

Online freedom for all = No unfreedom for women

A project coordinated by IT for Change

Countries of Implementation – India and Bangladesh

1. Project Description

This project titled “Online freedom for all = No unfreedom for women” aims to create national-level policy dialogues on balancing the right to free speech online with women’s right to freedom from gender-based violence in online spaces. Over a 12-month period, the project will undertake specific activities in 2 countries in South Asia including: country level assessments of laws on technology-mediated violence against women (TMVAW) and robustness of legal-institutional response mechanisms; campaigns to bring awareness about online gender-based violence; global review of legal and policy good practices in this area; and concluding policy round-tables to share key findings and recommendations with government actors.

2. Context: The policy gap in effectively addressing online gender-based violence

Web-enabled technologies have helped women and gender minorities circumvent traditional barriers to participate in the public sphere. But women’s agency and solidarities in virtual spaces are constantly undermined by the threat of intimidation, sexism, misogyny and even violence. A 2015 research study by the United Nations found that nearly 3/4 of women world-wide have been at the receiving end of some form of technology-mediated violence! What makes this pandemic even worse is the lack of effective policy responses, especially in countries of the global South.

Research by the Association for Progressive Communications has revealed that most legislation on gender-based violence in countries of the global South predates technology, and hence, is unable to tackle adequately the ‘real’ consequences of virtual violations. By and large, the response to instances of harassment online that does not involve sexually-explicit content has been found to be extremely weak. Further, in many of these contexts, the lack of capacity-building of law enforcement officials on this issue leads to a situation where they often dismiss complaints of gender-based violence online as ‘trivial’, failing to address even those cases where provisions of existing laws on violence against women may be extensible. The Women’s Rights Online Country Report Card corroborates this assessment. The 10 contexts in the global South that were surveyed, averaged a lowly 3/10 on the indicator on robustness of legal and policy frameworks for online safety. Nine out of 10 countries had not enacted robust legislation for tackling online violence against women. India, one of the countries we propose to work in, received a score of 4/10. There is a very serious lacuna in the country as far as legislative safeguards for gender based violence online are concerned – especially in the wake of a March 2015 judgment of the Supreme Court which struck down the only legal provision that penalized offensive electronic communication. The Supreme Court arrived at this decision, in response to a Public Interest Legislation filed by free speech activists which pleaded that this provision – Section 66A of the Information Technology (IT) Act 2000 – because of its ambiguous wording, had ended up becoming a tool by which the state

was stifling political dissent rather than serving as an instrument of justice for victims of online violence.

While trying to check such unconstitutional overreach of state censorship on citizen expression, the judgment unfortunately failed to reflect upon the question of balancing the right to free speech with guaranteeing the right to freedom from violence. As a result, after the repeal of this Section, victims of online gender-based violence have no recourse except to use legal provisions pertaining to ‘indecent representation’ and ‘obscenity’ that are a hangover from the Victorian legal discourse of India’s colonial past. And as feminists have pointed out, these laws are ill-equipped to deal with the complex issues of multi-layered consent that emerge in the context of digitalized communication. (Example: consent to have sexual intercourse is not the same as consent to be filmed when engaged in a sexual act, and this is different from consent to have this film clip circulated on social media and so on.)

While recommending that any content take-down by Internet intermediaries had to be backed by a court/government executive order to prevent privatized censorship of free speech, the Supreme Court completely ignored the opportunity to issue directions on clarifying the procedures to be followed by law enforcement agencies and intermediaries in instances where sexist and hate speech and online abuse are reported. This failure has proved to be extremely costly for the women’s rights agenda. With rapid diffusion of Internet and mobile phones, more and more women are coming online. When women express opinions online, they are invariably trolled and face a severe patriarchal backlash. Attempts to seek redress against this tirade of vicious abuse often run into a brick-wall, as intermediaries are unresponsive and law enforcement agencies unprepared. In fact, cases of Facebook’s complete neglect of complaints of harassment on its platform, and the difficulties that law enforcement officials encounter when they try to get FB and other social media companies to cooperate on online GBV cases, are frequently covered in mainstream media.

As an India-based civil society organization engaged in policy research and advocacy at the intersection of digital technologies and women’s rights at national and global levels for over a decade, we see a legal-policy process for achieving the fine balance between protecting free speech and effectively addressing gender-based violence, in online spaces, as an urgent imperative. The pervasiveness of online GBV in India and the lack of adequate policy responses become key barriers preventing women from realizing the benefits of connectivity in the Indian context.

We also believe that the issue must be taken up on a regional scale, given the priority of the VAW agenda for feminist networks in South Asia. The rapid polarization of public discourse along secular vs. religious lines in Bangladesh with consequences for the policing of women indicates the immediate significance of feminist dialogues on online VAW.

The persecution of bloggers and activists in online spaces in these countries is also well acknowledged. Rashida Manjoo, the Special Rapporteur, on her report on violence against women, its causes and consequences, on her mission to Bangladesh (20–29 May 2013), highlighted how the existence of parallel justice systems such as the salish and gender-discriminatory personal laws has produced a situation where women facing gender-based violence are unable to obtain justice. Also, existing legislation such as the Suppression of Violence against Women and Children Act (2000) do not comprehensively address technology-mediated gender-based violence. In fact, excepting a

minor legal provision that penalizes the disclosure of the identity of victims of gender-based violence on new media platforms, there seems to be no other legal safeguard. Considering that the government of Bangladesh is trying to kickstart new initiatives that use the digital opportunity to bring women's voices into the public sphere and help them challenge status-quoist discourses on violence (the Maya Apa project), and develop a digital agenda that is gender-responsive, an intervention to step up policy frameworks seems appropriate.

3. Project Strategy

Over a 12-month period, we propose to:

1. Conduct a country level assessment of laws that address technology-mediated gender-based violence and freedom of expression. This will build an analysis of what could potentially be appropriate legal safeguards that guarantee women's full and free participation in online spaces (in one or more countries, as may be supported by the budget). In these contexts, the assessment will be carried out by IT for Change in collaboration with a leading feminist organization or University department that has a track record on feminist policy processes. We will undertake conversations with all stakeholders: policymakers from ICT ministries and national women's machineries, women's rights advocates, grassroots organizations, lawyers, law enforcement officials, representatives of major social media companies and representatives of political parties. IT for Change will identify a partner organization in Bangladesh.
2. Organize a feminist campaign for appropriate legal safeguards on technology-mediated gender-based violence rooted in premises of women's agency and consent. Regional partners will play a lead role in this process, using student community volunteers and exploring offline and online modalities for expanding the public conversation on the identified issue.
3. Carry out a global review of good practices in legislation and policy tackling technology-mediated gender-based violence.
4. Convene a policy round-table in each context, at the end of the project period, to share key recommendations from the entire research (bringing in findings from country-contexts and relevant examples from global good practices). We are already in conversation with our existing contacts in the Ministry of Women and Child Development in India, and the ICT Division of the government of Bangladesh to make in-roads into government agencies right from the start of the project, so that there is greater acceptance of the project and its recommendations.

4. Intended Impacts, Outcomes and Outputs

Intended long-term impacts:

A nuanced institutional-policy discourse (covering law, jurisprudence, legal enforcement) emerges on balancing right to free speech online with women's right to freedom from technology-mediated violence at the national level in India and Bangladesh.

Public opinion is mobilized on the need for legal and policy frameworks grounded in feminist perspectives, to address technology-mediated gender-based violence.

Outcomes we hope to achieve by the end of the project:

1. Key gaps/lacuna in existing policy responses to technology-mediated gender-based violence are identified in each country-context through robust state-of-art analysis accounting for perspectives of key stakeholders. A progressive discourse on full and free participation of women online is articulated.
2. The ‘culture of silence’ on technology-mediated violence is broken and a new public conversation on legal safeguards based on progressive feminist perspectives is catalyzed, through women’s organizations, student communities and local action.
3. Concrete recommendations on country-specific policy responses that tackle technology-mediated violence are identified, compiled, and presented before policymakers.

Outputs towards Outcome 1

- Country-level assessments of laws on technology-mediated gender-based violence and freedom of expression, between 8000-10,000 words in length, are produced in India and Bangladesh, in collaboration with partner organizations.
- A global review of good practices in legislation and policy frameworks tackling technology-mediated VAW, between 8000-10,000 words in length, is produced by IT for Change.

Outputs towards Outcome 2

- Intensive 10-day campaigns are organized in India and Bangladesh, which involve the creation of 2 digital stories on FB, 1 twitter chat between leading feminists and interested members of the public, 1 blog, 1 talk to media, and 1 public dialogue in universities/other institutions.

Outputs towards Outcome 3

- Policy briefs, between 1500-2000 words, distilling key recommendations from country-level assessments and global review of good practices, are produced in India and Bangladesh, in collaboration with partner organizations.
- Policy round-tables which have 20 invitees from ministries of ICT/women/law, representatives of Parliament, feminist scholars and leading women’s rights organizations, are organized in India and Bangladesh.

5. Monitoring and Evaluation Plan

The progress of the project towards the 3 key outcomes will be monitored as follows:

Progress towards Outcome 1:

- Quality control through iterative review of the country level assessments produced in collaboration with partner organizations.

Progress towards Outcome 2:

- Vetting relevance of material and messages developed for the campaigns, by piloting them with small groups that are representative of the wider target audience (college students, rural/urban women and men, adolescent girls and boys, and so on)
- Day-to-day tracking of the 10-day campaign, to introduce course-corrections in strategies where required.

Progress towards Outcome 3:

- Review of first drafts of policy briefs produced by partner organizations in India and Bangladesh for feedback/suggestions.

Overall evaluation of project success:

- Extent of participation of policymakers in the round-tables in India and Bangladesh.
- Interest evinced by mainstream media in covering the issue, including shifts in perspectives informing such coverage.
- Emergence of a formal/informal network of support for this issue, in India and Bangladesh.

6. Organisational Profile

IT for Change's vision is to promote social justice and gender equality in the information society context. Towards this, our key strategies have been policy research and advocacy, network-building and field practice. We have initiated regional networks that have conducted path-breaking work in the area of rethinking women's citizenship in the network society; and organized national level institutes for feminist scholars and practitioners on introducing them to key issues/challenges for women's rights and gender equality in the digital paradigm. We have also carried out policy demonstration projects in Mysore district with rural women's collectives in the area of building gender-responsive public access spaces that can further marginalized women's socio-political empowerment; and taken insights from these interventions to policymakers in the ministries of rural development, women, and IT.

The thrust of our work so far, has been on the issue of: promoting meaningful access cultures that can strengthen women's active citizenship at the grassroots; and designing e-government interventions that further gender equality in the digital age. Undoubtedly, addressing technology-mediated gender-based violence is an integral component of this agenda of promoting women's full participation in the information society. We feel that in the global South, especially in the South Asian context, existing civil society interventions in this area are focusing on sensitizing Internet intermediaries on this issue, and not doing enough with respect to dialoguing with national policy mechanisms on the need to evolve sophisticated legal and policy frameworks that move beyond protectionism to a nuanced balancing of the consideration of freedom from gender-based violence and right to free speech, in online spaces. As an organization that strives to be a thought-leader on women's digital rights, this is a gap that we find ourselves well-placed to address and this is what we are attempting through this project.