



NGO in Special Consultative status with United Nations Economic and Social Council

Part I. Comments from IT for Change on the draft update for General Recommendation No.19 (1992) on gender based violence against women.

Introduction

Information and communication technology and cyberspace have given women a platform to express themselves¹, and a public arena for the marginalised, especially, the LGBT community to voice their interests.² However, the same features like anonymity and privacy, that make cyberspace a safe and conducive environment for women's participation, are also the cause of their victimisation and persecution.³

Technology mediated violence can take six broad forms- hacking, through the use of technology, to access or modify personal information; impersonating to shame or embarrass or gain access to personal information; stalking or surveillance; harassment to intimidate; recruitment including for trafficking of women and girls, and malicious distribution without consent of the woman.⁴The ubiquity of technology mediated violence is not only part of women's online experience⁵, but affects their well-being offline as well.

So, in addition to causing psychological, emotional, physical and even economical distress, violence online also has a chilling effect on women's freedom of expression⁶,

1 http://www.genderit.org/sites/default/upload/csw_apc_statement_final_version_0.pdf

2 <http://www.genderit.org/feminist-talk/anonymity-and-sexuality-online>

3 http://www.itforchange.net/sites/default/files/ITfC/violence_against_women_via_cyberspace.pdf

4 http://www.unwomen.org/~media/headquarters/attachments/sections/library/publications/2015/cyber_violence_gender%20report.pdf

5 http://www.genderit.org/sites/default/upload/end_violence_malhotra_dig.pdf

6 <https://opendemocracy.net/bishakha-datta/belling-trolls-free-expression-online-abuse-and-gender>

participation, assembly and association.⁷ The very threat of violence can push women to self-censorship, thus undermining their right to participate in the information society.

The virtual is real - online violence against women is a continuum of offline violence against women

Offline and online violence feed off each other.⁸ Abuse that started online could continue offline or vice versa.⁹ To be affected by technology mediated violence, women need not even have to directly use any technology.¹⁰ Take for example, the non consensual uploading of images and videos, including re-victimisation of rape survivors by uploading rape videos, or revenge porn where consensual images or videos of a sexual nature are uploaded online without the women's consent.

Policies and laws with regard to the social norms in cyberspace have been rather laggard, and not commensurate with the rapid evolution of the information society. Most governments have done little to address technology mediated violence through laws and other policy instruments¹¹. Exacerbating this gap is the widespread notion that the impact of online violence is not as material to women's lives as that of offline violence. It is time therefore that societies in general and policy makers in particular acknowledged that gender based technology mediated violence is an act of violation, possibly, criminal, undermining, and infringing upon, the dignity and bodily integrity of women. 'Cyber-touch is as harmful as physical touch'.¹² Technology mediated violence (including online violence) is as rooted in the structures of gender violence, ensuing from, "men's entitlement over women, the need to assert male control or power, enforce gender roles, or prevent, discourage or punish what is considered to be unacceptable female behaviour", recognised in paragraph 10 of Draft update for General Recommendation No.19, as is offline violence.¹³

The binary of space – virtual/ cyberspace and real/offline - is being eroded by the

7 http://www.genderit.org/sites/default/upload/csw_apc_statement_final_version_0.pdf

8 http://www.unwomen.org/~media/headquarters/attachments/sections/library/publications/2015/cyber_violence_gender%20report.pdf?v=1&d=20150924T154259

9 http://www.genderit.org/sites/default/upload/end_violence_malhotra_dig.pdf

10 <http://www.intgovforum.org/cms/documents/best-practice-forums/623-bpf-online-abuse-and-gbv-against-women/file>

11 http://www.genderit.org/sites/default/upload/csw_apc_statement_final_version_0.pdf

12 http://www.unwomen.org/~media/headquarters/attachments/sections/library/publications/2015/cyber_violence_gender%20report.pdf

13 http://www.genderit.org/sites/default/upload/csw_apc_statement_final_version_0.pdf

permeation of the Internet into every aspect of our lives. For its longevity and continued relevance, it is important that the redrafted General Recommendation 19 reflects the evolved nature of these spaces, the fluidity of the virtual and real¹⁴ and the transformative effects of technology on social relationships associated with the offline world.

We, therefore, reiterate the need for States and other actors that exert influence in cyberspace to recognise and acknowledge the **equivalence in the effect of offline and online violence on women**. Society as a whole also needs to dispel the notion that the harm caused to women by online violence is not as grievous as that stemming from offline violence.

New actors and responsibilities

Technology mediated violence has also thrown up new actors and forms of liability. Non-State actors like Internet intermediaries¹⁵ play a pivotal role in Internet governance and are consequently responsible for how the services they provide are used.

States have, on the premise that intermediaries merely provide a passive platform for third party users to interact and express themselves, often provided intermediaries safe harbour from liability.¹⁶ Intermediaries too, have in all earnest pursued their new found status as defenders of freedom of speech and expression, sometimes overriding competing human rights like women's right to freedom from violence. The loss of speech as a consequence of online violence garners much less attention than free speech rights.¹⁷

Even though in their terms of service intermediaries are often explicit about policing their platforms for copyright violations, child pornography, extortion and financial fraud, unfortunately, there has been scant effort to extend this to gender based violence.¹⁸

Responses of intermediaries to gendered violence has been ad hoc, counterproductive and even harmful to women's rights. Take for example, Facebook pulling down of photos of breast feeding mothers.¹⁹

14 http://www.itforchange.net/sites/default/files/ITfC/violence_against_women_via_cyberspace.pdf

15 Internet intermediaries include internet service providers, search engines, social networks etc.
<https://www.apc.org/en/pubs/frequently-asked-questions-internet-intermediary-l>

16 <http://www.genderit.org/feminist-talk/rediff-and-rape-threats-what-rediff-could-have-done-support-kavita-krishnan>

17 <http://www.theatlantic.com/technology/archive/2014/10/the-unsafety-net-how-social-media-turned-against-women/381261/>

18 <http://www.intgovforum.org/cms/documents/best-practice-forums/623-bpf-online-abuse-and-gbv-against-women/file>

19 <http://www.telegraph.co.uk/women/womens-health/11195373/Facebook-removes-mothers-breastfeeding-photo.html>

Taking forward the recommendation of the United Nations Guiding Principles on Business and Human Rights, Internet intermediaries must reflect the commitment to address violence against women in designing their services, providing women an option to report to them instances of gender based violence.²⁰ The commitment must not end here, and there must be adequate response, one that is informed and sensitive, to such notifications.²¹

Characteristics of technology mediated violence such as anonymity, and action at a distance²² have made intermediaries a necessary point of contact²³ for States to address violence against women. Considering the UN HRC resolutions on the promotion, protection and enjoyment of human rights on the Internet that affirmed that “all rights offline must be extended online”²⁴, and the unique vantage point Internet intermediaries have in regulating the use of technology mediated spaces, States must hold intermediaries accountable to address gender based violence in their terms of service.²⁵

Building the political ethos that addresses technology mediated violence will take the concerted effort of many actors and institutions, including, law makers, courts and judges and law enforcement agencies. Education institutions and women’s rights organisations will have to play a critical role in sensitising, raising awareness and educating the state machinery. The suggestions and revisions proposed by IT for Change to the Draft update for General Recommendation No.19 reflects this sentiment.

20 <http://www.genderit.org/feminist-talk/towards-internet-intermediary-responsibility>

21 <http://www.genderit.org/articles/violence-against-women-online-what-next-steps-intermediaries-should-take>

22 http://www.genderit.org/sites/default/upload/csw_apc_statement_final_version_0.pdf

23 <https://www.cdt.org/files/pdfs/CDT-Intermediary-Liability-2012.pdf>

24 http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-2_en.pdf

25 https://www.apc.org/en/system/files/APC_Business_and_digital_rights.pdf, http://www.huffingtonpost.in/entry/an-open-letter-to-faceboo_1_b_3307394?utm_hp_ref=tw

Part II. Suggested revisions and additions to the draft update for General Recommendation No.19 (1992) on gender based violence against women.

A. Introduction

Paragraph 4

Existing text:

4) Despite these advances, gender-based violence against women, whether committed by State or non-state actors, including armed groups²⁶, has persisted in all countries of the world and, in some cases, has increased in severity.²⁷ In the contemporary globalised world, this violence has taken on new manifestations and occurs in new contexts, including through information and communications technologies (ICTs) and the cyberspace²⁸ In addition, in some States parties there has been erosion of legal and policy frameworks to address equality of women with men and non-discrimination on the basis of sex and gender, sometimes as a result of a reduction in public spending or justified in the name of tradition, religion or fundamentalist ideologies. That erosion allows for the pervasiveness and increase of gender based violence against women.

Suggested revision:

4) Despite these advances, gender-based violence against women, whether committed by State or non-State actors, including armed groups²⁹, has persisted in all countries of the world and, in some cases, has increased in severity.³⁰ In the contemporary globalised world, this violence has taken on new manifestations and occurs in new contexts. **This includes technology mediated violence against women, which maybe defined as acts of gender based violence that are committed, abetted or aggravated, in part or fully, by the use of information and communication technologies (ICTs) and the cyberspace.**³¹ In

26 This includes all types of armed groups, i.e. rebel forces, gangs, paramilitary groups, etc.

27 See Chapter 6, on violence against women, of The World's Women 2015: Trends and statistics (UN Statistics Division).

28 See UN General Assembly Resolution on Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, 30 January 2014, A/RES/68/181

29 This includes all types of armed groups, i.e. rebel forces, gangs, paramilitary groups, etc.

30 See Chapter 6, on violence against women, of The World's Women 2015: Trends and statistics (UN Statistics Division).

31 See UN General Assembly Resolution on Promotion of the Declaration on the Right and Responsibility of

addition, in some States parties there has been erosion of legal and policy frameworks to address equality of women with men and non-discrimination on the basis of sex and gender, sometimes as a result of a reduction in public spending or justified in the name of tradition, religion or fundamentalist ideologies. That erosion allows for the pervasiveness and increase of gender based violence against women. Despite the fact that online violence is as real as violence offline³², States in general lack a comprehensive understanding of the phenomenon of technology mediated violence against women and its social and legal implications. While the criminal misuse of ICTs has exacerbated 'older' forms of violence, including, sexual harassment, sexual exploitation, child pornography and trafficking in women and girls, it has also given rise to 'newer' and equally reprehensible forms of violence, such as cyberstalking, cyberbullying and privacy violations that compromise the safety of women and girls. Most States are yet to respond appropriately to these issues.³³ Further, few States have really addressed the liability of Internet intermediaries with respect to technology mediated violence against women.

B. Scope

Paragraph 9

Existing text :

9) Gender-based violence affects women throughout their life cycle;

³⁴accordingly references to women in this document include girls. This violence takes multiple forms, including acts or omissions intended or likely to cause or result in death or physical, sexual, psychological or economic harm or suffering to women, threats of such acts, harassment, coercion and arbitrary deprivation of liberty.³⁵ These are affected by cultural, economic, ideological, political,

Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, 30 January 2014, A/RES/68/181, <http://www.genderit.org/onlinevaw/faq/>

32 http://www.genderit.org/sites/default/upload/csw_apc_statement_final_version_0.pdf

33 <http://www2.unwomen.org/~media/headquarters/attachments/sections/csw/57/csw57-agreedconclusions-a4-en.pdf?v=1&d=20140917T100700>, <http://www.intgovforum.org/cms/documents/best-practice-forums/623-bpf-online-abuse-and-gbv-against-women/file>

34 General Recommendation No. 27 on older women and protection of their human rights, and General Recommendation No. 31 on harmful practices.

35 General Recommendation No. 19, par. 6 and General Recommendation No. 28, par. 19.

religious, social and environmental factors, as evidenced in the case of harmful practices³⁶ or in crimes against women human rights defenders or activists.

Suggested revision:

9) Gender-based violence affects women throughout their life cycle;³⁷ accordingly references to women in this document include girls. This violence takes multiple forms, including acts or omissions intended or likely to cause or result in death or physical, sexual, psychological, economic harm, or suffering to women, threats of such acts, harassment, coercion and arbitrary deprivation of liberty³⁸ and adversely impacts the human rights of women, including the freedom of expression and rights to public participation³⁹, association, assembly and privacy.⁴⁰ Such violence is affected by cultural, economic, ideological, political, religious, social, environmental, and increasingly, technological, factors, as evidenced in the case of harmful practices⁴¹, or in crimes against women human rights defenders or activists.

Paragraph 12

Existing text :

12) Gender-based violence against women occurs in all spheres of human interaction, whether public or private. These include the family, the community, the workplace, leisure, sport, educational settings and technologically mediated environments, such as cyberspace. It may occur in both, urban and rural areas, and in the context of conflict, civil unrest, natural disasters, and the movement of people, including migration and displacement. It occurs in any area under the direct control of the State, for example, law enforcement or public health or where it has devolved tasks to private actors, such as where it engages privatised services to manage places of detention. In all these settings, it can result from acts or omissions of State or non-State actors.

³⁶ Joint General recommendation No. 31 of the Committee on the Elimination of Discrimination against Women / General comment No. 18 of the Committee on the Rights of the Child on harmful practices.

³⁷ General Recommendation No. 27 on older women and protection of their human rights, and General Recommendation No. 31 on harmful practices.

³⁸ General Recommendation No. 19, par. 6 and General Recommendation No. 28, par. 19.

³⁹ <http://www.genderit.org/node/4217>

⁴⁰ <http://www.intgovforum.org/cms/documents/best-practice-forums/623-bpf-online-abuse-and-gbv-against-women/file>

⁴¹ Joint General recommendation No. 31 of the Committee on the Elimination of Discrimination against Women / General comment No. 18 of the Committee on the Rights of the Child on harmful practices, http://www.un.org/womenwatch/daw/csw/csw57/CSW57_Agreed_Conclusions_%28CSW_report_excerpt%29.pdf

Suggested revision:

12) Gender-based violence against women occurs in all spheres of human interaction, **offline or online**, whether public or private. These include, **but are not restricted to**, the family, the community, the workplace, leisure, sport, educational settings, **and their redefinition through** technologically mediated environments. It may occur in both, urban and rural areas, in the context of conflict, civil unrest, natural disasters, and the movement of people, including migration and displacement, **and in everyday social interactions**. **Technology mediated violence not only affects women who use technologies but also those who do not, for example, in the form of videos or images of women posted online without consent.**⁴² It occurs in any area under the direct control of the State, for example, law enforcement or public health or where it has devolved tasks to private actors, such as where it engages privatised services to manage places of detention, **or when an essential service, such as in the information and communication domain is controlled entirely by private actors**. In all these settings, it can result from acts or omissions of State or non-State actors.

C. General obligations of States parties under the Convention relating to gender-based violence against women.

Paragraph 13

Existing text :

13) Gender-based violence against women constitutes discrimination against women within article 1 and therefore engages all of the obligations in the Convention. Article 2 establishes that the overarching obligation of States parties is to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including gender-based violence against women. This is an obligation of an immediate nature; delays cannot be justified on any grounds, including on cultural or religious grounds. General Recommendation No. 19 indicates that in respect of gender-based violence against women this obligation comprises two aspects of State responsibility: for such violence resulting from the actions or omissions of (a) the State party or its actors, and (b) non-State actors.

⁴² http://www.genderit.org/sites/default/upload/end_violence_malhotra_dig.pdf

Suggested revision:

13) Gender-based violence against women constitutes discrimination against women within article 1 and therefore engages all of the obligations in the Convention. Article 2 establishes that the overarching obligation of States parties is to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including gender-based violence against women. **This includes an urgent imperative to also address technology mediated violence against women.**⁴³ This is an obligation of an immediate nature; delays cannot be justified on any grounds, including on cultural or religious grounds. General Recommendation No. 19 indicates that in respect of gender-based violence against women this obligation comprises two aspects of State responsibility: for such violence resulting from the actions or omissions of (a) the State party or its actors, and (b) non-State actors.

Paragraph 13 b) Responsibility for acts or omissions of non-State actors

Existing text:

ii. States parties are obliged to adopt and implement diverse measures to tackle gender-based violence against women committed by non-State actors. They are required to have laws, institutions and a system in place to address such violence. Also, States parties are obliged that these function effectively in practice, and are supported by, and diligently enforced, all State agents and bodies.⁴⁴ The failure of a State party to take all appropriate measures to prevent acts of gender-based violence against women when its authorities know or should know of the danger of violence, or a failure to investigate and punish, and provide reparation to victims/survivors of such acts, provides tacit permission or encouragement to non-State actors and allows them to commit acts of gender-based violence against women, often with impunity.⁴⁵ These failures or omissions constitute human rights violations.

Suggested revision:

ii. States parties are obliged to adopt and implement diverse measures to tackle gender-based violence against women committed, **abetted or aggravated** by

43 http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.50_EN.pdf

44 *Goekce v. Austria*, 2007 par. 12.1.2

45 General Recommendation No. 19, par. 9

non-State actors. They are required to have laws, institutions and a system in place to address such violence. [This is particularly true for addressing the emerging context of technology mediated violence against women, where States have mostly been late in responding.](#) Also, States parties are obliged that these function effectively in practice, and are supported by, and diligently enforced, all State agents and bodies.⁴⁶ The failure of a State party to take all appropriate measures to prevent acts of gender-based violence against women when its authorities know or should know of the danger of violence, or a failure to investigate and punish, and provide reparation to victims/survivors of such acts, provides tacit permission or encouragement to non-State actors and allows them to commit acts of gender-based violence against women, often with impunity.⁴⁷ These failures or omissions constitute human rights violations.

Paragraph 14

Existing text:

14) The general obligations described above encompass all areas of State action, including the legislative, executive and judicial branches, as well as privatised services. They require the formulation of legal norms, including at the constitutional level, the design of public policies, programmes, institutional frameworks and monitoring mechanisms, aimed at eliminating all forms of gender-based violence against women, whether committed by State or non-State actors. They also require, in accordance with articles 2 (f) and 5 (a) of the Convention, creation and implementation of measures to eradicate prejudices, stereotypes and practices that are the root cause of gender-based violence against women. All these legal and policy measures must recognise that this violence is affected by intersectional discrimination.

Suggested revision:

14) The general obligations described above encompass all areas of State action, including the legislative, executive and judicial branches, as well as privatised services. They require the formulation of legal norms, including at the constitutional level, the design of public policies, programmes, institutional

⁴⁶ Goekce v. Austria, 2007 par. 12.1.2

⁴⁷ General Recommendation No. 19, par. 9

frameworks and monitoring mechanisms, aimed at eliminating all forms of gender-based violence against women, whether committed by State or non-State actors. They also require, in accordance with articles 2 (f) and 5 (a) of the Convention, creation and implementation of measures to eradicate prejudices, stereotypes and practices that are the root cause of gender-based violence against women. All these legal and policy measures must recognise that this violence is affected by intersectional discrimination. **They must also account for emerging manifestations of violence against women in a technology mediated world.**

Paragraph 14 a)

Existing text :

a) At the legislative level, according to article 2 (b), (c), (e), (f) and (g) and article 5 (a), States are required to adopt legislation prohibiting all forms of gender-based violence against women. This legislation should include gender-sensitive provisions and effective legal protection, including sanctions and reparation in cases of such violence. The Convention also requires the repeal of all laws that constitute discrimination against women, including those which cause, promote or justify gender-based violence or perpetuate impunity for these acts. Such laws may be part of statutory, customary, religious, indigenous or common law, civil law, including family law, criminal law, evidentiary and procedural law, such as provisions based on discriminatory or stereotypical attitudes or practices which allow for gender-based violence against women or mitigate sentences in this context.

Suggested Revision:

a) At the legislative level, according to article 2 (b), (c), (e), (f) and (g) and article 5 (a), States are required to adopt legislation prohibiting all forms of gender-based violence against women. This legislation should include gender-sensitive provisions and effective legal protection, including sanctions and reparation in cases of such violence. The Convention also requires the repeal of all laws that constitute discrimination against women, including those which cause, promote or justify gender-based violence or perpetuate impunity for

these acts. Such laws may be part of statutory, customary, religious, indigenous or common law, civil law, including family law, criminal law, evidentiary and procedural law, such as provisions based on discriminatory or stereotypical attitudes or practices which allow for gender-based violence against women or mitigate sentences in this context. [New manifestations of violence against women require a revamping of current legal systems and introduction of new legislation that responds adequately to gender-based violence in technologically mediated environments. Legal protection and redress must address obligations of private actors in the online space.](#)⁴⁸ However, redress of emerging forms of violence against women, including online violence, cannot further undermine or violate the rights of women. For example, obscenity laws must not become a route to criminalise voluntary expression of women in online spaces.⁴⁹

Paragraph 14 b)

Existing text :

b) At the executive level, according to article 2 (c), (d) and (f) and article 5 (a), States are obliged to adopt diverse institutional measures. They include the establishment of competent national tribunals, the design of focused public policies and the development and implementation of monitoring mechanisms. States parties should provide accessible, affordable and adequate services to protect women from gender-based violence and provide reparation to all its victims/survivors.⁵⁰ States parties must also eliminate institutional practices and the conduct and behaviour of individual public officials that constitute gender-based violence against women or tolerate such violence and provide a context for lack of or negligent response. Appropriate measures to modify or eradicate customs and practices that constitute discrimination against women, including those that justify or promote gender-based violence against women, must also be taken at this level.⁵¹

48 http://www.unwomen.org/~media/headquarters/attachments/sections/library/publications/2015/cyber_violence_gender%20report.pdf

49 <http://www.intgovforum.org/cms/documents/best-practice-forums/623-bpf-online-abuse-and-gbv-against-women/file>

50 See General Recommendation No. 33.

51 See General Recommendation No. 31.

Suggested revision:

b) At the executive level, according to article 2 (c), (d) and (f) and article 5 (a), States are obliged to adopt diverse institutional measures. They include the establishment of competent national tribunals, the design of focused public policies and the development and implementation of monitoring mechanisms. States parties should provide accessible, affordable and adequate services to protect women from gender-based violence and provide reparation to all its victims/survivors.⁵² **Measures to create awareness and competence of public authorities about technology mediated violence against women and set up specific institutional mechanisms like cyber cells for gender responsive enforcement of the law are imperative in the emerging context.** States parties must also eliminate institutional practices and the conduct and behaviour of individual public officials that constitute gender-based violence against women or tolerate such violence and provide a context for lack of or negligent response. Appropriate measures to modify or eradicate customs and practices that constitute discrimination against women, including those that justify or promote gender-based violence against women, must also be taken at this level.⁵³

D. Recommendations

Paragraph 15

Prevention.

Existing text:

b) Develop and implement effective measures, with the active participation of all relevant stakeholders, such as women's organisations, to address the stereotypes, prejudices, customs and practices that condone or promote such violence and underpin structural inequality of women with men, as described in article 5. These measures should include:

i. The integration of gender equality content into curricula at all levels of education from the early childhood level, as well as in public education

⁵² See General Recommendation No. 33.

⁵³ See General Recommendation No. 31.

programmes targeting stereotyped gender roles and promoting values of respect and equality and non-discrimination, including comprehensive sexuality education for girls and boys;

ii. Awareness-raising programmes that emphasise the criminal nature of gender-based violence against women, encourage its reporting, address the stigma and stereotyping experienced by survivors/victims of such violence. These programmes should target: (a) women and men at all levels of society; (b) all education, health, social services and law enforcement personnel; (c) traditional and religious leaders; and (d) perpetrators of any form of gender-based violence.

Suggested revision:

b) Develop and implement effective measures, with the active participation of all relevant stakeholders, such as women's organisations, to address the stereotypes, prejudices, customs and practices that condone or promote such violence and underpin structural inequality of women with men, as described in article 5. These measures should include:

i. The integration of gender equality content into curricula at all levels of education from the early childhood level, as well as in public education programmes targeting stereotyped gender roles and promoting values of respect and equality and non-discrimination, including comprehensive sexuality education for girls and boys;

ii. Awareness-raising programmes that emphasise the criminal nature of gender-based violence against women, encourage its reporting, address the stigma and stereotyping experienced by survivors/victims of such violence. These programmes should target: (a) women and men at all levels of society; (b) all education, health, social services and law enforcement personnel; (c) traditional and religious leaders; and (d) perpetrators of any form of gender-based violence.

iii. Awareness-raising programmes, developed in consultation with women's rights organisations, that highlight emerging forms of technology mediated violence against women and the equivalence of the effect of offline and online

violence on women.⁵⁴ These programmes should target : (a) boys and girls by incorporating it in the education system; (b) teachers and parents.⁵⁵

iv. Development of websites dedicated to educate women and girls on how to protect themselves online and provide legal and other practical remedies to TM violence.

Paragraph 15

Existing text:

c) Adopt and implement effective measures to encourage the media, including advertising and information and communications technologies to eliminate discrimination against women in their work, including negative and stereotyped portrayal of women and girls, including women human right's defenders. These measures should include:

- i. Promotion of positive portrayals that challenge gender stereotypes relating to the roles of women and men,
- ii. Guidelines for the appropriate reporting by the media of cases of gender-based violence against women,
- iii. Encouragement of the creation of self-regulatory mechanisms by the media aimed at the elimination gender stereotypes, and
- iv. Strengthening the institutional capacity of national human rights institutions to confront media that that portray images or content that are gender-discriminatory and objectify or demean women or promote violent masculinities.⁵⁶

Suggested revision :

c) adopt and implement effective measures to encourage the media, including advertising and Internet intermediaries to address violence against women, including eliminating negative and stereotyped portrayal of women and girls, including women human right's

54 http://www.genderit.org/sites/default/upload/csw_apc_statement_final_version_0.pdf

55 http://www.unwomen.org/~media/headquarters/attachments/sections/library/publications/2015/cyber_violence_gender%20report.pdf

56 CObs. to Croatia, 2015.

defender, in their work, and in the use of their services by third parties. These measures should include:

- i. Promotion of positive portrayals that challenge gender stereotypes relating to the roles of women and men,
- ii. Guidelines for the appropriate reporting by the media of cases of gender- based violence against women
- iii. Mandating, in the case of Internet intermediaries, the inclusion of gender based violence against women as illegal use of their service in their terms of service with the user, or in other guides of user conduct.⁵⁷ The terms of service must also incorporate measures to take down content that promotes gender based violence against women by setting up a reporting/notification response and redress mechanism, which is transparent and easily accessible by the user.⁵⁸ However, burden should not be solely on the user. Internet intermediaries must take proactive measures to take down such content,⁵⁹ in line with their terms of service, and where required, notify law enforcement authorities of such content.⁶⁰ The take down of content may be challenged in a court of law.
- iii. Encouragement of the creation of self-regulatory mechanisms aimed at addressing violence against women and the elimination gender stereotypes.
- iv. Creation of a separate department within these entities, which is adequately staffed, dedicated to deal with issues regarding violence against women. This department must work with women's rights organisations to understand gender based violence. The staff must be capable of understanding languages from the global south in order to take down content based on requests made in languages other than English.⁶¹
- v. Promotion of practices that maintain the privacy of the user and discouraging Internet intermediaries, especially social networks, from using real name policies.⁶²
- vi. Strengthening the institutional capacity of national human rights institutions to confront portrayal of images or content that are gender-discriminatory and objectify or demean women or promote violent masculinities.

57 http://www.genderit.org/sites/default/upload/end_violence_malhotra_dig.pdf

58 https://www.apc.org/en/system/files/HRC%2029%20VAW%20a%20briefing%20paper_FINAL_June%202015.pdf

59 <http://www.genderit.org/feminist-talk/how-gender-based-harassment-falls-through-digital-cracks>

60 <http://www.genderit.org/feminist-talk/towards-internet-intermediary-responsibility>

61 <http://www.intgovforum.org/cms/documents/best-practice-forums/623-bpf-online-abuse-and-gbv-against-women/file>

62 https://www.apc.org/en/system/files/HRC%2029%20VAW%20a%20briefing%20paper_FINAL_June%202015.pdf

Paragraph 15

Existing text:

d) Provide mandatory, recurrent and effective capacity-building, education and training for the judiciary, lawyers and law enforcement officers, including forensic medical personnel, legislators, health-care, education and social personnel, including that working with women in institutions such as residential care homes and prisons,⁶³ to equip them to address gender-based violence against women adequately. This education and training should include:

- i. The impact of gender stereotypes and unconscious bias, including their contribution to gender-based violence against women and inadequate responses in front of it,
- ii. The understanding of the situations of women, including those affected by intersectional discrimination, who are victims/survivors of gender-based violence, and ways to address them and eliminate factors, such as secondary victimisation, that weaken women's confidence in State institutions, and
- iii. Domestic legal provisions and institutions on gender-based violence against women, international standards and associated mechanisms and their responsibilities in this context.

Suggested revision:

d) Provide mandatory, recurrent and effective capacity-building, education and training for the judiciary, lawyers and law enforcement officers, including forensic medical personnel, legislators, health-care, education and social personnel, including that working with women in institutions such as residential care homes and prisons,⁶⁴ to equip them to address gender-based violence against women adequately. This education and training should include:

- i. The impact of gender stereotypes and unconscious bias, including their contribution to gender-based violence against women and inadequate responses in front of it,
- ii. The understanding of the situations of women, including those affected by intersectional discrimination, who are victims/survivors of gender-based violence, and ways to address

63 The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules') A/RES/65/229.

64 The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules') A/RES/65/229.

them and eliminate factors, such as secondary victimisation, that weaken women's confidence in State institutions, and

iii. Domestic legal provisions and institutions on gender-based violence against women, international standards and associated mechanisms and their responsibilities in this context.

iv. The understanding that online violence is as rooted in gender-based discrimination, prejudice and stereotypes as offline violence, and therefore, for the victim/ survivor, 'as real as offline violence'.⁶⁵

Paragraph 15

Existing text:

g) Introduce, where these do not exist, or strengthen legal sanctions for all forms of gender-based violence against women, commensurate with their seriousness, in all spheres without delay.

Suggested revision:

g) Introduce, where these do not exist, or strengthen legal sanctions for all forms of gender-based violence against women, commensurate with their seriousness, in all spheres without delay. Remedies and sanctions against perpetrators of online violence against women should not be restricted online or through technology mediated means. To redress online harassment, merely shutting down the online profile of the perpetrator, or taking down the offending comment, may not be a sufficient deterrent. The perpetrator can continue the harassment by easily setting up alternate profiles. Instead, measures should be taken to identify the perpetrator so that a court of law can pass suitable orders to stop the harassment.⁶⁶ Focus must be on providing relief from harassment rather than criminalisation.⁶⁷

Paragraph 15

Suggested addition :

65 http://www.genderit.org/sites/default/upload/csw_apc_statement_final_version_0.pdf

66 http://www.genderit.org/sites/default/upload/end_violence_malhotra_dig.pdf

67 <http://www.genderit.org/node/4215>

m) Ensure that all laws that use outdated language of protecting the 'modesty' or 'chastity' of women are amended. There should be a shift from a protectionist jurisprudence to one that recognises the autonomy of women.⁶⁸

Paragraph 15

Protection and Redress

Existing text:

a) ii. Providing appropriate protection to prevent further or potential violence.⁶⁹ This should include immediate risk assessment and protection, comprising a wide range of effective measures and, where appropriate, the issuance of eviction, exclusion or restraining orders against alleged perpetrators. Perpetrators or alleged perpetrators' rights or claims during and after judicial proceedings, including with respect to property, privacy, child custody, access, contact and visitation, should be determined in the light of women's and children's⁷⁰ human rights to life and physical and mental integrity,⁷¹ and the best interest of the child shall be the paramount principle.

Suggested revision:

a) ii. Providing appropriate protection to prevent further or potential violence.⁷² This should include immediate risk assessment and protection, comprising a wide range of effective **criminal and civil remedies and** measures and, where appropriate, the issuance of eviction, exclusion, **protection** or restraining orders against alleged perpetrators. **In the case of technology mediated violence against women , courts should be empowered to direct Internet intermediaries to reveal or provide assistance in identifying the perpetrator in order to issue an appropriate order, including protection or restraining orders.**⁷³ Perpetrators or alleged perpetrators' rights or claims during and after judicial proceedings, including with respect to property, privacy, child custody, access, contact and visitation, should be

68 http://www.genderit.org/sites/default/upload/end_violence_malhotra_dig.pdf

69 Ex. Since 2015, FGM Protection Orders in the UK allow for the banning of travel by people who are believed to be at risk of FGM.

70 Angela González Carreño v. Spain, No. 47/2012, adopted on 16 August 2014.

71 Fatma Yildirim v. Austria, No. 6/2005 and Sahide Goekce v. Austria, No. 5/2005, both adopted on 6 August 2007; Angela González Carreño v. Spain, No. 47/2012.

72 Ex. Since 2015, FGM Protection Orders in the UK allow for the banning of travel by people who are believed to be at risk of FGM.

73 South African Section 5, Protection from Harassment Act, 2010 | End violence: Women's rights and safety online Technology-related violence against women: Recent legislative trends, http://www.genderit.org/sites/default/upload/flowresearch_cnyst_legtrend_in.pdf

determined in the light of women's and children's⁷⁴ human rights to life and physical and mental integrity,⁷⁵ and the best interest of the child shall be the paramount principle.

Paragraph 15

Data Collection and Monitoring

Existing text:

b) Establish a system to collect, analyse and publish statistical data on the number of complaints about gender-based violence against women, including gender-based killings of women, the number of protection orders issued, the rates of dismissal and withdrawal of complaints, prosecution and conviction rates. The system should include information on the sentences imposed on perpetrators and the reparation, including compensation, provided for victims/survivors. All data should be disaggregated by type of violence and the relationship between the victim/survivor and the perpetrator. Data should also be disaggregated in relation to intersecting forms of discrimination against women.

Suggested revision:

b) Establish a system to collect, analyse and publish statistical data on the number of complaints about gender-based violence against women, including gender-based killings of women, [number of cases of reporting of online violence against women with Internet intermediaries, action taken by Internet intermediaries based on such reporting, and cases of follow up action by law enforcement agencies](#),⁷⁶ the number of protection orders issued, the rates of dismissal and withdrawal of complaints, prosecution and conviction rates. The system should include information on the sentences imposed on perpetrators and the reparation, including compensation, provided for victims/survivors. All data should be disaggregated by type of violence and the relationship between the victim/survivor and the perpetrator. Data should also be disaggregated in relation to intersecting forms of discrimination against women [and to reflect gender based violence against women in technologically mediated environments](#).⁷⁷

74 Angela González Carreño v. Spain, No. 47/2012, adopted on 16 August 2014.

75 Fatma Yildirim v. Austria, No. 6/2005 and Sahide Goekce v. Austria, No. 5/2005, both adopted on 6 August 2007; Angela González Carreño v. Spain, No. 47/2012.

76 http://www.genderit.org/sites/default/upload/flow_corporate_policies_formatted_final.pdf

77 http://www.genderit.org/sites/default/upload/csw_apc_statement_final_version_0.pdf

Paragraph 15

International Cooperation

Suggested addition:

b) The cross jurisdictional nature of the Internet means that States must cooperate with each other in order to address technology mediated violence against women, wherein the perpetrator, victim and platform where the content is hosted or where the act of violence occurs, may be in different jurisdictions.⁷⁸

78 <http://www.genderit.org/node/4215>