

FROM IMPUNITY TO JUSTICE

IMPROVING CORPORATE POLICIES TO END TECHNOLOGY-RELATED VIOLENCE AGAINST WOMEN

Rima Athar (author)
Richa Kaul Padte (editor)

A SUMMARY

INTRODUCTION: STRUCTURE AND CHALLENGES

The present report explores women's experiences of and demands for corporate accountability in cases of technology-related violence against women (VAW)¹ as highlighted by the Association for Progressive Communications (APC) seven-country research

initiative, "From impunity to justice: Exploring corporate and legal remedies for technology-related violence against women", conducted in Bosnia and Herzegovina, Colombia, the Democratic Republic of Congo (DRC), Kenya, Mexico, Pakistan and the Philippines. Here, in-depth case studies on survivors' experiences, their attempts to access justice, reviews of corporate policies, and interviews with public policy representatives have been evaluated with reference to (a) national telephony companies, (b) social media and networking platforms, and (c) pornography websites. A total of 24 case studies were documented across the seven countries, and the policies of 22 companies were reviewed. This report summarises some of the most common obstacles to resolving technology-related VAW under current corporate policy frameworks, and uses examples of existing company policies to shed light on best practices and possible solutions to women's demands for corporate accountability.

¹ The UN Declaration on the Elimination of Violence against Women (DEVAW) defines violence against women as: "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life" (see the full text at www.un.org/documents/ga/res/48/a48r104.htm). Technology-related VAW encompasses acts of gender-based violence that are committed, abetted or aggravated, in part or fully, by the use of information and communication technologies (ICTs).

FROM IMPUNITY TO JUSTICE: IMPROVING CORPORATE POLICIES TO END TECHNOLOGY-RELATED VIOLENCE AGAINST WOMEN

The report is comprised of

- Trends and tensions within corporate policy frameworks and a snapshot of the violations documented in the research.
- A discussion of possible steps that companies can take to address technology-related VAW.
- A discussion of the role that liability has played in shaping company policies and practices.
- A summary of different international human rights guidelines and how companies have incorporated these into their practices.
- Recommendations for a) individuals seeking recourse from companies for technology-related VAW, b) strategies for women and human rights advocates, and c) areas for further research.

The scope of the report is limited by the fact that of the 22 companies reviewed here, only six made themselves available for interviews.² Therefore the report represents the data that was available to the research teams, but notes that the companies reviewed may be taking other steps towards addressing technology-related VAW that have not been publicised.

Three main challenges were encountered in the research and are therefore reflected in the report. Firstly, there are difficulties around developing a comprehensive definition of technology-related violence against women; in particular, what constitutes a violent act, and what makes that act VAW? There is also a lack of definitional clarity around what the role of technology vis-à-vis that violence is. Secondly, there were barriers to contacting informants for the research. In the case of survivors of VAW, the reason was often the shame associated with VAW, and in the case of companies, the challenge can be attributed to a lack of transparency and an unwillingness to recognise VAW or publicly commit to human rights. And lastly, given the nature of the subject and the threats involved, there were challenges in ensuring anonymity and safety for both survivors as well as the research teams.

KEY FINDINGS AND POSSIBLE STEPS FOR COMPANIES

National telephony companies

Research teams reviewed the policies of 11 national telephony companies in seven countries.³ The research highlighted that mobile phones were the most common tool used to perpetrate technology-related VAW. In the majority of cases, the harassment and intimidation faced by women via this medium was part of ongoing physical or sexual abuse from a known aggressor.

The report identifies several steps that national telephony companies can take to address technology-related VAW. The first is for companies to provide clear definitions of what constitutes unlawful or abusive behaviour within their terms of service (ToS). Second, the ToS should detail exactly what action will be taken as a response to such behaviour. In order to facilitate this, companies should implement a clear reporting mechanism as well as include such violations within their “disruption of services” clauses. Third, companies must provide full and clear disclosure of the tracking or monitoring of users’ personal information or communications. This includes maintaining formal logging and reporting systems as well as having clear requirements that must be fulfilled before personal information is disclosed to law enforcement (including but not limited to a court order, subpoena or warrant). Fourth, telephony companies should invest in educational tools and resources to inform users about their rights and responsibilities. Given that a *lack of awareness and understanding of legal systems is one of the main obstacles to girls and women accessing justice in cases of technology-related VAW*, one important practice could be for companies to develop a one-stop legal awareness centre. Fifth, companies should develop transparent, accountable systems to stop harassment via their services, as well as implement or build upon existing programmes to address issues of child sexual exploitation, trafficking and kidnapping. Another step companies can take is to ensure that staff are appropriately trained to address issues of harassment and abuse. Lastly, national telephony companies should engage more deeply with women’s experiences, needs and demands for accountability in cases of technology-related VAW.

2 Interviews were held with AirTel (DRC), BH Telecom (Bosnia and Herzegovina), ETB (Colombia), Google-Colombia, Microsoft-Colombia, and YouTube.

3 BH Telecom, Claro, Empresa de Telecomunicaciones de Bogota (ETB), Airtel, Safaricom, TelCel, IUSACell, Pakistan Telecommunications Company Ltd. (PTCL), Smart Communications Inc. (SMART), Global Telecommunications Inc., and Philippines Long Distance Telephone Co.

FROM IMPUNITY TO JUSTICE: IMPROVING CORPORATE POLICIES TO END TECHNOLOGY-RELATED VIOLENCE AGAINST WOMEN

Social media and networking platforms

Research teams reviewed the policies of six social media and networking companies: Facebook, Google+, Instagram, Twitter, WordPress and YouTube. Since social media enables communications and the sharing of information at unprecedented speeds and without borders, recently many social media platforms have come under scrutiny and public pressure to address technology-related VAW. The research showed that some common forms that this violence can take are a) the creation of fake profiles of women to damage their reputations; b) the non-consensual sharing of sexually explicit photos and videos of women, often accompanied by blackmail; c) pages, comments and posts comprising gender-based hate, including death threats and threats of rape; and d) publishing personally identifying information of women without their consent. It is important to note that *while most companies have mechanisms in place to respond to these violations, little to no public information is available about how companies' internal review processes work. Moreover, no social media or networking company has made a public commitment to human rights.*

In light of this, the report identifies steps that social media companies can take to address technology-related VAW. First, companies should recognise the importance of social context when formulating content-regulation and privacy policies. This can include differentiating between nudity, obscenity and pornography, recognising that gender-based hate is not "humour", and questioning the normalisation of graphic violence. Second, companies should prohibit the publishing of private, confidential or personally identifying information of others. In order to do this, there must be a clear definition of what constitutes "public" and "private" information. Third, companies should address prevalent English language biases in reporting mechanisms, and fourth, they should promote the reform of mutual legal assistance treaties (MLATs) to increase justice in cases of technology-related VAW. Fifth, companies should provide greater transparency for their processes in dealing with content take-down or privacy-related requests, including which departments or staff are allocated to the process. Currently, *a lack of clear communication mechanisms means that there is no way to know whether reports are being taken seriously or addressed at all.* Significantly, companies should reserve the right to terminate accounts on the basis of technology-related VAW, and ensure that there is a platform-wide content removal system that includes posts that comprise re-shared or re-tweeted content.

Finally, companies should actively engage with those working in the fields of gender, sexuality and human rights to better their policies, staff training, and prevention programmes.⁴

Pornography websites

For the most part, pornography websites have received little public attention in terms of serving as platforms for technology-related VAW; however, the use of such websites for the non-consensual distribution of content is widespread. The research highlights one such violation involving a doctored video of a young woman from Mexico, and some of the central problems in the policies of many pornography websites, including uncertainty around the burden of proof when reporting abuse and the lack of mechanisms to suspend accounts. However, some websites have more provisions than others; for example, YouPorn has a clear zero tolerance policy regarding non-consensual content. It is important to note that this section of the report relies on a close analysis of only two pornography websites, and that *establishing the effectiveness of any pornography website's take-down procedures needs further documentation and evidence.*

Based on the research, the report highlights a number of steps for pornography websites to better address technology-related VAW. These include creating a dedicated form specifically for reporting abuse, creating a "multiple strikes" account suspension policy, ensuring that the burden of proof when a video is reported lies with the user who uploaded it, ensuring a system-wide removal of content, and being clear about when and how a website will cooperate with national and international law enforcement.

LEGAL LIABILITY

While the research supports the idea of limiting the liability of internet intermediaries in terms of third party content and compelling them to uphold human rights, it also seeks to expand conversations around technology-related VAW with an in-depth look at liability.

4 The research highlighted a specific and important recommendation for Twitter in relation to verified accounts. Twitter provides verified accounts only to "highly sought users in music, acting, fashion, government, politics, religion, journalism, media, advertising, business, and other key interest areas." The research suggests that were Twitter to offer such accounts to the general public, women who are well known in the public domain and subject to abuse in the form of fake accounts would greatly benefit.

FROM IMPUNITY TO JUSTICE: IMPROVING CORPORATE POLICIES TO END TECHNOLOGY-RELATED VIOLENCE AGAINST WOMEN

With more women reporting and speaking up about their experiences of technology-related VAW, there has also been an accompanying trend towards implementing legislation that can address the issue. But the legal standards across the ToS of many internet intermediaries are primarily reflections of their legal obligations (such as copyright infringement, child exploitation, financial fraud, and extortion) – and not much more than that. When looking for avenues for prevention and redress in relation to technology-related VAW, *there appears to be a growing recognition across countries that certain levels of liability are warranted and necessary to protect and respect women's rights*. One of the reasons for this is because the online anonymity facilitated by electronic communications often presents a barrier to women accessing justice. In such cases, internet companies should be required to respond to requests about the identity of harassers. One important issue is, however, *how to balance concerns of VAW, privacy and freedom of expression*.

International legislation, such as the UN Guiding Principles on Business and Human Rights, has provisions that mandate companies to explicitly recognise violence against women as unlawful. And while these provisions do not always go above and beyond what internet intermediaries already have in place, they could also compel companies to create appropriate record-keeping systems specific to VAW. The six companies interviewed for the research all affirm the importance of a system of checks and balances and of laws that direct companies in their responsibilities. The question across contexts remains as to how laws and corporate policies find the right balance between the need for the retention of certain data and the use of data in redress for acts of technology-related VAW.

RECOGNITION OF HUMAN RIGHTS

While voluntary global initiatives and guidelines have generated interest and participation from hundreds of businesses across the globe, *only two of the 22 companies reviewed here* (some of whom are the largest international and national players in the ICT industry) *have a formal commitment to human rights: ETB (Colombia) and Microsoft (United States)*. According to an ETB spokesperson, one of the biggest barriers to developing human rights-compliant policies is a slow-moving process by company managements in authorising sufficient budgets.

Within the frame of corporate social responsibility, the companies that are industry leaders on human rights may be key allies in fighting technology-related VAW, and in a competitive environment they may encourage other companies to follow suit.

SUMMARY AND RECOMMENDATIONS

The report maps out recommendations in three areas. The first is mechanisms for individuals seeking redress, including where and how to find legal information, block or report harassers, the importance of keeping detailed records of the abuse, and being familiar with a company's terms of service. The second section of recommendations comprises strategies for advocates, including organising campaigns, lobbying industry leaders, inputting into legislation, and building on companies' existing awareness of technology-related VAW. Finally, the report concludes by identifying areas for further research, which include documenting women's attempts to report violations to companies, the responses they receive, and the timelines of (in)action.



Ministry of Foreign Affairs