**Input to the OHCHR Questionnaire on ways to bridge the gender digital divide from a human rights perspective**

**What measures has your Government taken to facilitate and expand access to Internet for women? Please elaborate on the impact of theses measures.**

The Government of Canada’s Office of Literacy and Essential Skills (OLES) supports Canadians to improve their essential skills, including literacy and digital skills, which can help to facilitate access to and use of the Internet. With a focus on enhancing workers attachment to the labour market, projects funded improve both jobseekers’ and workers’ access to quality training. While not an explicit area of focus, efforts made are inclusive of women. For example:

* The UPSKILL project, led by Social Research and Demonstration Corporation, involved 1,400 workers in 88 hospitality firms located in 8 provinces. Nearly three quarters of the participants were women (72%), and project results showed improvements across a spectrum of measures which included literacy, job performance, and health and safety for workers.
* The Digital Essential Skills in Rural Small Businesses project with the Community Business Development Corporation (CBDC) Restigouche, in New Brunswick, created a bilingual training model to develop the digital skills of employees, including women. The resource helps employers to support training in the workplace.

**Please indicate if your Governement has developed specific initiatives to eliminate gender disparities in digital literacy by 2030, taking into account goals 4 and 5 of the Sustainable Development Goals (SDGs), as well as other relevants SDGs.**

While provinces and territories in Canada are responsible for delivering the majority of employment and training programs, including those involving digital skills, the federal government supports their efforts through the suite of labour market transfer agreements that include the following: Labour Market Development Agreements, Canada Job Fund Agreements, Labour Market Agreements for Persons with Disabilities, and Targeted Initiative for Older Workers. Through this funding, the Government of Canada transfers over $3 billion per year to provinces and territories to support labour market programming, which includes essential skills training to address literacy and digital skills.

**Does your Government have any specific laws or policies to address gender-based violence online? What are the challenges faced by your Governement to ensure accountability of perpetrators of human rights violations committed against persons for exercising their human rights and fundamental freedoms on the Internet?**

Canada has several laws that combat online hate speech, hate crime and harassment, including hate speech and hate crime motivated by hatred of sex or sexual orientation. For example, ss. 318(4) of the *Criminal Code of Canada* (“Criminal Code”) prohibits advocating or promoting genocide against an identifiable group, including a group distinguished by sex or sexual orientation. This offence is punishable by a maximum of five years imprisonment. The *Criminal Code* also prohibits both inciting hatred against an identifiable group by communicating statements in a public place that are likely to lead to a breach of the peace, as well as communicating statements (other than in private conversation), to willfully promote hatred against an identifiable group (including on the basis of sex or sexual orientation). The latter offences are found at ss. 319(1) and 319(2) of the *Criminal Code*. These two offences are punishable by a maximum of two years imprisonment.

Courts in Canada are now authorized to order the deletion of publicly available online hate propaganda, including propaganda inciting hate on the basis of sex or sexual orientation, when this propaganda is stored on and made available to the public through a computer system that is within the court’s jurisdiction (*Criminal Code*, s. 320.1). This procedure is independent from prosecution, and allows the material to be deleted in cases where the person who posted it is unknown or is outside the country. If the person posting the material is identified, they are given an opportunity to be heard before a judge determines whether or not the material should be deleted.

Bullying, including cyberbullying, can take many forms. Some forms, such as name-calling, teasing, belittling and social exclusion, are familiar and may be hurtful but are not criminal offences. However, bullying and cyberbullying conduct can escalate to more serious activities that are criminal offences under the *Criminal Code,* including criminal harassment (section 264); uttering threats (section 264.1); intimidation (subsection 423(1)); mischief in relation to data (subsection 430(1.1)); unauthorized use of computer (section 342.1); identity fraud (section 403); extortion (section 346); false messages, indecent or harassing communications (section 372); counselling suicide (section 241); incitement of hatred (section 319); child pornography (section 163.1); and defamatory libel (sections 298-301).

More recently, a new form of cyberbullying emerged that is fueled in part by social media, which required creation of a new offence. It involves the distribution of intimate (sexual) images without the consent of the person depicted in the image. It can occur in a variety of circumstances, but it is often referred to as revenge porn. Young people are increasingly exchanging intimate images consensually, which is a problem in itself, but one that is exacerbated if those images later become fodder for humiliating cyberbullying attacks involving non-consensual distribution or so-called “sexploitation.” In response, the government created a new offence to prohibit the non-consensual distribution of intimate images. This new offence, section 162.1 of the *Criminal Code*, is punishable by a maximum penalty of five years’ imprisonment on indictment or six months’ imprisonment on summary conviction. It is a privacy based offence and does not require proof of any malicious intent on the part of the accused, which makes it simpler to prosecute. Key to the offence is its definition of “intimate image,” which requires that the image depict nudity or explicit sexual activity, that it was taken in “private” circumstances, and that the person depicted held a privacy interest in the image at the time the offence was committed.

A number of related authorities were also added to the *Criminal* *Code* at that time, for example the *Criminal Code* also authorizes a judge to order the removal of an intimate image from websites if the person depicted did not consent to having the image posted (ss. 164.1 of the *Criminal Code*); allows a judge to order restitution following a conviction to enable the victim to recoup expenses involved in having the images removed from the Internet or social media (s. 738 of the *Criminal Code*); empowers the court to seize and order the forfeiture of property related to the offence, such as computers and mobile devices (ss. 164.2 of the *Criminal Code*); and specifies that a justice may issue a recognizance order (peace bond) where there are reasonable grounds to believe an individual will commit the new offence (s. 810 of the *Criminal Code*).

Sentencing law in Canada requires courts to consider as an aggravating factor that an offence was motivated by hate, bias or prejudice based on an open-ended list of criteria, including sex, sexual orientation or “any other similar factor”, which can be interpreted to include gender identity (subpara. 718.2(a)(i)).

The *Canadian Human Rights Act* prohibits harassment, which includes online and sexual harassment, in the context of employment and the provision of goods, services, facilities, residential accommodation and accommodation available to the general public on several grounds, including sex (s. 14). Individuals who believe they have been subject to harassment may file a complaint with the Canadian Human Rights Commission, which is empowered to resolve individual and systemic complaints through investigation and mediation. Complaints that cannot be resolved may be referred to the Canadian Human Rights Tribunal for adjudication. The Tribunal has the authority to order both monetary and policy-related remedies.

On May 17, 2016, the Minister of Justice introduced Bill C-16, An Act to amend the *Canadian Human Rights Act* and the *Criminal Code*, in the House of Commons. This Bill passed the House of Commons and is currently in the Senate. The Bill proposes to specifically add “gender identity” and “gender expression” as prohibited grounds of discrimination under the *Canadian Human Rights Act*. The Bill also proposes to add “gender identity” and “gender expression” as additional criteria to the definition of an “identifiable group” for the hate propaganda provisions of the *Criminal Code* and as explicit criteria for the hate crime sentencing provision in subpara. 718.2(a)(i) of the *Criminal Code,* as described above.