

# **REPORT OF THE NATIONAL DIALOGUE ON GENDER-BASED CYBER VIOLENCE**

**ORGANIZED BY IT FOR CHANGE, BENGALURU &  
ADVANCED CENTRE FOR WOMEN'S STUDIES, TISS, MUMBAI**

**1-2 February, 2018**

**TATA INSTITUTE OF SOCIAL SCIENCES, MUMBAI**



IT for Change and the Advanced Centre for Women's Studies, Tata Institute of Social Sciences, Mumbai, organized the National Dialogue on Gender-based Cyber Violence between 1-2 February 2018 in Mumbai, India.

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## Introduction

[IT for Change](#) and [Advanced Centre for Women's Studies](#), Tata Institute of Social Sciences (TISS), Mumbai, organized a National Dialogue on Gender-based Cyber Violence between 1-2 February 2018 in Mumbai, India. In the current context where public debate on the issue is marked by one-off reporting of a few cases in the media and short-lived sensationalism, the National Dialogue aimed at facilitating a systematic stocktaking of the phenomenon from a gender equality perspective.

In specific, it sought to:

1. Understand how social antecedents and identity shapes vulnerability to violence online and investigate how location affects gender-based cyber violence.
2. Evaluate the current legal framework through the constitutional framework of 'equality, dignity and privacy', and analyze the role of law in redressing gender-based cyber violence.
3. Capture the institutional responses to gender-based cyber violence.
4. Think aloud on how feminism can provide the language and means to fight gender-based cyber violence.
5. Identify agendas for further research, advocacy and action.

Towards this, it brought together scholars, practitioners, activists, along with students, from various disciplines, for two intense days of vibrant discussions and dialogue. For more details, see [background note](#). To know more about the presenters at the conference see the [participant bios](#).

Inaugurating the National Dialogue, R. Ramakumar, Dean, School of Development Studies, TISS, commended IT for Change and the Advanced Centre for Women's Studies, TISS on the timeliness of this initiative. He reflected that though the Internet holds tremendous potential for amplifying the voice of discriminated-against groups, cyber violence has completely thwarted this. The offline structures of gender-based violence and discrimination have extended online.

Anita Gurumurthy, Executive Director, IT for Change and Asha Achuthan, Assistant Professor, Advanced Centre for Women's Studies, TISS welcomed the participants and underscored the importance of feminist engagement with the digital.

This report is sequenced along the lines of the [two-day program](#), and distills key ideas that emerged from each of the seven sessions of the National Dialogue. For each session, the main points made by speakers and the highlights of the open discussion have been summarized.

## DAY 1

### Session 1. Online GBV: State of Play

*This session reflected upon the manifestations of gender-based violence in digital times, and the adequacy of existing legal, institutional and socio-cultural responses to the issue.*

#### Speakers

J.Devika, Centre for Development Studies, Trivandrum

Shehla Rashid, Student, Jawaharlal Nehru University, New Delhi

Justice Prabha Sridevan (retd.), Madras High Court, Chennai

#### Chair

Lakshmi Lingam, School of Media and Cultural Studies, TISS, Mumbai

### Women claiming the digital as ‘own space’: Reflections on the Malayalam public sphere

*J.Devika, Centre for Development Studies, Trivandrum*



J.Devika

Framing gender-based cyber violence through concepts of third-wave feminism in the Indian context would allow us to move away from singular monolithic experiences and account for all bodies oppressed by gender. It is also important to understand the debate in relation to regional contexts. Kerala, has high tele-density, Internet penetration and a large percentage of women with higher education who also use the Internet.

From the 1990s, in the Malayalam public sphere, we see increasing female individuation with improved access to technology. The cyber-world has helped female

actors from the local film industry fight against rampant sexism within the industry. Mobile phones are now regarded as 'own space' or private space by women, through which they use the Internet for self-construction. This autobiographical use of the Internet has opened up the 'private' that lies beyond the domestic. But there has also been a push back by misogynistic forces because of the automatic association of the 'private' with the 'sexual'. Mere visibility in online spaces is sufficient to invite condemnation for being a 'femi-nichi' (Malayalee slur that means femi-nazi).

The visibilization of gender has made anyone and everyone a 'feminist', and hence open to attack. However, the individualizing nature of the online space makes it difficult to fight back collectively. Part of the problem is that the structure of the Internet makes empathetic communities and the compromises that come with it unfashionable.

## Gender-based hate speech online and the inadequacy of existing responses

*Shehla Rashid, Student, Jawaharlal Nehru University, New Delhi*

Gender-based cyber violence is so rampant that it is normalized. For women activists who are online in India, gender based abuse – death and rape threats, and other identity-based abuse, are frequent and incessant, and are designed to prevent them from effectively functioning their public role. Lot of the misogyny spotted online does fall under the rubric of hate speech. Platforms such as Twitter are used for strategic political purposes by the government, and are often overrun by anti-minority hate speech from private and public actors alike. However, platforms have not taken adequate action against the abusers, instead allowing them to continue to perpetuate hate speech with impunity. Further, verbal and image based gender abuse online is often not perceived as violence by institutional actors.



*Shehla Rashid*

Hate speech is not a matter of speech alone. In some cases it must be counted as action that is violent. The Brandenburg test from the US states that a speech act is not protected if the speaker intends to incite a violation of the law that is both imminent and likely. The test does not, however, acknowledge the psychological aspect of violent speech. Jeremy Warren sought to capture this through the concept of 'group defamation' which impairs the ability of the community to participate fully in public life. Gender based hate speech curtails participation of women in public life as full citizens. Another limitation of the Brandenburg test is that words have to *lead* to violence. The words themselves are not considered violent. Sometimes, speech can be violence in itself. For

example, asking for sexual favors at the workplace is sexual harassment, even if it is not followed up by action.

Speech acts are treated very differently from physical acts where in there is no separation of action and consequence. However, J.L Austin recognizes that there may be speech acts where the very utterance performs the action that it describes; for example, a judge sentencing a man to death. He terms such speech acts 'illocutionary acts'. In the Indian context, the Scheduled Castes and Tribes (Prevention of Atrocities) Act is one of the few legislations that recognizes hate speech as violative action. The Act construes caste as the basis of structural subordination of entire groups, with extreme power imbalances between groups.

Hate speech provisions in the Indian Penal Code (IPC), however, take a horizontal approach to communities and assume a flat social structure where there are no power differences between majority and minority communities. Restrictions on hate speech should not be seen as a derogation of free expression but as enabling provisions. We thus need a better defined hate speech provision that responds to gender and sexual discrimination. The law must also, however, set adequate thresholds to prevent its frivolous use.

## Gender-based cyber violence as real violence

*Justice Prabha Sridevan (retd.), Madras High Court, Chennai*



*Justice Prabha Sridevan*

The law and its officers are stuck in the 'physical', and the instinct in cases of violence is to focus on identifying physical injury. However, the logic of cyberspace is different from the real world, and hence, laws of the cyber world must be different from the real world. The cyber world can be oppressive and exclusionary. The digital is intimidating, but it is so entrenched in our lives that we cannot abandon it. Essentializing violence as a problem of urban, educated women is a convenient reductionism by officials to

evade responsibility for providing effective redress to gender-based cyber violence.

Most laws focus on punishment or protection but not prevention. However, it is 'prevention' that is the crux of state recognition of rights. When a woman makes a complaint of violence, it is a violation of her right that is being reported. And so the law must use language that forces officers of the law to acknowledge the inviolability of the right to dignity. Harm must be understood as an affront to dignity.

## Open discussion

Before throwing open the floor for discussion, Lakshmi Lingam, chairing the session, made a few concluding observations.

The continuous interspersing of what happens online with what is happening offline and the difficulty in keeping these worlds apart needs to be interrogated, especially when they are posed together to the detriment of women. Image-based evidence of an amicable offline relationship may be used to counter women's claims of abuse.



Lakshmi Lingam

## Comments from the floor

1. The Cartesian mindset we have inherited from our colonizers has programmed us to make false dichotomies between physical and emotional harm. Within traditional knowledge systems, there are theorizations that break away from this, and perhaps laws on speech harms can borrow from such homegrown concepts.
2. We need more research on regional and linguistic specificities of gender-based cyber violence within India.
3. The divide between feminist activists who predominantly engage with online spaces and those who are predominantly offline must be bridged. Building empathetic communities where solidarities can be formed is an important task. Such networking is essential if feminists want to be effective. The naive belief that activism on the Internet alone will lead to effective justice needs to be re-evaluated. The #metoo movement and its fallout in India in the form of '[the list](#)' of academics accused of sexual harassment has its strengths and weaknesses, and we must acknowledge both. It did trigger introspection within the feminist community on entitlement. The democratization and feminisation of the Internet means every issue is challenged, debated and resolved.
4. Gender-based cyber violence needs more than legal responses. A host of efforts are required from Internet intermediaries, educational institutes and workplaces. Sustained political conversation on the issue is necessary.

## Session 2. Cartographies of the online: Revisiting locations and intersections

*The session explored the relationship between social identity and location, and experiences of the online. In particular, it focused on how hegemonic digital cultures normalize sexism, misogyny, and*

*gender based violence, making it difficult for individuals attempting to mount a challenge to status-quoist gender orders.*

### **Speakers**

Ranu Tomar, School of Media and Communication, Jagran Lakecity University, Bhopal

Aalen Issac, Karmaveer Bhaurao Patil College, Mumbai

Archana Kaware, TISS, Mumbai

Asaf Ali Lone, Independent researcher and Saumya Bhandari, Ahmedabad University

### **Chair**

Bishakha Datta, Point of View, Mumbai

### **Hindi print women journalists' experiences of misogynistic virtual space**

*Ranu Tomar, School of Media and Communication, Jagran Lakecity University, Bhopal*



*Ranu Tomar*

Ranu's paper was based on interviews with women journalists in Madhya Pradesh, central India. The research revealed that the power structures operating in the offline world prevent women from tapping into the opportunities offered by the digital. Unequal gender power relations offline are reinforced online. Even though news has traveled online, most women journalists in Madhya Pradesh continue to carry out their work predominantly offline. When women journalists are visible online, they receive threatening messages, and when they try to make a formal complaint, institutional mechanisms refuse to acknowledge the violence.

Although Hindi is celebrated as a national language, research on the lived experiences of journalists working in Hindi print media is missing, and so experiential narratives became primary sources. Many journalists were afraid of being on social media, despite having spent many years in the profession. The ease of actualizing 'revenge' on virtual spaces has led many of the women journalists to avoid being present there altogether.



## **Reinforcement of sexism through Memes**

*Aalen Issac, Karmaveer Bhaurao Patil College, Mumbai*

Memes are a popular method of humor online. A meme acts as a unit for carrying cultural ideas, symbols, or practices. Memes are the cultural analogue to genes in that they self-replicate, mutate, and respond to selective pressures. Humor reflects social perceptions, including sexism. Hence, in order to further explore the connection between popular humor online and sexism in the Indian context, as part of the research for the paper presented, a survey was conducted in which participants' reactions to sexist memes were gauged through a specific set of questions to five chosen memes. The survey covered 146 participants across age groups, of whom 48% identified as male, 48% as female, and the rest 4% chose not to disclose their gender identity. It was observed that only when memes are explicitly sexual are they seen as sexist. Memes which are gender-discriminatory and contain disparaging remarks are not likely to be perceived as sexist. Further, it is largely men who refuse to accept that certain memes are sexist. The survey revealed that the element of humor often lets people gloss over the sexism that these memes exhibit.



*Aalen Issac*

## **Gender, caste and technology in Maratha Kranti (Muk) Morcha**

*Archana Kaware, TISS, Mumbai*



*Archana Kaware*

*Maratha Kranti (Muk) Morcha* was a political movement that emerged in 2016, in response to the rape and murder of a 14-year-old girl from a dominant caste – the *Marathas* – in the state of Maharashtra. The protests were widely covered by mainstream media. Social media and messaging platforms proved central to the mobilization of support as they were widely used to disseminate news, video clips and messages.

While the protests initially focused on the demand for speedy justice for the 'rape victim', it soon expanded in scope to cover a range of demands for restoring Maratha caste pride: particularly the dilution of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act etc.

While young women and girls became the face of the protest, and their speeches were often forwarded on WhatsApp, their involvement was only superficial, and they played no active part in

the mobilization of protests. In fact, since these women and girls had only limited access to mobile phones and the Internet, they did not have any agency over how their images were being used and politicized.

### **Mapping gender-based violence through ‘gendertrolling’**

*Asaf Ali Lone, Independent Researcher and Saumya Bhandari, Research Assistant, Ahmedabad University, Ahmedabad*

Gender trolling is the extension of real world misogyny to online spaces. To understand gender-trolling, one needs to understand the architecture and nature of the Internet and social media and how they become the apparatus of subjection, surveillance and censorship. Social media are techno-social systems that lie at the intersection of technological infrastructure and human interaction.



*Saumya Bhandari*

Trolls are characterized by three main factors - one, creating and defining the victim; two, exercising power and dominance by being rude and threatening; and thirdly, hunting in packs. Gender trolling is oftentimes carried out by multiple people simultaneously operating in a concerted fashion to hound their target, usually women who are seen as opinionated in online spaces. This is indicative of widespread misogyny.

Identity is central to the act of trolling. This was observed in the case of Sujatha Surepally, a dalit activist, whose caste identity was constantly invoked by her trolls. In another case, a transgender activist was added to a WhatsApp group and mercilessly abused on it. Through cases like this, the ideological mindset of the troll - a masculinized, patriarchal fundamentalist, professing an abiding fixation with women's morality - becomes evident.

### **Open discussion**



*Bishakha Datta*

The chair, Bishakha Datta, shared some reflections before opening up the floor for discussion.

- Women who face gender-based cyber violence experience a sense of powerlessness when they are not able to effectively articulate feminist language and stand up to the abuse.



- Structures of patriarchy arising and establishing in the online blur the distinction between the real and virtual. But at the same time, the online induces a dis-inhibition that permits people to act out violence relatively easily in a manner not observed in offline spaces.
- The link between anonymity and violence needs to be examined closely before it is seen as enhancing online violence.

### Comments from the floor

There was a question from the floor on whether the sharing of memes is connected to the structure of the platform where the sharing happens. Aalen Issac responded that memes are usually shared on social media platforms. So their reach is influenced by the popularity of the platform. While it is true that memes may seem ephemeral, this is canceled out by the viral, and hence extensive, circulation and re-circulation on the Internet. One participant reflected that when we undertake to do cartographies of the online, one of the locations that is often missed is that of digital janitors or the women in charge of filtering out images from platforms. In thinking of feminist frameworks, violence at the front-end and what goes on at the technological back-end must both be accounted for.

### Session 3 (Part 1). Laws and law enforcement: Caught between old rights, new violations?

*In India, the legal provisions that can be invoked in cases of gender-based cyber violence fall under two main laws: the Indian Penal Code and the Information Technology Act. The Indian Penal Code is a pre-digital law steeped in paternalism and moral censorship, with an inadequate grasp of the new manifestations of gender-based violence. As a business-oriented law, the Information Technology Act is gender neutral and marred by a piecemeal approach to gender-based violence. Through an examination of case histories and a critical reading of specific sections of these laws, this two-part session demonstrated challenges for law and law enforcement in ensuring access to justice for victims of gender-based cyber violence.*

## Speakers

Anu Swaraj and Nargees Basheer , National University of Advanced Legal Studies, Kochi

Amrita Vasudevan, IT for Change, Bengaluru

Srijan Sandip Mandal and Sreeparna Chattopadhyay, Srishti Institute of Art, Design and Technology, Bengaluru

## Chair

Justice Prabha Sridevan (retd.), Madras High Court, Chennai

## Unpacking case histories from counselling centres and cyber crime cells

*Anu Swaraj and Nargees Basheer, National University of Advanced Legal Studies, Kochi*

Through three case studies of gender-based cyber violence, the paper presented an analysis of how things play out for women victims of gender-based cyber violence who approach law enforcement agencies. The first case was that of a young woman whose ex-partner threatened to publish photos of them together, when she entered the movie industry. He then proceeded to post the photographs online, without her consent. The next case was that of an actress who called out a veteran male actor for misogynistic dialogues in a movie. She was then trolled and abused online, and even received rape threats. The third case involved the morphing and subsequent online sharing of the photograph of a woman who had participated in a political march.



*Nargees Basheer(L), Anu Swaraj(R)*

These three women cited stigma and reservations from family as a deterrent in filing a formal complaint. In the cases of morphing and ‘revenge-pornography’ examined by the paper, the women who were targeted were viewed as instigators of the violence, who had ‘invited it upon themselves’. Interviews with law enforcement officials revealed that the police are largely unaware of cyber-laws. Police officials feel that harm is more observable where the offense is manifestly physical and are more willing to investigate offenses with material consequences as evidence gathering is easier.

To improve access to justice in cases of gender-based cyber violence, the paper recommended setting up special investigative teams, introducing online filing of First Information Reports,

establishing special courts, appointing government pleaders who exclusively attend to cyber crimes and making some cyber offenses non-bailable.

### Law enforcement agencies' perceptions of gender-based cyber violence: An ethnographic exploration of Bengaluru city cyber police

*Amrita Vasudevan, IT for Change, Bengaluru*



*Amrita Vasudevan*

There is a need to unpack how law enforcement agencies react to technology and technology mediated gender-based violence in order to devise an effective strategy for better enforcement. In IT for Change's ethnographic study of cyber cells in the city of Bengaluru, it was found that law enforcement officials stress the need for women's self-policing in digital spaces. They also indicate a preference for adopting platform-provided solutions and advise victims to use measures such as blocking abusive Facebook/ WhatsApp contacts or phone numbers.

While those who report financial fraud were seen as genuine victims, those who report gender-based cyber violence (such as non-consensual circulation of intimate images) were seen as "victims of their own lack of common sense". The perception of technology as an equalizer between men and women was used to brush off the severe underreporting of gender-based cyber violence seen in official crime records. Some police officials also felt that the IPC cannot be invoked for cyber crimes "as it applies only when the body is implicated". This view is based on an assumption that the cyber is not about the real. Given that the Information Technology Act (IT Act) does not cover certain actions like secondary dissemination of intimate images, case registration by the police often ends up as a function of the perceptions of individual police officials and their proclivities for creative application of the IPC to cyber crimes.

It may be true that both the IPC and the IT Act have become more progressive after recent amendments that locate the crux of criminality in the violation of consent. However, even consent needs to be problematized, since limits on circulation and re-use are impossible to fix in cyber space.

A difficulty that often crops up in the prosecution of perpetrators of gender-based cyber violence is the production of digital evidence. Victims are often afraid to hand over personal devices for evidence collection, fearing uncontrolled exposure of personal information to law enforcement. Another hurdle in recovering evidence is that platforms like Facebook and WhatsApp do not

always cooperate with law enforcement agencies, claiming that they lie outside the jurisdiction of the courts. If digital evidence is not collected carefully, it is disallowed from being produced in court. In this regard, it becomes extremely important to draw up guidelines for the collection of digital evidence to maintain its integrity so that it is produceable in court.

### **Digital misogyny as hate speech: Exploring legal implications**

*Srijan Sandip Mandal and Sreeparna Chattopadhyay, Srishti Institute of Art, Design and Technology, Bengaluru*

Digital misogyny represents a continuum of offline violence spilling over to online spaces. [A study by Amnesty International](#) on the effect of gender-based cyber violence on women observes a chilling effect, with 76% of women surveyed and who had experienced gender-based cyber violence changing the way they used social media post the incident.



*Srijan Sandip Mandal (L),  
Sreeparna Chattopadhyay (R)*

The Indian legal system currently does not recognize gender-based hate speech. Even international instruments such as the International Covenant on Civil and Political Rights do not recognize gender as a ground for hate speech. It was only in 2015 that the European Commission against Racism and Intolerance recognized sex, gender, sexual orientation and gender identity as grounds for hate speech.

The Law Commission of India and the T. K. Viswanathan expert committee were set up in 2017 to make recommendations on criminalizing hate speech, including online manifestations of hate speech. In their recommendation, both entities propose alternate language for the hate speech section that recognize sex, gender identity and sexual orientation as legitimate grounds for hate speech. However, the wording of the alternate section is very vague. Further, it borders on what may be unconstitutional with regard to online speech, going by the precedent set by *Shreya Singhal vs. Union of India*. Further the expert committee also chose to incorporate the standard of 'incitement of offense', a much lower threshold for hate speech compare to 'incitement of violence'.

There is a need to move away from colonial framings of the law that subjugates the citizen, to an acknowledgment of hate speech as discrimination. This delimitation is necessary in order to correctly identify and capture what constitutes hate speech.

### **Open discussion**

Justice Prabha Sridevan synthesized the key threads from speaker presentations and brought together reflections around strengthening legal responses to gender-based cyber violence and building capacities of law enforcement officials.

- The law has been largely androcentric and women's perspectives have hardly ever been the determinant of statutes, even those legislations which are obviously women-centric. The aim should be for a gender equal, not merely, a gender neutral, law. Opponents of gender equality use gender neutral laws to further a fallacy that the law treats everyone equally.
- The police may be unaware of legal provisions, but they also do not wholly understand cyberspace or its dangers.
- There have been landmark judgments around consent and violence against women in India. We have come a long way from the *Mathura* case, which presumed consent when there were no signs of resistance, to *Farooqui*, which dealt with continuity of consent once given. In the case of the digital, where there is uncontrolled dissemination of information, a legal framework that presumes intention or *mens rea* could perhaps be justified given the nature of the medium. Each time that a non-consensual image of a woman is shared, there is a fresh act that infringes upon her right. A new jurisprudence for the digital is required that does not impinge on fundamental rights. One must also remember that the more detailed a statute is the more rigid it becomes and so escaping liability is also easier. Similarly, having more criminal laws may not be the answer in a country where the judicial system is not effective.

### Comments from the floor

1. In Denmark, in an instance where a private video was shared multiple times without consent, based on a case filed by the woman who was affected, a thousand teenagers were arrested for sharing the clip. The woman now feels that more harm than good has been done by such arrests, as it led to considerable public attention. This case exhorts reflection on what should be the limits of 'culpability' and standards of 'due diligence' imposed by the law to ensure that justice is served to the woman. It is important for the law to be able to limit culpability to a rational point, but it is also important that knowledge of consent be active as well as constructive. This standard of due diligence can ensure that images are not forwarded casually, and at the same time de-limit persons upon whom such an obligation may fall so that we do not end up in a situation where a thousand people are arrested.
2. Through mergers and acquisitions, digital platforms are becoming monopolistic and powerful, but their accountability is limited. India is in the midst of addressing this vexatious issue of platform liability, especially in cases of gender-based cyber violence.

In the *Sabu Mathew* case on pre-natal and pre-conception sex determination advertising and in *Re: Prajwala Letter* on circulation of videos of rape online, the Supreme Court held platform intermediaries such as Google, Facebook etc liable for setting up pre-filtering mechanisms for such manifestly unlawful content. In the latter case, the court has also established a committee with private sector and state representatives to make recommendations as to how violent and discriminatory content can be taken down.

3. Making all offenses non-bailable may not be the best way forward, in a country that has a low threshold for punishing dissent.

### **Session 3 (Part 2). Laws and law enforcement: Caught between old rights, new violations?**

#### **Speakers**

Tahmina Rahman and Zakir Uzzaman Khan, Article 19, Bangladesh

Molly Ghosh, Barrackpore Rastraguru Surendranath College, Barrackpore

Smita Vanniyar, Point of View, Mumbai

B. Radha, Manonmaniam Sundaranar University, Tirunelveli

#### **Chair**

Kiruba Munuswamy, Advocate, Supreme Court of India, New Delhi

## **Legal-institutional responses to gender-based cyber violence: Insights from the Bangladesh experience**

*Tahmina Rahman and Zakir Uzzaman Khan, Article 19, Bangladesh*



*Zakir Uzzaman Khan*

According to available statistics, 73% of the women online in Bangladesh have experienced some form of violence. Internationally, it has been well-established that offline rights must be respected online as well. The United Nations General Assembly resolution (2013) on women human rights defenders acknowledges that tech-mediated violence is a growing concern and is a manifestation of gender based discrimination. In Bangladesh, there are a number of laws that deal with violence against women. Though the majority of these legal provisions do not directly deal with online violence,

the judiciary, however, has acted with foresight.

The Supreme Court of Bangladesh has established guidelines on sexual harassment in the workplace and educational institutions. These guidelines recognize certain forms of technology-mediated violence against women. Nevertheless, there are glaring gaps in the law that must be addressed. For example, non-consensual circulation of sexual images in Bangladesh is very common, but there is no legal provision that directly criminalizes it. There are also no laws on cyberbullying and cyberstalking. There have been proposals to include technology-mediated violence against women in the proposed Digital Security Act, but this has not been accepted.

A greater awareness on the court's guidelines on sexual harassment and guidelines on the issue of online sexual harassment are much needed. Further, the Evidence Act must be amended to include the production of digital evidence in court, which will go a long way in ensuring access to justice for victims of gender-based cyber violence.

## **Introspecting the gaps between cyber crimes against women and laws: A study of West Bengal**

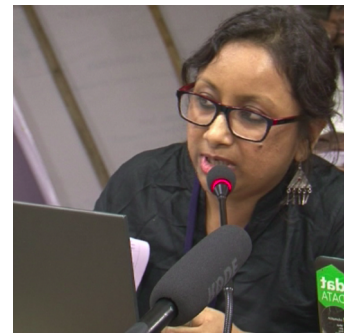
*Molly Ghosh, Barrackpore Rastraguru Surendranath College, Barrackpore*

In the paper presented, Molly, draws upon primary research in West Bengal on the response of law enforcement officials to cases of gender-based cyber violence. On-ground interviews reveal that the usual advice provided by police officials to a complainant is to block and ignore the abuser instead of pursuing the case. Police officials find recovering evidence cumbersome, if the abuse takes place on a platform like Facebook and so citing lack of evidence, the police close the case.



Many a time, instead of filing a First Information Report that needs to be followed up by investigation, police are found to make only general diary entries.

National Crime Records Bureau statistics reveal that from 2011-2016, the state of West Bengal has recorded an improvement in the reporting of cyber crimes. However, these numbers are still very insignificant. Further, cyber crimes against women form a minuscule percentage of the total cyber crimes reported. Only six cases were filed under Section 66E of the IT Act, which deals with voyeurism and surreptitious capture, publication, or transmission of intimate images. There are only five cyber crime police stations for the whole of West Bengal and so, cyber crimes are usually filed in general police stations.



*Molly Ghosh*

The law itself is limited. For instance, Section 66E of the IT Act only deals with bodily privacy. There is no recognition of informational privacy. Hence, the law does not cover cases where a women's mobile number is posted on WhatsApp groups or on pornographic sites with the intention of harassing her.

### **Guavas and genitals: A research study on Section 67 of the IT Act**

*Smita Vanniyar, Point of View, Mumbai*



*Smita Vanniyar*

Section 67 of the IT Act is an anti-obscenity law, which prohibits the publishing, transmission or dissemination of lascivious material which can deprave or corrupt. In analyzing media reports on Section 67A, it is observed that crimes that are actually a violation of consent are often filed instead as crimes of obscenity. For example, distribution of videos of rape is a violation of consent at multiple levels. But such cases tend to be filed under the anti-obscenity provision – Section 67A of the IT Act – rather than consent-based provisions, as in

Section 66E of the IT Act.

Section 66E is one of the least used Sections of the IT Act. Similar observations hold with respect to instances of circulation of intimate images without the consent of the victim. Other cases that are not legally recognized as violation of consent but are indeed consent violations such as morphing or the transmission of sexually explicit images or text without the receiver's consent, are also being



filed under anti-obscenity provisions. Section 67A is also slapped against people exchanging consensual sexual content.

Just as Section 66A of the IT Act was misused, Section 67A is now being used to criminalize political and artistic speech, even when there is no obscenity involved. In some situations, Section 67A is being used to book online harassment. While this may be seen as a positive use of the Section, it is also problematic because it creates a hierarchy of harassment in which sexual harassment ranks higher than other kinds of harassment.

### **Gendered discourse: Technology mediated violence and women students**

*B. Radha, Manonmaniam Sundaranar University, Tirunelveli*

Students' access to Information and Communication Technologies (ICTs) is progressively increasing. In the state of Tamil Nadu, the government has initiated a scheme to give students free laptops, which has contributed to this increase. Students also want to spend money to access the Internet, which is used for a variety of purposes including communication, self-expression, seeking information etc. Families feel a loss of control and are threatened by use of mobile phones by adolescents.



*B. Radha*

With respect to violence online, it usually occurs through the mobile phone or social media. Threats online can have severe psychological impact on female students who tend to become withdrawn, not being able to share such incidents with or seek support from their parents. Colleges lack supportive complaints mechanisms. Female students who face violence via social media sites sometimes leave the platform altogether. In these cases, neither the victim nor the perpetrator are aware of any legal provisions. Gender sensitization at a mass level is required so that women are able to participate in public spaces online and these are not usurped by men alone.

## Open discussion



*Kiruba Munuswamy*

The chair, Kiruba Munuswamy, pointed out that pinning down jurisdiction and consequently designating the state police in charge of investigation is complicated in the case of cyber crimes, as perpetrator and victim may be in different locations. Women are forced to shuttle between states just to get their complaints registered. With Section 66A of the IT Act struck out from the statute books, police are refusing to file complaints of online abuse altogether.

While speaking of gender-based cyber violence, experiences of those facing intersectional discrimination, such as dalit women, must be accounted. Police have, in certain instances, refused to file cases of gender-based cyber violence that involve a caste dimension, under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act. Sensitization and training of law enforcement in cyber violence agencies is extremely important.

## Comments from the floor

1. Police officials have been very selective in enforcing the law. In most cases of gender-based cyber violence, they ask the complainant to pursue the platform to take down content, whereas with respect to political dissent, they often take action even before a complaint is filed.
2. Even though Section 66E of the IT Act is a consent based provision, it is not multilayered, as there is an automatic conflation of capture and dissemination. This Section covers only situations where no consent was given for filming. It however does not cover cases where consensually filmed content is shared without consent. In these cases, the police may choose instead to apply section 67A of the IT Act, in order to get a conviction.
3. Law enforcement officials are usually well acquainted with Section 67 of the IT Act, but section 66E of the IT Act is so disregarded that police officials are not able to recall it. In such a situation, when it comes to filing a First Information Report, the former section is more likely to be applied.
4. Practicing lawyers have observed that digital evidence has actually shrunk the space for argumentation, and often ends up stalling cases where evidence does not meet the standards set by the Evidence Act.
5. Many schools across the country choose to ban the use of mobile on premises rather than work with students towards positive use. This constant supervision of students forces them to use technology surreptitiously, away from prying eyes.

## **Session 4. Taking positions within and vis-a-vis institutions: interpreting the law, negotiating the law**

*The session explored due process and critical feminist conversations on gender-based cyber violence with institutional actors and student communities. Challenges to, as well as opportunities for, rights and justice were highlighted, and transformative potential for conversations across institutions explored.*

### **Speakers**

Veena Gowda, Advocate, Bombay High Court, Mumbai

Trupti Panchal, Special Cell for Women and Children, Mumbai

Karuna Nundy, Advocate, Supreme Court of India, New Delhi

Shewli Kumar, Gender Amity Committee, TISS, Mumbai

Ditilekha Sharma, TISS Queer Collective

### **Chair**

Asha Achuthan, Advanced Centre for Women's Studies, TISS, Mumbai

## **Existing legal-institutional frameworks on sexual harassment: Are they effectively addressing gender-based cyber violence?**

*Veena Gowda, Advocate, Bombay High Court, Mumbai*

The jurisprudence on sexual harassment has developed from two important locations – the workplace and educational institutions. In this regard, Internal Complaints Committees (ICC) mandated by the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 play a very important role as dispensers of justice. By and large, the law is yet to develop an imagination of gender-based violence mediated through technology. In moving towards such an imagination, law should be more general, as this allows us to dialogue with the law through interpretations. Even if law is rigid,



Veena Gowda

officers and practitioners of law must approach it with a sense of fluidity. The definition of sexual harassment in the Sexual Harassment Act and in Section 354A of the IPC covers any conduct of a sexual nature, whether direct or indirect, that is unwelcome by women. It includes verbal, non-verbal and physical acts, and is wide enough to apply to cases of gender-based cyber violence. The use of the phrase 'unwelcome' refers to non-consensual acts, but also shifts the focus to the subjective experience of violence by women. The sexual harassment law, however, is limited to harassment that is sexual in nature, and does not apply to other forms of gender discrimination that result in harassment.

The due process of law must be preserved to ensure a fair trial. For example, in the case of sexual harassment – where there may be no witnesses – the statement of the woman concerned is very important and carries a lot of weightage. But at the same time, her statement should be open to examination and scrutiny and the ICC may also seek corroborative evidence. The burden of procuring digital evidence should not be placed on the complainant alone and the ICC should exercise the option of approaching cyber experts when necessary.

### **Institutional responses to gender-based cyber violence: Reflections from the experiences of the Special Cell for Women and Children, Mumbai**

*Trupti Panchal, Special Cell for Women and Children, Mumbai*



*Trupti Panchal*

300 police stations across the country house Special Cells for Women and Children. In the case of the Mumbai Special Cell, of late, most cases involve some element of technology. The digital context is throwing up many issues within the family and outside it, and women are coming forward to seek redress before the Special Cell. Most of these cases of cyber violence fall through at the pre-litigation phase. Not many complaints filed actually proceed to a trial before court.

Control is exercised over women's access to and use of technology, and control over women is exercised through the use of technology. The Special Cell has seen many cases of intimate partner abuse mediated through technology. Women have been reluctant to complain in such cases as they fear adverse repercussions. For example, when the ex-partner publishes intimate pictures online the woman may worry that if she approaches the police the picture would be sent to her family. The recourse to IT Act is made even more difficult because most women delete contentious material.

While safety is extremely important in cyberspace, it cannot be reduced to an app-based solution or police help lines, neither of which is very effective.

## **Gender-based cyber violence: Progressive judgments and legal amendments need to be built upon**

*Karuna Nundy, Advocate, Supreme Court of India, New Delhi*

The cases of gender-based cyber violence that are addressed institutionally are really the tip of the iceberg. Some forms of gender-based violence, like marital rape, are not even recognized by the law. Thus, the cases of gender-based violence that do enter the judicial system are minuscule. It is important to remember, however, that there are progressive judgments – on questions of constitutional law – that are being delivered by the higher judiciary. The *Puttaswamy* judgment that upheld the right to privacy said that the right includes sexual autonomy, bodily integrity, and the right to reproductive choice.

In the 2013 amendment of criminal laws, one important provision was Section 166A of the IPC, which makes it mandatory for police officers to file a First Information Report in certain kinds of crimes. If they refuse to register a case, they can be held liable. Further, First Information Reports for cognizable offenses have to be registered ([Lalita Kumari v. Govt. of U.P.](#)). If we look at the IT Act, even though the anti-obscenity offenses are hugely problematic (Sections 67 and 67A), since they are cognizable and non-bailable, on an individual level they can bring much-needed relief.

## **Gender-based cyber violence in university spaces: Challenges for Internal Complaints Committees**

*Shewli Kumar, Gender Amity Committee, TISS, Mumbai*

The digital space is very real. It is also very public, despite the popular narrative of anonymity that usually accompanies it. Sexism is inherited from the offline, but takes new forms in the digital. The experience of the Internet Complaints Committees (ICCs) has been that women facing gender-based cyber violence need extensive handholding and support even before they can be persuaded to make a formal complaint. Sometimes, they may require counseling for even up to six months.



*Shewli Kumar*

The University Grants Commission (UGC) has issued guidelines that prescribe ICCs to appoint a student representative. In TISS, this has been followed. And the experience of the TISS ICC has been that many a time, cases come up only because of the efforts of the student representative who the student-complainant feels comfortable confiding in.

Unless a complaint is made to the ICC - that is, consent is given by the woman – due process cannot begin. Post-complaint, the ICC must take the effort to provide redress to the victim.

While the UGC has also said that the ICC has to take complaints made by individuals from gender discriminated locations, it has not laid down any guidelines in this regard. While the mandate of the ICC is prescribed by the law, to ensure full justice, it may have to go above and beyond such mandate. But this depends on the level of motivation of the individual members of the ICC.

## **Incorporating concerns of the queer community in designing institutional responses to gender-based cyber violence**

*Ditilekha Sharma, TISS Queer Collective*



*Ditilekha Sharma*

The queer collective has tried to push conversations on violence beyond the gender binary. For a person from the LGBTQI community, the Internet has been the primary source of information. The anonymity that the Internet provides has allowed explorations on gender and sexuality away from surveillance by family and society. It is extremely difficult to separate the virtual world from the real world, especially when you live as your 'real self' in the virtual world, which is perceived to be a safer space. This fluidity between the worlds has

many implications for consent. For instance, does sharing a particular piece of information online imply consent to sharing it offline?; or again, is participating in a dating website an indication of 'availability' offline? In these cases, consent is assumed because of the public nature of the virtual. For someone in the queer community, one of the biggest fears is being outed and so confidentiality has to be constantly stressed upon.

Due process does not account for the concerns of the queer community. In cases of gender-based violence, making a complaint before institutional redress mechanisms becomes difficult for many reasons. Firstly, you are at the risk of outing yourself. Secondly, institutions may ban websites where queer people can meet and/or access queer content. And thirdly, the law in India criminalises homosexuality – and hence by complaining, you put yourself in danger.



User policies of online platforms that stress on the use of ‘real names’ also work against the queer community. When complaints are made against trolling, the first thing that is done is to shut down ‘fake accounts’, which often means alternate accounts set up by persons from the queer community are also taken down. Educational institutions may operate in black and white manner – they may restrict access to YouTube with the intention of blocking access to pornography, but this can also mean that a lot of LGBTQI content that is informative is also filtered out.

## Open discussion

Asha Achuthan, the chair, made the following concluding observations.

- One of the positive outcomes of [‘the list versus due process’](#) debate that happened last year was that it facilitated critical conversations on institutional redress mechanisms and how they can be accessed, at least in some institutions. Further debate and discussion is needed on how due process can respond to concerns of the queer community.



Asha Achuthan

- The interplay of publicness, anonymity and consent is another important point that has been articulated.

## Comments from the floor

1. Heteronormativity is encoded in the law, making it very difficult for even feminist lawyers to break out of the gender binary in the interpretation of the law.
2. India does not yet have an anti-discrimination law. Women have always been constructed by the law from the point of view of violence and victim-hood, and it is time we re-looked at the law.
3. A participant raised a question on the steps that the Women’s Special Cell takes after a complaint is received: *“Does the Cell recommend that the woman approach the police?”*. Trupti Panchal replied that the choice and agency of the women who approach the Special Cell is respected at every step. If she wants to file a police complaint, since the Cell is located within the police station, all support will be provided in this regard. However, in cases of technology-mediated violence, women often delete evidence, making it difficult to put forward an effective case. The Cyber Cell is also not very well-equipped to support with evidence gathering. As technology-mediated violence cases often involve intimate images, complaining to law enforcement would mean sharing these images. This prevents many from approaching law enforcement.

4. There was a question from the floor on whether the term 'hostile work environment' in the sexual harassment law includes discriminatory behavior. Panelists responded that the law actually specifies that the hostile environment must arise from sexual conduct. Therefore, wider acts of gender discrimination may not be supported by the Act. But this should not stop a woman from complaining and testing the court for a wider interpretation.

5. A member of the audience wondered if there is anyway that institutional complaints mechanisms could account for informal structures and solidarities. The panelists responded that:

- Some ICCs have tried to incorporate these informal mechanisms especially by having a student representative and working more closely with the student community through formal and informal conversations.

- There is merit in the formal legal system, because a complaint of sexual harassment can follow the accused through his life and career, and so, natural justice must be followed. But, at the same time, women must be empowered to utilize the process.

6. There was a question from the audience on whether the law on digital evidence can be made less cumbersome. The panel reflected that evidence creation has become much easier with the digital. So, the law and courts have to ensure that the evidence before it is verifiable and credible.

## DAY 2

### **Session 5. Legal ambiguities, cultural dilemmas: Walking the long road to justice for gender-based cyber violence (Talk show format)**

*This session aimed at interrogating what it would take to ensure access to justice for gender-based cyber violence. It was organized in a talk-show format and the discussion was organized around three broad threads:*

*Part 1. Interrogating the space – what makes the digital different?*

*Part 2. Investigating the adequacy of existing legal-institutional responses – how can the law create a supportive environment for assertions of feminist agency online?*

*Part 3. Access to justice – under what conditions can redress mechanisms lead to access to justice?*



**Speakers**

Vidya Reddy, Tulir Center for the Prevention and Healing of Child Sexual Abuse, Chennai

Geeta Ramaseshan, Advocate, Madras High Court, Chennai

Namita Aavriti, GenderIT.org

Nandini Chami, IT for Change, Bengaluru

**Moderator**

Anita Gurumurthy, IT for Change, Bengaluru

The key highlights of the points made by each speaker are provided below

**Debates on gender-based cyber violence are incomplete unless they address children's engagement with the digital**

*Vidya Reddy, Tulir Center for the Prevention and Healing of Child Sexual Abuse, Chennai*

Research in the area of child sexual abuse notes that there is a huge correlation between viewing child pornography and performing contact child sexual abuse. The argument that Indians do not have access to the technology to watch child pornography is incorrect. Almost every case of sexual violence by an adult against a minor dealt with by the Tulir Center has had a technology angle.



Vidya Reddy

What is forgotten in the whole debate on gender-based cyber violence is children's engagement with technology, and how, as digital natives they use and utilize technology to engage with the world. There is very sparse research from India on this topic, except for the one published by UNESCO in 2016.

Young people often look to the Internet for knowledge. Children who explore their sexuality and agency online may also end up discovering that they have experienced abuse. So, with minors, facilitating empowering use of the Internet is an important issue.

Parents usually think of technology as a harbinger of upward mobility, and there is no understanding of how the technology is affecting children's lives. But this does not mean we must

take a protectionist stance on children's use of technology. The law in India presumes minors have no sexual agency. What we need is a law that is protective but not protectionist. And finally, when thinking about cyber violence involving children, we must remember that boys are as vulnerable as girls.

## **To cope with the new challenges of the digital, we need new directions for legal reform**

*Geeta Ramaseshan, Advocate, Madras High Court, Chennai*



*Geeta Ramaseshan*

Unlike physical spaces, there are no warning signs of danger in the virtual spaces. By merely existing online, we make ourselves vulnerable to attack. Knowledge about online safety is also largely absent. Even in cases of cyber financial fraud, where the consequence of the crime is more tangible, investigation is still difficult.

The other difficulty that comes with digital space is jurisdiction. In cases of Internet offenses that involve cross-border crime, there are limits to state sovereignty. In a case involving the sale of Nazi memorabilia on Yahoo, the French court took strict action to block the content and prevent anyone from posting such material because it is recognized as a crime in France. However, when Yahoo appealed before a US court where it is headquartered, the US court held that since selling Nazi memorabilia is not a crime in their jurisdiction, they will not enforce the French court's order.

In thinking of a new law for gender-based cyber violence, existing progressive legal provisions like Section 498A of the IPC, which recognizes mental cruelty to be an offense need to be looked into. The law as seen in section 498A does construct verbal violence in a way that is unencumbered by the issues of 'free expression'. It may also be important to build on case law from matrimonial courts where one often sees gender-based cyber violence play out.

The IT Act is heavily loaded with commercial rights and is not geared to addressing gender-based cyber violence. In the IPC and the IT Act, another problem is the deployment of the obscenity framework. This is problematic because this encourages the use of the public morality yardstick, which could easily be reduced to the idea of majority sentiment.

With respect to digital evidence, previously, it was easy to produce digital evidence in Court. But, it has become much tougher now due to precedents set by the court and amendments in the Evidence Act.

To account for the new set of scenarios that addresses women as a class and the individual woman we need changes in the law. Access to justice needs to be re-imagined to account for the digital, and feminist movement has to also reorient itself.

## **For access to justice, feminists need to move beyond the law**

*Namita Aavriti, GenderIT.org*

The reason we need to discuss why the digital is or isn't different is so that we can analyze whether justice is being delivered or not. From the perspective of law, there are three ways in which the digital space has been understood. One idea that has taken hold is that there is a continuum between the online and the offline. Cyber stalking may often be followed by offline stalking or an act of sexual assault may be



*Namita Aavriti*

recorded on the mobile. This is perhaps a conception that the law finds easier to deal with. The second way to think of the space is to see the real and virtual as separate but parallel - cyber touch is like physical touch and so must not be undermined.

This could have some link to digital humanities, where the cyber world is understood as a prosthetic, and technology is viewed as an extension of the body. The third approach is to think of the cyber space as entirely different from the material world. This brings us to the question of whether words themselves can be violent.

Offenses are currently centered around consent, privacy, modesty and obscenity, and each of these plays out in different ways. Modesty and obscenity frameworks are being invoked in cases where ideally consent and privacy frameworks need to be used. But the irony is that these older, agency-denying frameworks are being infused into new laws. Laws in various Asian countries also tend to resemble each other. So, for example, the law on stalking and voyeurism that we have in India is the same as the one in the Philippines.

There is a difference between law and justice. The former is procedural and delayed and the latter immediate and personal. We must reconcile with the fact that the law will not always lead to justice. In cases of gender-based cyber violence, most women want the infringing material to be taken down as soon as possible. Take-down is controlled more by Internet intermediaries than by states. Facebook has, for example, [used image hashing](#) (a technology initially used to take down child pornography) to remove 'revenge porn' from their platform. By using this technique, every instance of the infringing image can be taken down from the platform. So, reporting will not seem so futile.

The problem, however, remains on other widely used platforms like WhatsApp, where this technology cannot be used. Another problem is that helpful technological improvements remain relatively unknown. Finally, leaving decisions cultural and feminist sensitivities to algorithms does not seem like the best way forward even if backed by human subjectivities, with which Facebook has not had a good track record. Internationally, we do have the Ruggie framework which provides guidelines on how businesses should abide by human rights frameworks. In United Nations debates, there has been a greater recognition of gender-based cyber violence.

It would also be interesting to understand how we can draw from enactments like the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act that build upon the dignity framework.

## **Legal responses to gender-based cyber violence must proceed from an equality-and-dignity standpoint**

*Nandini Chami, IT for Change, Bengaluru*



*Nandini Chami*

In the move from the present narrow framework of legal responses to gender-based cyber violence to one based on dignity and equality, there are a range of issues that need to be addressed. We need an anti-discrimination provision to address generalized misogynistic trolling. The reading of privacy is still very narrow, and mainly focuses on the body, ignoring the need for informational and decisional privacy. The way the body gets implicated in online violence is not captured by a mere speech-and-representation harm, which is the dominant legal approach today. Personhood and bodily integrity is being violated, and the law must recognize that. Further, the law still lacks an understanding of multilayered consent. It assumes that if consent for capture is given, transmission and publication is inevitable.

With respect to consent, the jurisprudence emerging from India has been problematic. The *Farooqui* case, for instance, assesses the availability of consent based on the character of the victim. Where the violence is between known persons, proving non-consent becomes extremely difficult.

Finally, any law on gender-based cyber violence must seek to provide redress not only to the individual woman, but also account for 'women as a class' who are affected by misogynistic and sexist representation.

We need to recraft the law from an equality-and-dignity standpoint. For instance, the Philippines Anti Gender-Based Electronic Violence Bill defines violence to encompass mental, physical and psychological distress or suffering to a woman or member of the LGBT community. It specifically accounts for the need to provide redress in cases where the dignity of an individual is violated because of disparaging remarks about their gender identity.

New Zealand's Harmful Digital Communications Act is a gender neutral legislation that defines harm as serious emotional distress. The Act also has a unique intermediary liability regime where an intermediary will only act as a mediator between the complainant and accused. An independent arbitration mechanism has also been set up under the Act in case the accused wants to contest the charge of harmful communication and does not want to take down content in the first instance. In this way, there is no privatization of censorship.

### Open discussion

In conclusion, Anita Gurumurthy, reflected that there may be some merit to thinking about an entirely new law for gender-based cyber violence. Just like the printing press inspired many new legislations, the digital too merits new legislation. Merely tinkering with existing law may not be sufficient. A complete breakaway from existing categories drawn up by jurisprudence and crafting a new law may be required.



Anita Gurumurthy

### Comments from the floor

1. One of the ways in which theorists of power and technology have spoken of this debate is to flag that power may shift, but always exists. Even if there is an onslaught of a new kind of violence, historical regulation continues to exist. At the same time, we may need to re-examine society and intimate relationships and take stock of how they are changing before we make recommendations as to how we should regulate technology.
2. For children who grow up as digital natives, technology is very much a part of their being. Schools that ban the use of mobiles are often coming from a place of fear and panic and loss of power and control over children. No only is there a need to build trust, but also a need to develop skills in order to equip children navigate the digital.
3. The datafication of the world has collapsed the local and the global. This is another problematic for the law.

4. Consent in the online space acquires some permanence. So it is important to reflect upon how we can introduce some temporal limitations so that we can revoke consent as well. Issues of informed consent in data exchanges also become extremely important. So, if we are extending the notion of the body, how would consent apply to data of the body is critical to discuss.

## **Session 6. Structures of digital technology: The governance quandary**

*From virtual assistants to surveillance gadgets, the rapid onslaught of new digital technologies is reconstituting our social world. This session analyzed how the structures of techno-materiality encode social hierarchies (gender, caste, class, race), contributing to the normalization of gender-based violence. It also reflected upon the issue of the liability of Internet intermediaries such as Facebook, Twitter etc., for acts of gender-based violence perpetrated on their platforms.*

### **Speakers**

Archismita Choudhury, Breakthrough India, New Delhi

Ahmar Afaq, Symbiosis Law School - Hyderabad and Mohd.Imran, Aligarh Muslim University, Murshidabad Centre

Radhika Radhakrishnan, TISS, Mumbai

Ingrid Brudvig, Web Foundation, South Africa

### **Chair**

Kalpana Sharma, Economic and Political Weekly



## **Moving forward: Cyber-misogyny and creating safer spaces online**

*Archismita Choudhury, Breakthrough India, New Delhi*



*Archismita Choudhury*

The online has helped grassroots movements collaborate with one another, empowering feminists from the global South to speak out, and speak to each other. But there are challenges, especially in the form of gender-based cyber violence. Social media banks on virality, and although it can have positive effects, it can also have severe negative effects. Breakthrough India remixed a popular Tamil/Hindi song with a feminist lens which went viral last year. Although many enjoyed the video, the women who starred in the video were at the receiving end of massive amounts of trolling that tended towards cyberbullying. Gender trolling is particularly vitriolic and can involve multiple coordinated attacks. It usually spans a long period, effectively preventing women from participating in public life. Communities of support can be very helpful in coping with trolling.

Breakthrough India has worked on digital codes of conduct in its campaigns with Facebook and Twitter.

## **Sexual violence depicted against women in video games: The effect of virtual world on the real world**

*Ahmar Afaq, Symbiosis Law School - Hyderabad and Mohd.Imran, Aligarh Muslim University, Murshidabad Centre*

In video games, there is a strong sense of identification between the player and the character. Video games have become popular social artifacts with the potential to shape behavior, attitudes and identities of players. Just like pornography, video games can become extremely addictive because they promise instant rewards. Further, the increasing realism employed in these games necessitates a discussion on the violence against women that is often portrayed through them.

Limiting access to such violent video games is fraught with numerous legal challenges. In the US, for example, a California state legislation banning the sale of violent video games to minors without parental consent has been struck down by the Supreme Court for its unconstitutionality. The Supreme Court ruled that just like other media, video games are



*Mohd.Imran*

covered by the First Amendment protection of free speech. Self-regulation through encouraging voluntary rating of games by the video game industry is now being explored.

### **Are smart-device based virtual assistants capable of assisting with gender based violence concerns in India?**

*Radhika Radhakrishnan, TISS, Mumbai*



*Radhika Radhakrishnan*

Radhika Radhakrishnan presented her primary research on the effectiveness of smart device-based virtual assistants in responding to user queries for gender-based violence crisis support, in the Indian context. The responses of five virtual assistants – Siri, Google Now, Bixby, Cortana, and Alexa – to a set of standardized help requests for sexual and cyber violence were evaluated against three criteria:

- 1) recognition of the concern raised by the user
- 2) use of empathetic language in the response, and
- 3) the ability to provide directions to a helpline number

The results were mixed. For sexual violence, only Siri and Alexa were able to provide personalized responses. The other three failed to identify the crisis or their response was incoherent. For cyber violence, none of the virtual assistants even recognized the concerns raised. Gender sensitivity in design is a critical imperative and the priorities of the designers and engineers, and the choices of those who develop these technologies must be scrutinized.

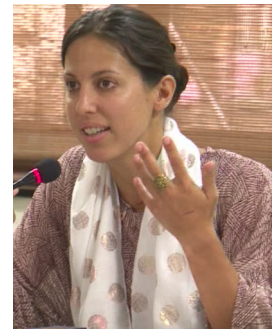
Crisis support mechanisms in India are weak. There is low awareness and victims do not approach support services because of stigma, loss of confidentiality and fear of retaliation. Given the increased penetration of the smart phone, virtual assistants have the potential to aid crisis support. Artificial Intelligence offers techniques that allow virtual assistants to converse with humans, answer questions, make searches etc. Unfortunately, in India, virtual assistants are not able to coherently recognize gender-based violence nor point to resources that can help during crises.



## Technological architectures and the law : A feminist critique

*Ingrid Brudvig, Web Foundation, South Africa*

Technological architectures designed by digital platforms are shaping social structures by encoding social hierarchies through data-based profiling. There is no accountability or transparency in the data they mine from individuals. The artifacts built from that data become the means of manipulating an individual, by nudging her on how to think and act. There are many ethical feminist concerns around such data practices, such as the absence of meaningful consent, the opacity of terms of service, the reproduction of social hierarchies, including that of gender through the use of Artificial Intelligence solutions, the lack of gender by design, and a post-facto 'add-gender-and-stir' approach.



*Ingrid Brudvig*

In the case of online violence against women, we need to think of the accountability mechanisms that are needed to ensure that platforms comply with international human rights standards. It is important that platform intermediaries do not end up resorting to broad or excessive measures that infringe upon freedom of expression or privilege a particular ideological standpoint that reinforces Western bias. Some recommendations for better governance by platforms would include following due process like timely and effective response, putting out transparency reports in cases of gender-base violence they have dealt with and of the action that was taken.

### **Open discussion**



*Kalpana Sharma*

Kalpana Sharma, who chaired the session, raised some key concerns, building upon the presentations, before opening up the floor to the audience.

- We must interrogate why the discourse in online spaces is the way it is, rather than limiting ourselves to saying that new technologies have triggered a violent reaction. In a capitalist economy, what yields profit stays, and if violence against women yields such profit, it will continue to be sold

and consumed.

- Pursuing a technological fix to online gender-based violence maybe a dead end.

### Comments from the floor

1. In early 2017, the Ministry of Information Technology had mandated that all mobile phones should have a built-in panic button connected to GPS. Phone companies, however, contended that they would not be able to recall the mobile phones that were already dispatched for sale. It is important to dialogue with smart phone manufacturers on how they can improve their responses to gender-based violence, and if possible, the research on virtual assistants should be taken to smart phone manufacturers.
2. The educational sector has a role to play in developing awareness around content – such as the viral video games that reach minors. The sector must also input into regulation developed around these video games
3. Safety apps invariably adopt a protectionist, rather than a rights-based approach. With most of these apps, a large amount of personal data – location data, photographs, contacts etc – are being handed to the company, making them honey-pots for hacking.

### Session 7. Cyber-feminism and digital activism: New frontiers in theory and practice

*This session deliberated upon what a cyber-feminist praxis can offer in terms of reclaiming the emancipatory potential of the Internet for feminism. Some key questions that it discussed , includes: What lessons can we learn from older feminist movements in approaching the digital? What are some subversive practices currently at play in online spaces that can help us trouble gender hierarchies?*

### Speakers

Lakshmi Lingam, Isha Bhallamudi and Neomi Rao, School of Media and Cultural Studies, TISS, Mumbai

Shreya Sen, Nazdeek, New Delhi

Shreya Sethuraman, Independent Researcher, New Delhi

Dyuti Jha, Center for Health Research Development, New Delhi

## Chair

Niranjana. P, Independent Researcher, Mumbai

### Why loiter? Women claiming online public spaces

*Lakshmi Lingam, Isha Bhallamudi and Neomi Rao, School of Media and Cultural Studies, TISS, Mumbai*

Within a context where public spaces are being contested by women, the act of *loitering* disrupts gender norms by creating alternate discourses on women's access to public spaces. Loitering enforces visibility as opposed to anonymity and invisibility. It is the right to be in a space rather than seek protection. This approach is very different from that of seeking support and safety for women. Loitering challenges patriarchal norms. If we view young people's smart phone use through the prism of 'loitering', it helps us appreciate the inadequacies of the mainstream discourse on gender-based cyber violence. Most media narratives on the issue engage in scare mongering. Examining existing academic literature and research studies commissioned by cellphone companies, one can see that they are mostly geared towards assessing the risks involved in the use of cellphones or identifying strategies to minimize risk of violence. What dominates the mainstream discourse is moral panic centered around women and girls and their sexuality. Very few papers look at the positive opportunities that mobile phones and the Internet hold for women. Further, women are never portrayed as informed consumers, but as eternally vulnerable subjects. Consequently, the focus is always on safety and dangers of the Internet. Such protectionist attitudes restrict women's access and thwart their explorations of the Internet. We must move away from protectionism towards rights, in order to reclaim online spaces.



*Isha Bhallamudi*

### Internet as a new feminist frontier

*Shreya Sen, Nazdeek, New Delhi*

There was a time when social media feminist activism was considered 'slacktivism'. However, working on the Internet has allowed for international outreach. The Internet has opened up spaces for feminists from across the world to speak to one another. It has enabled a shift from high level



Shreya Sen

politics and theoretical engagement to more localized, informal politics aimed at introspection and reflection.

We have come a long way from the early days of feminist activism online. As feminist spaces online grew more popular, protocols were developed for group interaction. There was a growing realization amongst feminist communities that “Facebook had a real misogyny problem” allowing many pro-rape pages to exist. Taking an extremely liberal stance on free speech,

the platform refused to take any action against these pages, even as it continued to arbitrarily take down many feminist pages for purported violations of content standards.

The feminist movement learned to respond to this quandary, by building empathetic connections to deal with the trolls and uncooperative platforms. This was helpful for a while, but soon activists were burnt out fighting troll after troll, and driven out of online platforms by very real threats.

Twitter and Facebook are, at the end of the day, large mass media organizations that tend to be statist. It is because of feminist activism conducted on these platforms that they are currently somewhat accountable. But Internet activism still depends on virality and only selective, ‘global’ issues can go viral. Accessibility is still a dividing force, and until all feminists can be online, we cannot feminist-ise online spaces.

Internet activism can also destabilizes institutional mechanisms, sometimes making them redundant. This has caused some tensions with older feminist movements who fought for institutional accountability. But the Internet does have a lot to offer; more than ever we can produce knowledge, and create language and develop shared values.

### **How contemporary female graphic artists are addressing patriarchy**

*Shreya Sethuraman, Independent Researcher, New Delhi*

It has been very encouraging to see many female graphic artists engage with feminism in online spaces. For many of them, the 2012 Delhi gang rape was a defining moment in determining their strategies of online engagement. The emergence of each feminist art space has been an encouragement to others to step out and express themselves. Artists engage with a range of themes, from gender-based violence, women’s daily lives, to how women consume the Internet. Their art is topical and often call out everyday patriarchy.



Shreya Sethuraman

The extent of influence that most female graphic artists have is limited. Firstly, the fact that they predominately publish work online limits their reach in a context when online access is limited. Secondly, most of their work is in English. Because of misogynistic trolls, artists are also afraid of putting out their feminist art online.

[Debate, Dissent Zindabad! \(?\) : An Autoethnographic account of facing online harassment as a feminist activist on social media](#)

*Dyuti Jha, Research Associate, Center for Health Research Development, New Delhi*



*Dyuti Jha*

The dominant narrative included in liberal spaces often questions whether cyber violence has any tangible effects, and many wonder if it should be considered violence at all. Gender-based abuse usually targets women's sexuality, irrespective of what is actually being discussed. Trolling, morphing, circulation of intimate images, doxxing, are common practices that are employed to harass women. Trolling is relentless, sustained and from multiple sources, and often includes rape and death threats. For women, expressing an opinion online, especially on topics that are not

considered 'feminine', often results in a backlash from trolls. Online abuse often contains direct references to the socio-political locations and non-conforming gender identities of the target.

Doxxing involves hunting for personal information such as residential address and making them public with the intention of making threats including of physical injury to induce fear. This can even comprise offline mobility of the concerned individual. Women often avoid using personal pictures online because of the warped understanding of consent. Just uploading a picture is seen as granting consent to using it for purposes like morphing.

Platforms have often taken adverse action against the abused instead of the abuser, by invoking their community standards in opaque ways that are often difficult to challenge. Further, online platforms do not take cognizance of threats in local languages, allowing a whole swathe of trolls to exist with impunity. Law enforcement, too, has not been able to effectively deliver any relief, forcing women to take matters into their own hands by using techniques such as 'name and shame'.

## Open Discussion

Niranjana. P responded to the presentations with the following broad comment, before opening the floor for discussion.



*Niranjana. P*

- Systemic moral panic in response to the advent of a new technology is not unprecedented. This has been the case right from the time of the television. The nature of the Internet is changing. We have restrictions on the space and increasing corporatization.
- Feminist spaces created by female graphic artists are often subversive spaces where identities that are not reflected in mainstream and highly patriarchal media find expression.
- Experiential accounts recounted at the seminar give us a birds eye view of the depth and width of gender-based cyber violence faced by women in India and also evidence the blurring of the binary of online and offline.

## Comments from the floor

1. One of the reasons people are reluctant to report gender-based cyber violence is because of the insensitive response from law enforcement agencies. Because of this, there is also severe under-representation of gender-based cyber violence. The 2016 National Crimes Records Bureau states that 12,000 cases cyber violence were reported in that year, but it also states that an equal number of cases remain un-investigated from the previous year. Further, the 'I am trolled' online helpdesk of the Ministry of Women and Child Development received a mere 23 complaints on Twitter from all over India, and just 54 on Facebook, in 2016-18.

2. [Cheap female labor powers the Internet](#). One obvious way is that women are often employed in making devices in factories in developing countries. Another way that cheap female labour is used is in the care-work that goes into actually implementing the community standards - correcting racism, sexism and casteism online.

3. There was a question from the audience on how can one extend the act of loitering to queer groups who may want to remain online, but in closed communities.

Lakshmi Lingam and her co-authors responded that because the loitering framework was applied on mainstream media in their research, and since mainstream media largely ignores queer culture, the study couldn't effectively capture and analyze these spaces either.



## Closing reflections and concluding remarks

### Participants

Many participants expressed interest in taking the numerous strands that emerged from the two days of the dialogue forward, in their research and their everyday engagement in different institutional spaces. One recurring theme that came up was the need for in-depth documentation of gender-based cyber violence from across the country, reflecting regional differences and highlighting similarities in the experiences of women from different walks of life. It was felt that in such documentation, specific attention should be devoted to deconstructing the experiences of cyber violence from the standpoint of the queer community. Another key concern raised by participants was that when examining institutional responses to gender-based cyber violence, it was vital to take a closer look at the family.

Some also proposed investigating female labor who contribute to the care work involved in implementing community standards that sustain online platforms. Participants felt that it would be critical to bring in scientists and technologists into the fold to question hegemonic masculinities that operate within the scientific community and work towards gender-responsive design of all technologies.

It was also felt that addressing gender-based cyber violence should be an integral part of the 'gendering access' agenda.

### Organizers

Anita Gurumurthy, IT for Change, Bengaluru and Asha Achuthan, Advanced Centre for Women's Studies, TISS, Mumbai observed how the dialogue provided the opportunity to understand differences and even build solidarities across ideological differences, in order to define a feminist ethic on engaging with the Internet through debate.

Gender terminology and how we use and generate them are closely related to gender justice. Due process and the law has conventionally been defined in a top-down manner, that may inadvertently lead to a system that provides justice to a select few. Feminists need to suggest new framings that are inclusive, through processes that meaningfully engage with those from discriminated-against locations.

It was clear that crafting legal responses to address gender-based cyber violence calls for empirical research as well as theoretical framings of digital rights that build upon historical debates of women's rights in the country.