", when she wrote "[p]ower is not distributed equally online; and women worldwide have been last to come online; these may amplify rather than diminish existing gender, social, political, and economic inequities in the Digital Age."¹

By including an explicit recognition of TFVAW as sexual and gender-based violence through the weight of importance that such a document carries, it could help to highlight the critical nature

¹ Morahan-Martin (2000) pp. 683

of this issue and work to correct the reality of the amplification that Morahan-Martin wrote about.

The draft itself says that the work of the UN special rapporteur on VAW "has also deepened understanding of gender-based violence against women and ways in which it should be addressed."² Certainly, the emergence of TFVAW into the realm of forms of VAW has helped deepen this understanding as well, however the pace of technological advances increases while the world remains passive at best and stagnant at worst in regards to the reforms needed to adequately respond to these issues. Our understanding of the severity of the situation is not keeping pace with the advances and therefore it's important to move forward *with* technological advances by including built-in safeguards in the technology. This will only be done once TFVAW is regarded as an issue serious enough to work against.

3. Legal pitfalls

A recent study by Powell and Henry found some common threads of concern related to the responses by service provider stakeholders (e.g. police, legal services, and domestic and sexual violence service sector providers).³ The study location was Australia, however the issues that are found here are not limited to Australia. Many countries operate on the same level of legal uncertainty as is it found that Australia operates on.

What was found by Powell and Henry are common themes in discussions on TFVAW, being that the deficiencies in the legal framework for victims provides a virtual safety net for perpetrators of these forms of abuse and not the victim. When seeking legal protection and redress for victims of online abuse, it is found in outdated laws that receive an extension of interpretation in an effort to make the law relevant to situations of online abuse. Criminal laws on cyberstalking are insufficient in addressing the methods employed by those who instill fear through digital means.

One example of the legal loopholes found by relying on outdated laws in crimes committed in the cyber-sphere is as follows:

"Such examples represent particular challenges legally as the original online post may be thought of as a single act, which invites others to participate in either the online sexual harassment or (in some cases) terrestrial sexual assault of a victim. These kinds of harassing tactics though fall short of much stalking criminal legislation, which requires a repeated course of conduct by one individual."⁴

In summary, Powell and Henry write that "[i]ndeed, the law has been slow to keep pace with the changing technological landscape and as such some of the harms we identify have not *specifically* been subject to either criminal sanction or civil remedies."⁵ As I mentioned above, the issue of TFVAW is not an "emerging" one, yet there has been limited legislation, social reform, and overall effort to address these issues in such a way that victims feel they have access to security and redress. Why has there been no serious focus of prevention in the last 16 years? Instead, the issues have been allowed to progress with such extremity that security for women has become severely compromised. The use of methods like "revenge porn" and "rape videos"

² Paragraph 3 of the draft recommendation

³ Henry and Powell (2016) pp. 3

⁴ Henry and Powell (2016) pp. 9

⁵ Henry and Powell (2016) pp. 2

are disturbing in nature, but what is equally disturbing is having to confront the realization that the majority of these actions go unpunished due to the uncertainties in the legal responses.

When it comes to online threats, *“one person is feeling the reality of the Internet very viscerally: the person who is being threatened--It’s a lot easier for the person who made the threat—and the person who is investigating the threat—to believe that what’s happening on the Internet isn’t real.”*

--Nathan Jurgenson, social media sociologist⁶

4. The continuum of abuse

The advent of TFVAW imposes a unique psychological burden on the victim. When a woman becomes the victim of online abuse, the violation can exist in perpetuity. Once private image(s) or video(s) of someone is posted online it is nearly impossible to delete every existence of it. A woman who has become the victim of "revenge porn" may find that a video she consented to film, but did not consent to the sharing of, is on an online porn website and she can see how many times the video has been viewed by complete strangers.⁷ Another example of a perpetual violation that is all too common is the threat of rape or death towards a woman. Once is enough to temporarily disfigure a victim's confidence in personal security, however many women receive, on a regular basis, a multitude of threats of this violent nature. A victim may live in constant fear of her online abuser ever following through with the threats made towards her. This form of psychological trauma, through instantaneous and perpetual humiliation, is unique to TFVAW and thus requires a unique response and approach for victims.

The impact on victims of TFVAW is severe and can affect many spheres of a victims' life. Those who are victimized by online abuse to the severity that it requires legal action, if the option is available, lose time and money on the legal process that all too often ends up being a fruitless endeavor. In addition to the economic impact, other areas of life, such as, work, academic, social, family, and private life, may start to suffer. The Out Online report found that:

*"Bullying and harassment online was associated with several negative academic and psychosocial outcomes: Youth who experienced both online/text and in-person bullying and harassment reported lower GPAs, lower self-esteem, and higher levels of depression than youth who were bullied only in person or online/text, or not at all."*⁸

The damage that can be inflicted on a victim through TFVAW carries with it a range of complexities and psychological trauma that requires new ways of thinking and understanding in treatment. It is profound enough to expand and negatively impact many areas of a victim's life. It is critical for all of us to make an effort to understand the uniqueness of the complexities that TFVAW are wrought with if we are going to make any progress towards prevention.

5. Recommendations

In this section, I will provide some ideas, some directly from the Powell and Henry study, the Out Online report, and the Broadband report on cyber violence against women and girls, to help expand the recommendations section of GR 19.

⁶ Hess (2016) Why Women Aren't Welcome on the Internet

⁷ Powell and Henry (2016) pp. 10

⁸ Out Online: The Experiences of Lesbian, Gay, Bisexual, and Transgender Youth on the Internet (2013) pp. x

1) I agree with Powell and Henry in that "[c]onventional conceptualisations of criminality require an overhaul in both theory and practice in order to address relations of power and exploitation that are reproduced in digital contexts, and which can potentially serve to destroy another person's life. As we have argued elsewhere, digital violence needs to be taken seriously, starting with law enforcement measures"⁹

2) An emphasis on the increase in responsibility of social media corporations needs to be included in GR 19. Twitter has been an example of both how social media corporations should and should not respond towards reports of online abuse. Unfortunately for Twitter, the incredibly clumsy mishandling of a high-profile case,¹⁰ made an example of the indifference towards TFVAW that social media corporations respond with. Reluctantly, and only after having to receive a deluge of social pressure via online petitions, Twitter responded by coding in a "report abuse" button on the site.¹¹ This response is progress, however it is a far reach from making a significant impact in prevention. Instead, it signals some level of tolerance when the level of tolerance for TFVAW should be zero. Twitter users who are reported can simply create another account under another handle and thus continue on with abusive behaviors. GR 19 should include a notion of pressure towards and an emphasis on the responsibility towards social media corporations as primary actors in prevention of TFVAW.

3) GR 19 should also extend the obligations of the state to ensure that "[...] police, legal as well as domestic and sexual violence services are aware of the emerging ways in which technology is being used to abuse, and what advice to provide victims who come forward[...]"¹²

4) GR 19 should clearly explain and define online forms of abuse as sexual and gender-based violence. Without an explicit definition and call to legally reform (where necessary) or innovate to govern TFSV in pace with emerging technologies then the protection and redress provided for women in the current draft is virtually inaccessible to victims.

5) Navigate cautiously the acknowledgement of freedom of speech and expression whilst also maintaining that some speech, whether it be online or in person, is harmful and should be prevented and punished to the extent necessary.

6) Acknowledge the unique psychological and economic impacts that TFVAW can have on victims. Many victims live in constant conscious or subconscious fear over whether an online abuser will ever follow through with threats and some are harassed to the point of suicide. Those who are victimized by online harassment in the form of defamation in their public circles lose jobs, family members, and friends. These personal realms of a person's life are secondarily impacted by assaults on the victim. The damage is widespread and unchecked, we need to create a sense of responsibility for these actions and an awareness of the impact they have on victims.

7) From the report on Cyber Violence Against Women and Girls: "Sensitization to cyber VAWG must include educating the next generation of ICT users, both boys and girls, through their

⁹ Powell and Henry (2016) pp. 11

¹⁰ The case of Caroline Criado-Perez: <https://www.theguardian.com/lifeandstyle/2013/aug/04/caroline-criado-perez-twitter-rape-threats>

¹¹ Hess (2016) Why Women Aren't Welcome on the Internet

¹² Powell and Henry (2016) pp. 12

parents, teachers and wider communities, as well as police authorities and the justice systems."

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8) From the report on Cyber Violence against Women and Girls: "[Another] imperative is to put in place and implement safeguards to secure safe online spaces. Over the years, traditional VAW safety measures have evolved to include women's shelters, crisis centres, help lines and education. In light of the new cyber VAWG challenge, the digital world also urgently requires safety measures to keep up with a rapidly evolving Internet. This will necessarily require resources, attention and active participation of industry (digital gatekeepers), civil society and governments."¹⁴

6. Conclusion

Our online dignity is just as inviolable as our corporeal dignity. Our online existence, we can all agree, is now an extension of our physical lives and is becoming more and more tangible as technology continues to advance at a steadily increasing pace. Our online existence is embedded seamlessly into our everyday lives and to ask women to just stay offline is akin to asking them to not participate in life. More importantly, it further perpetuates inequality between the sexes by allowing men to continue to freely and, mostly without harm, enjoy an online presence, while women are relegated, once again, to secondary citizens, only this time it's our digital citizenship that is being compromised.

The technological advances of the 21st century have created another dimension of life and thus another space for inequality for women. The casual dismissal of the universality of our human rights to dignity has now been extended to this dimension-- leaving no place where women are left unaffected by social inequities. The historical, social, cultural, and religious confines that exist in the physical dimension have carried over into a space that could've meant something different for women. Instead, our physical and psychological security is once again compromised and with such profound force.

I am aware that the scope of this General Recommendation is to update the guidance and clarify the obligations of States to all women, however, I think that by explicitly recognizing TFVAW and TFSV as gender-based it extends the States awareness and by extension, their obligations to address gender-based violence within the realm of the cyber-sphere.

Sincerely and with the utmost respect for the Committee and all their work,

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*The opinions and views expressed here belong solely to the author. The author is submitting this recommendation un-affiliated, as a passionate student of and activist for human rights.

¹³ Cyber Violence Against Women and Girls: A world-wide wake-up call (2014) pp. 3

¹⁴ Cyber Violence Against Women and Girls: A World-Wide Wake-up call report (2013) pp. 3