

UN Women

Expert Group Meeting

‘Innovation and technological change, and education in the digital age for achieving gender equality and the empowerment of all women and girls’

10-13 October 2022

**Addressing Gaps and Limitations in Legal Frameworks and Law Enforcement  
on Technology-Facilitated Gender-based Violence**

Expert paper prepared by:

Suzie Dunn\*

Dalhousie University, Schulich School of Law

---

\* The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.

# Addressing Gaps and Limitations in Legal Frameworks and Law Enforcement on Technology-facilitated Gender-based Violence

Expert paper prepared for the Expert Group Meeting  
in preparation for the 67th session of the Commission on the Status of Women (CSW67)

Author: Suzie Dunn  
Assistant Professor, Dalhousie University, Schulich School of Law

---

## Introduction

Technology-facilitated gender-based violence (TFGBV) is a wide-spread phenomenon that negatively impacts trans and cis women and girls, as well as gender-diverse, gender non-conforming, and non-binary people worldwide.<sup>1</sup> In 2018, Dubravka Šimonović, the UN Special Rapporteur on Violence against Women, its Causes and Consequences, released a report on online violence against women and girls.<sup>2</sup> This report found that there were many forms of TFGBV, including digitally communicated threats, inciting gender-based violence online, harassing digital communication, dissemination of harmful lies, impersonation, trafficking of women, disclosing private information, doxing, (s)extortion, trolling, unauthorized access to information or devices, manipulated images, mobbing, and stalking.<sup>3</sup> These are just some examples of TFGBV, and as new technologies are developed and new uses of technologies are discovered, new forms of TFGBV will arise.

Some forms of TFGBV are uniquely novel forms of violence, such as the creation of non-consensual sexual deepfake videos<sup>4</sup> or the recording/livestreaming sexual violence,<sup>5</sup> however, in many cases TFGBV is simply an extension of existing forms of gender-based violence, such as stalking or threatening violence.<sup>6</sup> For example, in the case of stalking, Citizen Lab has detailed how abusive intimate partners can now track their current or ex-partners using location tracking

---

<sup>1</sup> Suzie Dunn, "Technology-facilitated Gender-Based Violence-An Overview" (2021) CIGI Supporting a Safer Internet Paper No. 1. Online: <https://www.cigionline.org/publications/technology-facilitated-gender-based-violence-overview/>

<sup>2</sup> Dubravka Šimonović, Report of the Special Rapporteur on Violence against Women, its Causes and Consequences on Online Violence against Women and Girls from a Human Rights Perspective no. A/HRC/38/47 (New York: United Nations, 2018). [UN OVAW Report] Online: <https://digitallibrary.un.org/record/1641160?ln=en>

<sup>3</sup> UN OVAW Report, *Supra* note #, at paras 30-42.

<sup>4</sup> Kristen Thomasen & Suzie Dunn, "Reasonable Expectations of Privacy in an Era of Drones and Deepfakes: Expanding the Supreme Court of Canada's Decision in *R v Jarvis*" in eds Jane Bailey, Asher Flynn, & Nicola Henry, *The Emerald International Handbook of Technology-Facilitated Violence and Abuse* (Bingley, UK: Emerald Publishing, 2021).

<sup>5</sup> Flavia Fascendini & Katerina Fialova, "Voices from Digital spaces: Technology Related Violence against Women" (Association for Progressive Communications, 2011).

<sup>6</sup> Delanie Woodlock, "The Abuse of Technology in Domestic Violence and Stalking" (2017) 23:5 Violence Against Women 584.

apps, social media, commercial spyware, or tracking devices, which adds a complexity to their stalking behaviour.<sup>7</sup> However, intimate partner stalking is a form of gender-based violence that existed well-before these technologies were invented and was already prohibited by law in jurisdictions like Canada under its harassment laws.<sup>8</sup> Whether the crime occurred on or offline, the same law applies, and there may be no need to change this law to account for the technological aspect of stalking. Whereas, the non-consensual creation of sexual deepfakes does not fit comfortably under existing laws in many jurisdictions, and may require the creation of new laws to address that novel harm that was created specifically due to new technological advancements.<sup>9</sup>

When creating new laws and policies related to TFGBV, governments and law makers must be sensitive to who is being targeted by this violence and which groups of people are most at risk, as some communities may require additional resources and specialized responses to TFGBV. The UN report on online violence against women and girls noted that women and girls in leadership roles, such as women human-rights defenders, politicians, parliamentarians, journalists, and bloggers, as well as those with intersecting marginalities were specifically targeted by TFGBV.<sup>10</sup> This is further demonstrated in recent studies by Plan International,<sup>11</sup> Amnesty International,<sup>12</sup> and Pollicy,<sup>13</sup> as well as various academic,<sup>14</sup> civil society,<sup>15</sup> and governmental<sup>16</sup> research, which

---

<sup>7</sup> Christopher Parsons et al, "The Predator in Your Pocket: A Multidisciplinary Assessment of the Stalkerware Application Industry (Toronto: Citizenlab, 2019).

<sup>8</sup> Cynthia Khoo, Kate Robertson, & Ronald Deibert, "Installing Fear: A Canadian Legal and Policy Analysis of Using, Developing, and Selling Smartphone Spyware and Stalkerware Applications" (Toronto: Citizenlab, 2019).

<sup>9</sup> Robert Chesney & Danielle Citron, "Deep fakes: A Looming Challenge for Privacy, Democracy, and National Security" (2019) 107:6 California Law Review 1753.

<sup>10</sup> UN OVAW Report, *Supra* note #, at para 28.

<sup>11</sup> Sharon Goulds et al., "Free to be Online? Girls' and Young Women's Experiences of Online Harassment" (Surrey, UK: Plan International, 2020). Online: <https://plan-international.org/publications/free-to-be-online/>

<sup>12</sup> Azmina Dhrodia, "Toxic Twitter: Violence and Abuse against Women Online" (London: Amnesty International, 2018). Online: <https://www.amnesty.org/en/latest/research/2018/03/online-violence-against-women-chapter-1-1/>

<sup>13</sup> Pollicy, "(In)Visible: The Digital Threats Muslim Women Human Rights Defenders Face in the Greater Horn of Africa" (2022). Online: <https://pollicy.org/projects/invisible/>

<sup>14</sup> Delanie Woodlock et al. "Second National Survey of Technology Abuse and Domestic Violence in Australia" (Australia: Curtin University and WESNET, 2020); Jane Bailey & Jacquie Burkell, "Tech-facilitated Violence: Thinking Structurally and Intersectionally" (2021) 5:2 J Gender-Based Violence 531; Yee Man Louie, "Technology-facilitated Domestic Abuse and Culturally and Linguistically Diverse Women in Victoria, Australia" in eds Jane Bailey, Asher Flynn, & Nicola Henry, *The Emerald International Handbook of Technology-Facilitated Violence and Abuse* (Bingley, UK: Emerald Publishing, 2021); Nicola Henry et al, *Image-based Sexual Abuse A Study on the Causes and Consequences of Non-consensual Nude or Sexual Imagery* (Routledge, 2022).

<sup>15</sup> APC, "Mapping Technology-based Violence Against Women: Take Back the Tech! Top 8 Findings" (ND); World Wide Web Foundation & Girl Guides, "Survey: Young People's Experiences of Online Harassment" (2020); Julie Posetti et al. "The Chilling: Global Trends on Violence against Women Journalists" (Paris: UNESCO, 2021); Kiruba Munusamy, "Intersection of Identities: Online and Caste Based Violence" (GenderIT, 2018); African Development Bank, "Minding the Gaps: Identifying Strategies to Address Gender-Based Cyber Violence in Kenya" (2016) African Development Bank.

<sup>16</sup> Adriane Van Der Wilk, "Cyber Violence and Hate Speech Online Against Women" European Parliament's Committee on Women's Rights and Gender Equality: Policy Department for Citizen's Rights and Constitutional Affairs, PE 604.979 (September 2018); Ministry of Gender Equality and Family, Korea & UN Women, "Online

show that a gender-marginalized individual's intersecting social locations including their race, sexual orientation, dis/ability, Indigeneity, religion, profession, and immigration/refugee status can increase the level, severity, style, and impact of TFGBV. Governments should pay attention to the intersectional nature of TFGBV when drafting and enforcing laws and policies.

At the time of the 2018 UN report, TFGBV was a serious and rampant issue, however, once the COVID-19 pandemic began and people began to spend more time online the rate of TFGBV escalated significantly and UN Women described the increase in gender-based violence, both online and off during this time, as a shadow pandemic.<sup>17</sup> Despite the widespread and detrimental nature of TFGBV, many victims/survivors of TFGBV struggle to find adequate supports, including from the legal system.<sup>18</sup> Friends and family are often under educated on how to respond, police have minimized the harms experienced by victims/survivors who report to them, and social media companies' content moderation practices have not been accessible or effective in many cases.<sup>19</sup> As this issue continues to proliferate, there is a need for governments and law makers to respond to TFGBV through the establishment and enforcement of appropriate criminal and civil laws, as well as through commitments of government funding for research, helplines, public education initiatives, and organizations that directly support victims/survivors and work to end TFGBV.<sup>20</sup>

## Applying Existing Laws

In some jurisdictions, existing laws can be applied to several forms of TFGBV.<sup>21</sup> For example, harassment, threats, privacy invasions, and impersonation are already prohibited in several jurisdictions.<sup>22</sup> Whether the offence occurred in a digital space or in a physical space, the law should theoretically apply the same way. The challenge with this, is that the legal system has not necessarily caught up to this notion, and some members of those systems downplay or ignore technology-facilitated harms when they are reported, and do not take them as seriously as

---

Violence Against Women in Asia": A Multi Country Study" (2020); Japan & UN Women, "Violence against Women in the Online Space: Insights from a Multi-country Study in the Arab States" (2020).

<sup>17</sup> UN Women, "Online and ICT-facilitated Violence against Women and Girls During COVID-19" (2020). Online: <https://www.unwomen.org/en/digital-library/publications/2020/04/brief-online-and-ict-facilitated-violence-against-women-and-girls-during-covid-19>

<sup>18</sup> Suzanne Dunn, Julie S. Lalonde, and Jane Bailey "Terms of Silence - Weaknesses in Corporate and Law Enforcement Responses to Cyberviolence against Girls" (2017) 10:2 *Girlhood Studies* 80.

<sup>19</sup> Danielle Citron, *Hate Crimes in Cyberspace* (Boston, MA: Harvard University Press, 2014).

<sup>20</sup> Japan & UN Women, "Violence against Women in the Online Space: Insights from a Multi-country Study in the Arab States" (2020); Cynthia Khoo, "Deplatforming Misogyny: Report on Platform Liability for Technology-Facilitated Gender-Based Violence" (Toronto: Women's Legal Education and Action Fund, 2021).

<sup>21</sup> Richa Kaul Padte & Anja Kovacs "Keeping Women Safe" (India: Internet Democracy Project, 2013).

<sup>22</sup> Michelle Bordachar et al, "Non-Consensual Intimate Image Distribution: The Legal Landscape in Kenya, Chile, and South Africa" (Centre for International Governance Innovation, 2021); Jane Bailey & Carissima Mathen, "Technology-Facilitated Violence against Women & Girls: Assessing the Canadian Criminal Law Response" (2019) 97 *La Revue du Barreau Canadien* 664.

physical harms.<sup>23</sup> It is critical that this perception is changed to ensure that TFGBV is not ignored or neglected by the legal system simply because it occurs in digital spaces.

In jurisdiction with existing laws that could apply to TFGBV, actors in the legal system must be educated on how to appropriately investigate and apply existing laws to TFGBV. This includes being trained to be knowledgeable about various forms of technology and TFGBV, and having the skills necessary to properly investigate reports of TFGBV.<sup>24</sup> Many police and court actors are limited in their technical knowledge, both in collecting and understanding evidence related to offences involving technology.<sup>25</sup> This can create significant dilemmas for victims/survivors of TFGBV as it limits the ability of law enforcement to first, recognize the harm reported as a legal violation; second, collect evidence in a way that it can be properly used within the court system and has the required evidentiary details; and third, communicate the function of the technology in order for judges to properly understand what has actually happened.<sup>26</sup> Without proper technical training of various actors in the legal system, it is unlikely that victims/survivors will have full access to justice when harmed by TFGBV.

Law enforcement agencies must also educate themselves on how to properly respond to gender-based harms, including TFGBV. Gender-based harms, such as sexual assault and intimate partner violence have been under-reported and have not been addressed adequately by legal institutions.<sup>27</sup> In cases of gender-based violence, many victims/survivors report being discredited when reporting to police, facing inappropriate discriminatory stereotyping in when at trial, and in several cases, women and girls have had to resort to reporting to the media or creating their own public campaigns to get an adequate response by law enforcement.<sup>28</sup> Addressing sexist and other discriminatory bias in the legal system is critical to ensuring a fair legal response for all victims/survivors of TFGBV.

---

<sup>23</sup> NORC at the University of Chicago and the International Center for Research on Women, "Technology-facilitated Gender-based Violence in Asia: India" (2022).

<sup>24</sup> Suzie Dunn and Moira Aikenhead, "On the Internet, Nobody Knows You are a Dog: Contested Authorship of Digital Evidence in Cases of Gender-based Violence" (2022) 19:2 CJLT 371.

<sup>25</sup> Alexa Dodge et al, "'This Isn't Your Father's Police Force': Digital Evidence in Sexual Assault Investigations" (2019) 52:4 Austl & NZ J Crim 499.

<sup>26</sup> Suzie Dunn and Moira Aikenhead, "On the Internet, Nobody Knows You are a Dog: Contested Authorship of Digital Evidence in Cases of Gender-based Violence" (2022) 19:2 CJLT 371.

<sup>27</sup> National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (Canada: National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019); Robyn Doolittle, "Why Police Dismiss 1 in 5 Sexual Assault Claims as Baseless" *The Globe & Mail* (3 February 2017).

<sup>28</sup> Elaine Craig, *Putting Trials on Trial: Sexual Assault and the Failure of the Legal Profession* (Montreal: McGill-Queen's University Press, 2018); Vrinda Bhandari & Anja Kovacs "What's Sex Got To Do with It?", (Internet Democracy Project, 2021); United Nations, "India: Attacks against Woman Journalist Rana Ayyub Must Stop: UN Experts" (21 February 2022); Yvette Brend, "BC Revenge Website Sets of Torrent of Anger, Legal Concerns" *CBC* (20 February 2016).

## Reviewing Existing Laws

Some existing laws may need to be reexamined in the light of the new technological era to ensure that they do not cause additional gender-based harms. For example, laws that forbid the production of any form of pornography may limit survivors/victims' ability to get help if their images were taken and/or shared without consent, as they may put themselves at risk of being criminalized when seeking help as they are featured in an image that might be considered pornographic under anti-pornography laws.<sup>29</sup> Child pornography laws may be overly broad and risk criminalizing teenagers who have taken nude-images of themselves that are not exploitative, harmful, or used for inappropriate purposes.<sup>30</sup> Laws that are overly broad and limit the sexual autonomy of women, gender non-conforming, or non-binary people or create unreasonable barriers to seeking help when harmed by TFGBV ought to be revisited and altered.

On the other hand, some laws may not be broad enough. For example, existing harassment or privacy laws may not be broad enough to capture certain forms of TFGBV, such as the practice of maliciously doxing a person's contact information or address.<sup>31</sup> Non-consensual distribution of intimate image laws may not include realistic digitally created images such as sexual deepfakes, whose harms may be equal to the non-consensual distribution of real intimate images.<sup>32</sup> In cases like these, governments may need to reassess existing laws and expand them to capture new harms as they evolve.

## Gaps in the Legal System

Where there are gaps in the legal system, new laws need to be developed to protect women, girls, gender non-conforming, and non-binary people from forms of TFGBV that don't fit within existing laws, such as the non-consensual distribution of intimate images.<sup>33</sup> In the case of non-consensual nude image distribution, most countries didn't have laws that specifically forbade this practice when it first arose as a serious issue.<sup>34</sup> In 2009, the Philippines introduced one of

---

<sup>29</sup> Michelle Bordachar et al, "Non-Consensual Intimate Image Distribution: The Legal Landscape in Kenya, Chile, and South Africa" (Centre for International Governance Innovation, 2021).

<sup>30</sup> Flavia Fascendini & Katerina Fialova, "Voices from Digital spaces: Technology Related Violence against Women" (Association for Progressive Communications, 2011); Michael Salter, Thomas Crofts & Murray Lee, "Beyond Criminalization and Responsibilisation: Sexting, Gender and Young People" 24:3 *Current Issues in Criminal Justice* 302.

<sup>31</sup> Julia MacAllister, "The Doxing Dilemma: Seeking a Remedy for the Malicious Publication of Personal Information" (2017) 85 *Fordham Law Review* 2451; Abigail Curlew & Jeffery Monaghan, "Stalking 'Lolcows' and 'Ratlings': DIY Gender Policing, Far-Right Digilantes, and Anti-Transgender Violence" in Joseph McQuade et al, eds *Disinformation and Digital Democracies in the 21st Century* (Toronto: NATO Association of Canada, 2019).

<sup>32</sup> Danielle Citron, "Sexual Privacy" (2019) 128:7 *The Yale Law Journal* 1870.

<sup>33</sup> Michelle Bordachar et al, "Non-Consensual Intimate Image Distribution: The Legal Landscape in Kenya, Chile, and South Africa" (Centre for International Governance Innovation, 2021).

<sup>34</sup> Danielle Keats Citron & Mary Anne Franks, "Criminalizing Revenge Porn," (2014) 49 *Wake Forest Law Review* 49 345.

the first laws prohibiting this behaviour. Since that time, various countries have introduced criminal and civil laws that address the non-consensual distribution of intimate images.<sup>35</sup>

When developing laws to address TFGBV, countries should rely on evidence-based research when drafting these laws. Conducting research that examines victims/survivors' experiences of TFGBV would allow law makers to use that data to better understand which issues are most serious and which legal responses would be most effective in addressing TFGBV. Governments should invest in ongoing research on this subject to track the effectiveness of the laws they create and look to organizations and scholars that have already been conducting research in this area. When developing laws and policies, governments should ensure that victims/survivors of TFGBV and academic and civil society experts on TFGBV are involved in the process of making those laws.

There are a variety of potential legal responses to TFGBV. For more serious forms of TFGBV, a criminal response might be the appropriate legal response for governments to take. In other cases, civil torts, privacy/data protection laws, human-rights law, or administrative bodies that address digital harms might be the best solution. Governments should consider creating a variety of avenues to address TFGBV as it can be helpful for victims/survivors to have a variety of legal options to choose from. For some victims/survivors, having the support of the state to intervene and investigate via the criminal legal system will be the best solution for them. For others, particularly those from marginalized communities who may have legitimate distrust in the effectiveness of the criminal justice system<sup>36</sup> or fear social repercussions for reporting,<sup>37</sup> reporting to the police may not be a desirable or realistic option. Having a human-rights based systems or administrative body may be more accessible and appealing option for those who are not interested in the criminal justice system.<sup>38</sup> For example, in Australia, the eSafety Commissioner provides an avenue for people to report incidents of non-consensual distribution of intimate images and other forms of online abuse to the eSafety Commissioner's office, which then helps the victim/survivor in a variety of ways, including getting the harmful content removed from the internet.<sup>39</sup> In many cases of non-consensual intimate image sharing, a swift removal of the content is the solution that is most desired by the victim/survivor. In other cases of TFGBV, people may have experienced significant financial and emotional losses that would be better suited to be compensated through civil settlement or trial. However, if civil responses are

---

<sup>35</sup> Emily Laidlaw & Hilary Young, "Creating a Revenge Porn Tort for Canada" *Supreme Court Law Review* (2020); Nicola Henry & Anastasia Powell, "Sexual Violence in the Digital Age" (2016) 25:4 *Social & Legal Studies* 397; Michelle Bordachar et al, "Non-Consensual Intimate Image Distribution: The Legal Landscape in Kenya, Chile, and South Africa" (Centre for International Governance Innovation, 2021).

<sup>36</sup> Anja Kovacs, Richa Kaul Padte, & Shobha SV, "'Don't Let it Stand!' An Exploratory Study of Women and Verbal Online Abuse in India" *Internet Democracy Project* (2013).

<sup>37</sup> Donald Flywell Malanga, "Tackling Gender-based Cyber Violence against Women and Girls in Malawi Amidst the COVID-19 Pandemic" (2020) APC.

<sup>38</sup> Pam Hrick, "The Potential of Centralized and Statutorily-Empowered Bodies to Advance a Survivor-Centered Approach to Technology-Facilitated Violence Against Women", in eds Jane Bailey, Asher Flynn, & Nicola Henry, *The Emerald International Handbook of Technology-Facilitated Violence and Abuse* (Bingley, UK: Emerald Publishing, 2021).

<sup>39</sup> See the eSafety Commissioner of Australia. Online: <https://www.esafety.gov.au/>.

very expensive, this option may not be available to those with limited means.<sup>40</sup> Governments should consider a variety of evidence-based legal options and should look to survivors/victims to inform any laws that are created.

An additional challenge that arises with TFGBV is the timeliness of legal responses. With certain forms of TFGBV, swift content removal is of utmost importance. If a person's nude image is published on a pornography website, or an impersonation website or profile is being used to tarnish their reputation, if the content is not removed quickly the harm is magnified. The legal system can be a slow moving body and criminal and civil cases can take months if not years to be resolved. By the time a legal order is given to take the content down at the end of a case, the damage is already done. As governments begin crafting laws to respond to TFGBV, this is an essential issue that they must take into consideration. In some cases, a fast track option may be necessary to prevent the real harms caused by TFGBV.<sup>41</sup>

It is important to note that laws meant to respond to TFGBV need to be properly enforced and accessible. Individuals with intersecting marginalities can face significant barriers when attempting to access justice through the legal system. This can be due to systemic discrimination of their communities within the legal system,<sup>42</sup> historic and ongoing police brutality against members of their communities,<sup>43</sup> the failure of legal systems to adequately enforce laws meant to protect people from gender-based violence,<sup>44</sup> and the inaccessibility of legal remedies due to the costs of bringing a case forward, among other things. The creation of laws alone will not be sufficient to ensure true justice for victims/survivors of TFGBV if these systemic barriers are not removed. Systemic discriminatory issues must be addressed so that marginalized communities are not barred from accessing justice.

## Protecting Human-Rights

As noted by the Women's Legal Education and Action Fund's Cynthia Khoo, laws created to address TFGBV should be grounded in a human-rights based approach, aim to achieve substantive equality, and engage in an intersectional approach.<sup>45</sup> Government actions should be victim/survivor-centred and trauma informed. When considering freedom of expression, governments must take into consideration the serious silencing effect caused by TFGBV and

---

<sup>40</sup> Emily Laidlaw & Hilary Young, "Creating a Revenge Porn Tort for Canada" *Supreme Court Law Review* (2020).

<sup>41</sup> Emily Laidlaw & Hilary Young, "Creating a Revenge Porn Tort for Canada" *Supreme Court Law Review* (2020).

<sup>42</sup> National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (Canada: National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019).

<sup>43</sup> Nnennaya Amuchie, "'The Forgotten Victims' How Racialized Gender Stereotypes Lead to Police Violence Against Black Women and Girls: Incorporating an Analysis of Police Violence into Feminist Jurisprudence and Community Activism" (2016) 14:3 *Seattle Journal for Social Justice*.

<sup>44</sup> Elaine Craig, *Putting Trials on Trial: Sexual Assault and the Failure of the Legal Profession* (Montreal: McGill-Queen's University Press, 2018).

<sup>45</sup> Cynthia Khoo, "Deplatforming Misogyny: Report on Platform Liability for Technology-Facilitated Gender-Based Violence" (Toronto: Women's Legal Education and Action Fund, 2021).



recognize that some legal limitations on abusive expression are needed to protect the core values of freedom of expression so all people can be safe to communicate reasonably and safely in digital spaces. However, law makers should be cautious when regulating expression to ensure not to go beyond what is reasonable when attempting to regulate TFGBV.

Concerns about TFGBV should not be co-opted by law makers to bring about laws that infringe inappropriately on other important human-rights, such as the right to privacy and freedom of expression.<sup>46</sup> Overly broad laws that unduly limit freedom of expression can be used to silence important voices of dissent<sup>47</sup> and remove legitimate content from the internet.<sup>48</sup> Additionally, women, non-binary, and gender non-conforming human rights defenders and journalists rely on encryption and privacy protections to do their work safely,<sup>49</sup> yet TFGBV is sometimes used by governments as a reason to bring forward laws that would threaten the use of encryption and other privacy enhancing protections that they people rely on for safety and due process.<sup>50</sup> When drafting laws that may infringe on these rights, law makers must put great effort into protecting the various human rights at stake. For example, content moderation regulation is something that, if done well, could greatly help address TFGBV,<sup>51</sup> but, if done poorly, can be used to introduce overly broad laws that impinge on other human rights, including the privacy and expression rights of women, gender non-conforming, and non-binary people.

## Government Supported Research, Education, Supports

On a final note, governments must go beyond creating criminal and civil laws as the primary tool in addressing TFGBV. In order to end TFGBV, and not merely respond to it, there needs to be a larger societal shift on how people behave online.<sup>52</sup> To do this governments need to invest in research on TFGBV to properly understand and track it in the long term and assess the effectiveness of their efforts. They must create or fund public education campaigns that help the larger public understand what is respectful behaviour online and what remedies/supports are available for victims/survivors. Additionally, support systems, such as helplines, front-line workers, anti-violence organizations, and other civil society organizations working to address TFGBV must be adequately funded and supported by governments.

---

<sup>46</sup> UN, "UN Experts Urge States and Companies to Address Online Gender-based Abuse but Warn against Censorship" (New York: UN, 2017); Jonathon Penney, "Online Abuse, Chilling Effects, and Human Rights" in Elizabeth Dubois & Florian Martin-Bariteau *Citizenship in a Connected Canada: A Research and Policy Agenda*.

<sup>47</sup> SAFEnet, "Indonesia Digital Rights Situation Report 2020: Digital Repression Amid the Pandemic" (SAFEnet, 2020).

<sup>48</sup> <https://www.ohchr.org/en/stories/2021/07/moderating-online-content-fighting-harm-or-silencing-dissent>

<sup>49</sup> Pollicy, "(In)Visible: The Digital Threats Muslim Women Human Rights Defenders Face in the Greater Horn of Africa" (2022); Veronica Ferrari, "What is Encryption and Why is it Key to Human Rights" Association for Progressive Communications (18 October 2021).

<sup>50</sup> For example, see John Ibbitson, "'With us or with the Child Pornographers' Doesn't Cut it, Mr. Toews" *The Globe and Mail* (14 February 2012).

<sup>51</sup> Cynthia Khoo, "Deplatforming Misogyny: Report on Platform Liability for Technology-Facilitated Gender-Based Violence" (Toronto: Women's Legal Education and Action Fund, 2021).

<sup>52</sup> Cynthia Khoo, "Deplatforming Misogyny: Report on Platform Liability for Technology-Facilitated Gender-Based Violence" (Toronto: Women's Legal Education and Action Fund, 2021).