Born digital, Born free?

A socio-legal study on young women's experiences of online violence in South India

The born-digital
John Palfrey and Urs Gasser
2016

The first generation of children who were born into and raised in the digital world are coming of age and reshaping the world in their image. But who are these wired young people? And what is the world they're creating going to look like? The book was a sociological portrait of these young people, who can seem, even to those merely a generation older, both extraordinarily sophisticated and strangely narrow.

Born digital, Born free?
A socio-legal study on young women's experiences of online violence in South India

Anita Gurumurthy
Amrita Vasudevan
Nandini Chami

Exploration of how the born-digital generation of young female adults – who live their lives in the criss-crossing of the real-digital – grapple with the challenges of navigating digital space in the face of cyberviolence.

And what is their experience of power and violence in the fluidity between human subjectivity, social ideologies, legal norms, institutional rules and digital networks
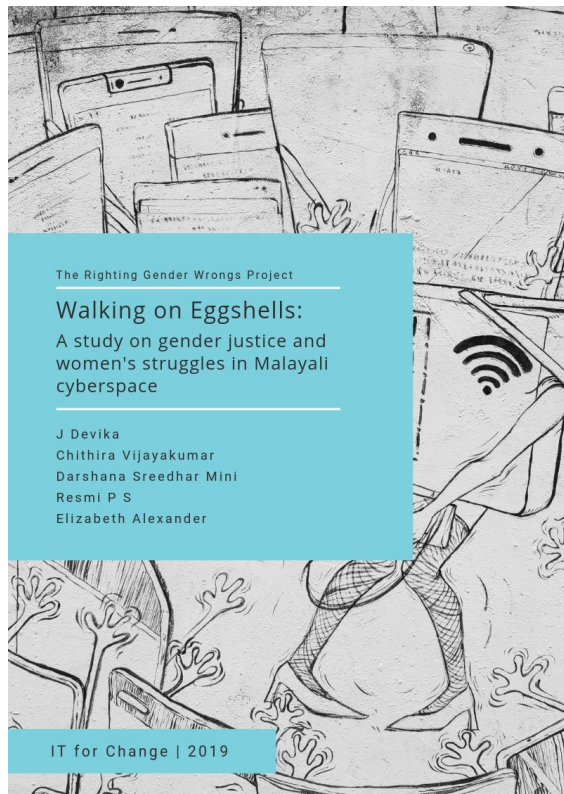
3 states

Karnataka, Kerala
Tamil Nadu

Kerala: J.Devika (Lead), Chithira Vijayakumar, Darshana Sreedhar Mini, Resmi P.S. and Elizabeth Alexander

Tamil Nadu: Geeta Ramaseshan (Lead), Sudaroli Ramasamy, M.R.Sangeetha, S.Prabha, Nandita Krishna and Shreeja Kumar

Karnataka: Anita Gurumurthy (Lead), Amrita Vasudevan, Nandini Chami, Sarada Mahesh, Prakriti Bakshi, Meenakshi Yadav and Ira Anjali Anwar
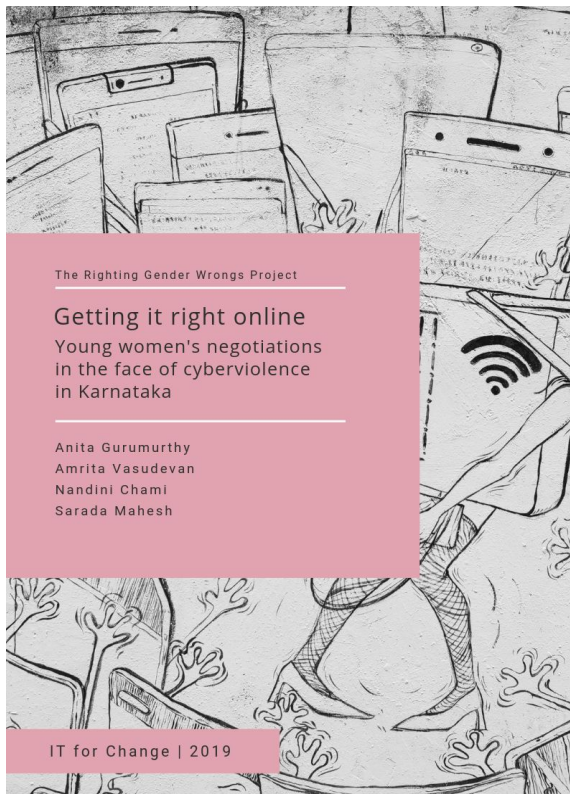
The Righting Gender Wrongs Project

Walking on Eggshells:
A study on gender justice and women's struggles in Malayali cyberspace

J Devika
Chithira Vijayakumar
Darshana Sreedhar Mini
Resmi P S
Elizabeth Alexander

IT for Change | 2019

The Righting Gender Wrongs Project

Getting it right online
Young women's negotiations in the face of cyberviolence in Karnataka

Anita Gurumurthy
Amrita Vasudevan
Nandini Chami
Sarada Mahesh

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The Righting Gender Wrongs Project

Towards a safer cyberzone
A study on gender and online violence in Tamil Nadu

Geeta Ramaseshan
Sudaroli Ramasamy
M.R.Sangeetha
S.Prabha
Nandita Krishna
Shreeja Kumar

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Theoretical framework

Posthuman feminist frame - avoiding the twin traps of social determinism and technological determinism

Social configurations as complex human-machine assemblages in which gender power is reconstituted

Sexism and hate against feminity as focus

Transformative potential in legal reform - the feminist project of challenging androcentricism

Semantic silences in the law can erase the lived experiences of women, normalizing abuse and violence as socially acceptable in common sense
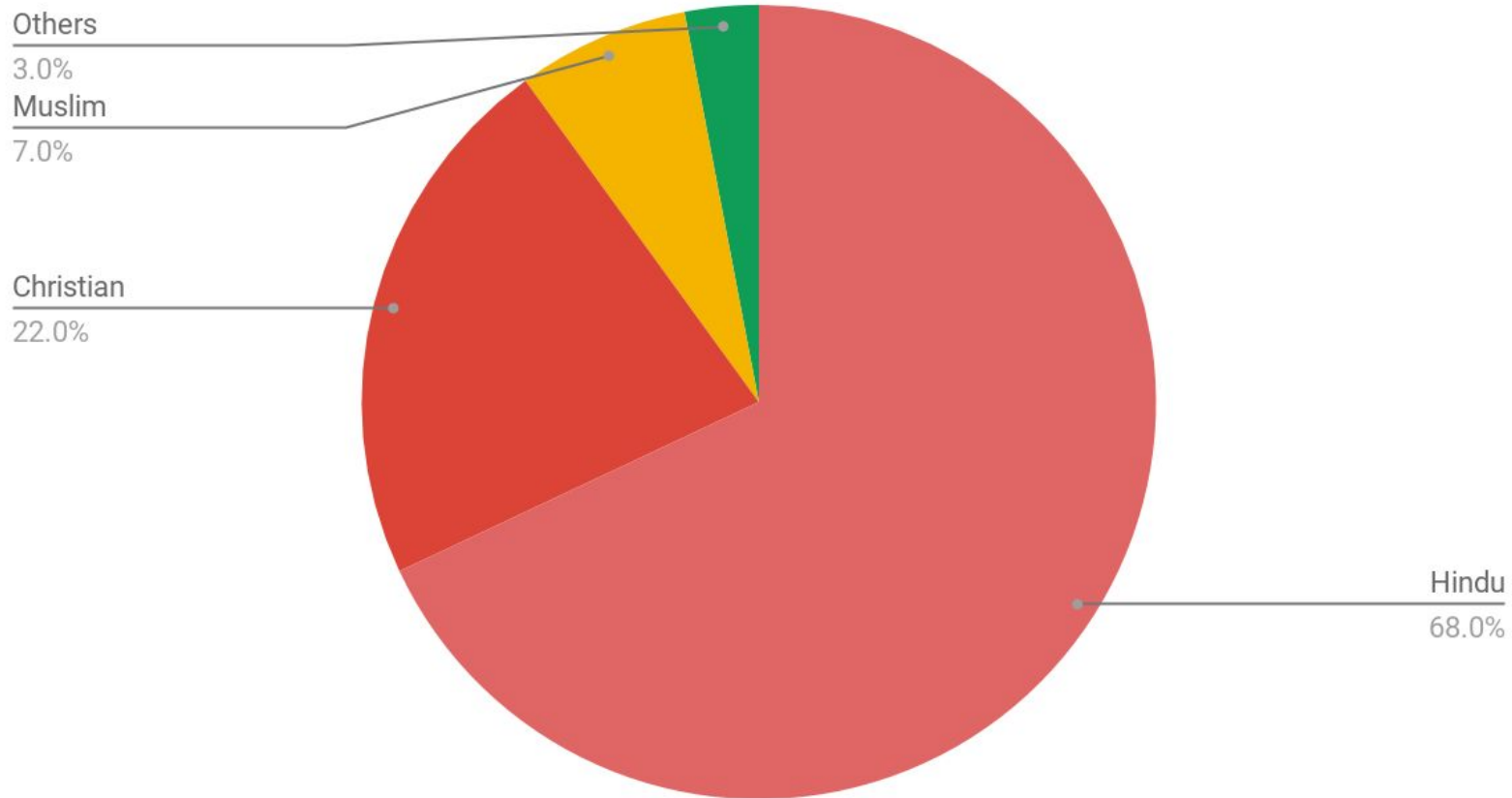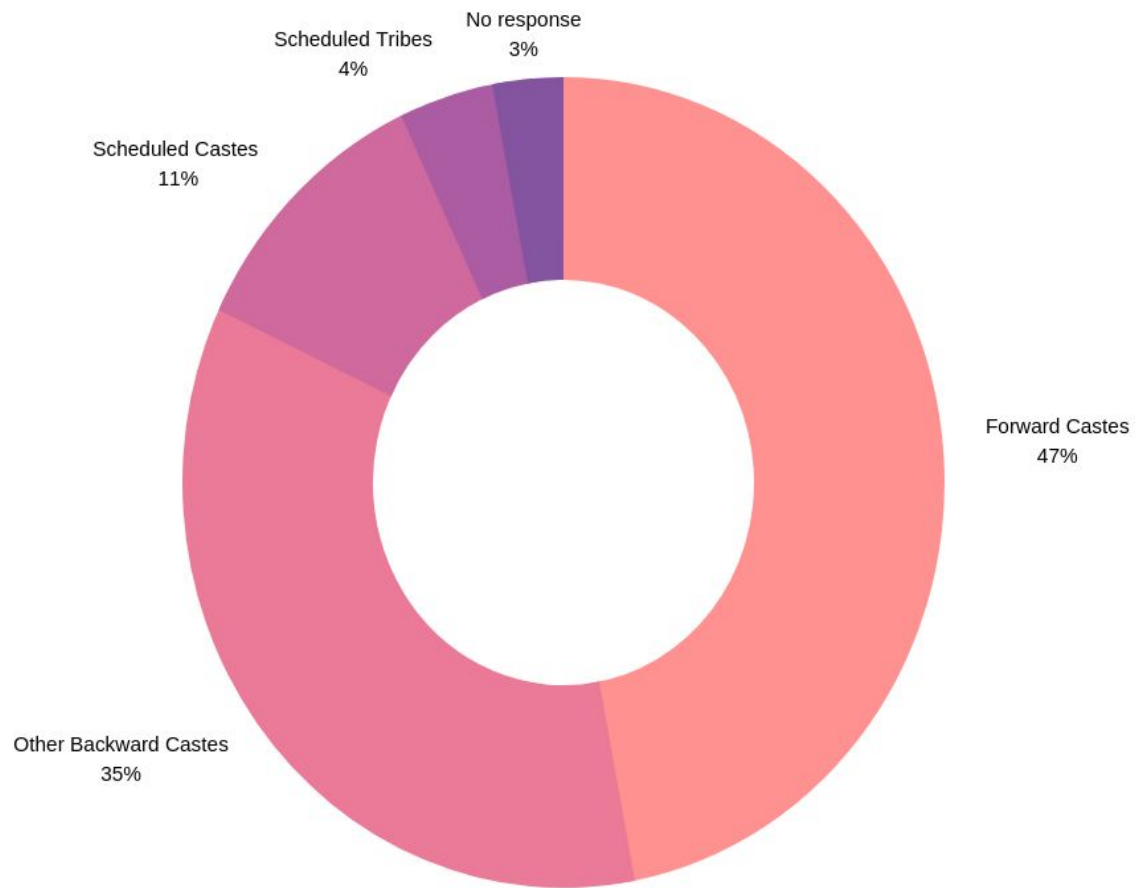
881 young women

19-23
Metros and small towns
Self-administered survey

14 Focus Group Discussions (FGDs) with young women and young men in colleges, avoiding overlap with the survey cohort in order to limit privacy risks

44 key informant interviews - law enforcement officials of varying ranks, family court lawyers, legal researchers, women's rights and dalit rights activists, transgender activists, feminist researchers, journalists, counsellors associated with GBV helplines and crisis support centres, and women survivors

Religious Background

Others
3.0%

Muslim
7.0%

Christian
22.0%

Hindu
68.0%

Scheduled Tribes
4%

No response
3%

Scheduled Castes
11%

Forward Castes
47%

Other Backward Castes
35%

Caste Profile

52%

reported that English was their primary language online

92%

Respondents owned their phone and over half had a phone that is more than 10000 INR.

Respondents use the internet equally for work and play

90% use WhatsApp
55% use FB

Communicating with Family and friends - 93%

Entertainment - 78%

College assignments - 26%

Forge new friendships - 20%

Explore sexuality - 8%

Sharing intimate images with partners - 2%

Finding 1.
Cyberspace is home to pervasive sexism

326

Respondents reported having faced some form of cyberviolence

And nearly 40% know someone who has faced violence

Of the 326

A quarter reported that the identity of their perpetrators was known to them.

Half reported that the perpetrator was unknown.

90% of respondents who had faced harassment reported that they had been harassed on multiple occasions.

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Finding 2.
Over three-fourths of respondents have faced gendertrolling

22% Skin Colour

30% Weight

31% Body Shape

27% Looks
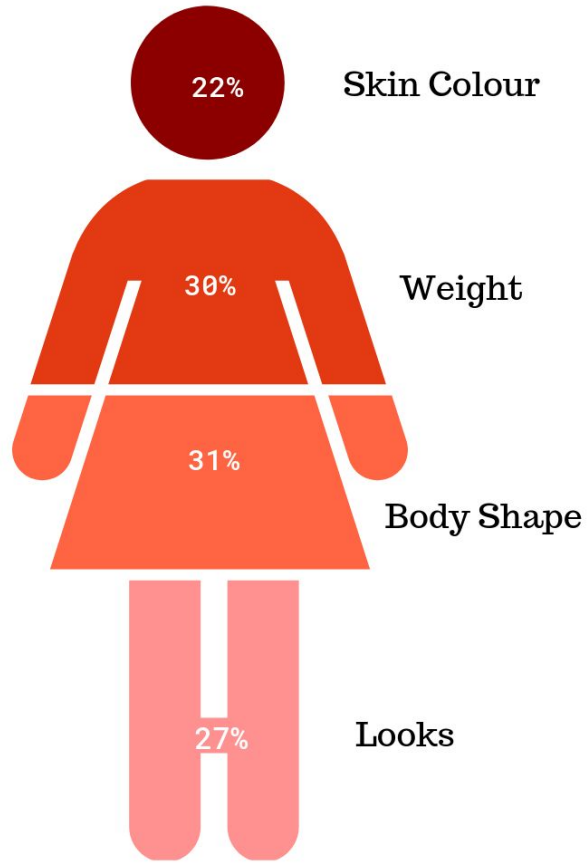
Bullying based on physical attributes emerges as a common form of violation

Irrespective of social location, women face demeaning commentary about their physical bodily attributes.

Women from marginal social locations face particularly heinous forms of gendertrolling that denigrate their social identity.
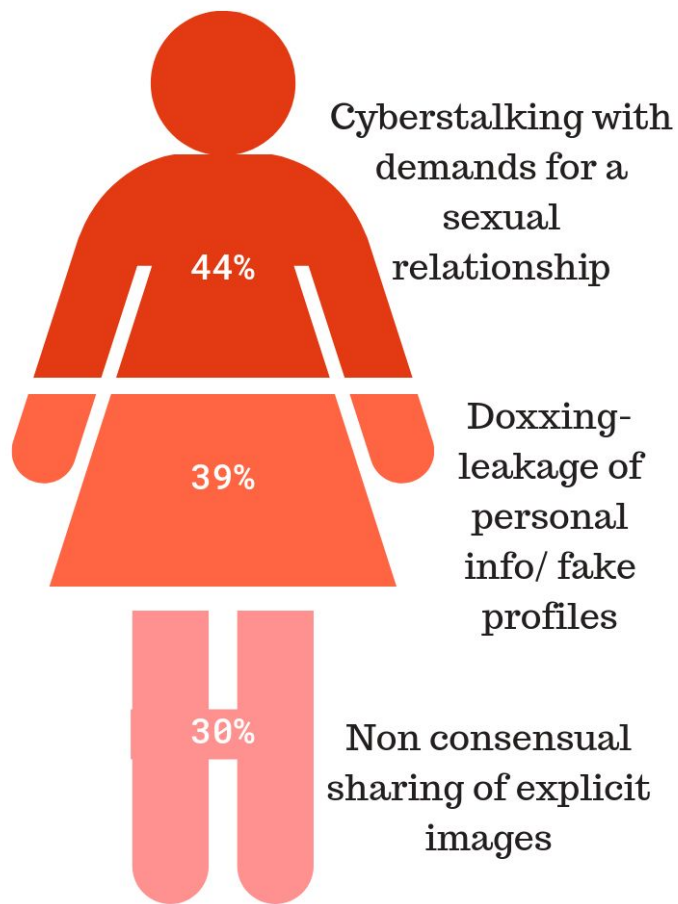
Immediately after [my friend] posted comments critical of the #MeToo movement in India, two-three men started piling on, saying things like, "Look at your face; you're so disgusting… nobody would even think of raping you; why are you thinking about #MeToo?"

- Female dalit rights activist, Karnataka

Finding 3.

Over 80% have faced online sexual harassment of some form. Cyberstalking, doxxing and cyberflashing are distressingly common

Cyberstalking with demands for a sexual relationship

44%

Doxxing- leakage of personal info/ fake profiles

39%

Non consensual sharing of explicit images

30%

Stalkers are many times former partners/friends

Women also reported receiving unsolicited 'dick pics'

Finding 4.

Consequences of cyberviolence are very real – ranging from physical, psychological to social, functional and aspirational impacts

Having experienced cyberviolence, 6% of the victims reported attempting self harm
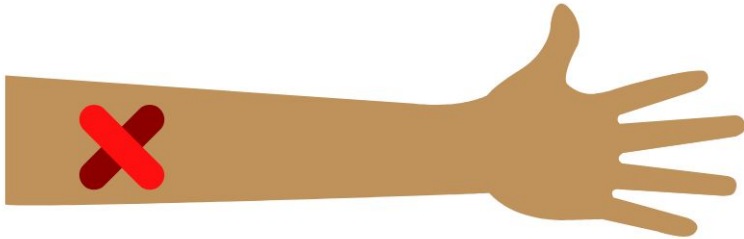
29% of the 326 respondents who faced cyberviolence reported that they continue to feel scared for their safety; 28% felt anxious or depressed; and 11% reported being besieged by a sense of helplessness.

40% of respondents who had faced cyberviolence reported having reduced use of their mobile phone and laptop and deleting their social media accounts.

Finding 5.
Women simply adjust to cultures of cyberviolence, in order to preserve their space of agency

54%

Of those who faced violence reported that they did not seek help from family.

They did not want to lose access to their gadgets

Quitting the web is not an option.
The space of individuation is too precious and so they must manage their voice and visibility responsibly

When presented with a hypothetical situation where an ex-boyfriend uploads naked pictures of his ex-girlfriend after their breakup, 38% of respondents said that the woman was to blame.

To another hypothetical situation where a female student is running a YouTube channel about gender and caste issues and faces a barrage of threats of violence from detractors, 74% of the respondents who had blamed the woman in the earlier case of the leak of naked pictures responded in defense of the channel owner, upholding her right to free expression .

"I took the 'Cinderella' approach. My Facebook account was safer than the Swiss Bank! There are no men on it, except a cousin, and a boring friend of my father's. For a long time, I wouldn't log out – I deactivated every day, and then logged in the next day. When I started responding to people's comments, I would comment, and then deactivate because I was scared of what the response would be. I was scared to put up a profile picture. I added one only after becoming a researcher."
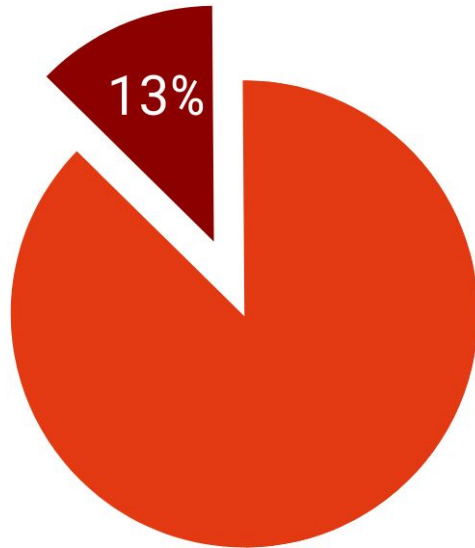
Finding 6.
Gender hierarchies don't go away in digital sociality; they get reconfigured

Young male students told researchers about local young men's WhatsApp groups. In these homosocial private male spaces, men build a new-age machismo, getting fluent with expletives, making sexualized memes to assert male entitlement, 'hooking' women or chatting them up using fake profiles, and watching porn.
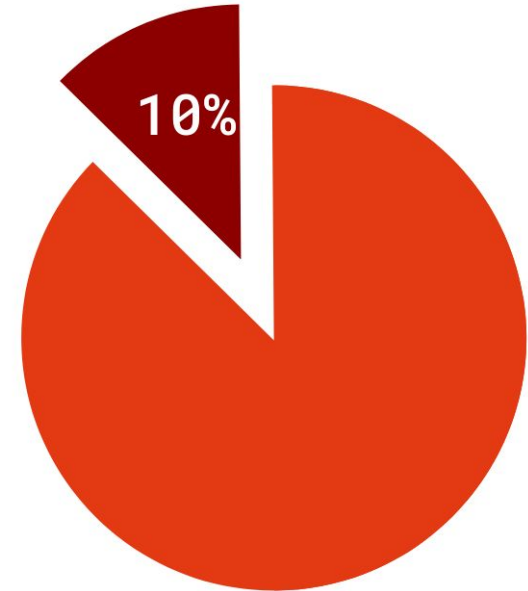
Finding 7. Survivor-centred institutional response mechanisms are missing

Very few women victims approached college authorities

13%

Despite facing cyberviolence, very few women approached the police

10%

Finding 8.
There are major gaps in existing legal frameworks with respect to addressing gender-based cyberviolence

Gaps in the law

The repeal of Section 66A of the IT Act leaves women with very little recourse to pursue cases of gendertrolling.

Misogynistic speech is not recognized as grounds for hate.

Criminal Intimidation - would require proof about whether acts of the perpetrator caused 'alarm'.

Criminal defamation - complainant has to file the case with the magistrate and has to prove the case herself.

"But those provisions [criminal defamation and criminal intimidation] wouldn't stand in court... I mean, you'd have to show that her [the victim's] reputation was irreparably damaged, that is, that her character was damaged socially... and as for 507 [criminal intimidation by anonymous communication], you'd have to prove in court that she could actually not perform her normal work etc."

What the police and lawyers say

Law enforcement agencies and lawyers find it difficult within other sections of the Indian Penal Code (IPC) to establish a case that stands in court.

To deal with online sexual harassment, the police prefer to deploy anti-obscenity sections rather than provisions rooted in privacy and consent. Section 67 penalizes sharing of obscene content and this can end up penalizing the victim

Lawyers report that police are not updated with the latest judicial decisions or how to creatively interpret the law. For instance - about the application of 66E that covers capture, transmission or publication of images of the private area of a person and how the section can be applied to doxxing and to non-consensual circulation of intimate images.

Finding 9. Marshalling digital evidence is fraught with hurdles

Problem with investigation extend to poor compliance to SOPs, ambiguity about certification requirements for admissibility in the court (under 65B) and jurisdictional challenges

It takes a long time; police request for evidence, Facebook takes 20 days, then FB asks for more information, police responds and again, FB takes 20 days to respond. This negatively impacts the investigation process.

Conclusions

App cultures and design as destiny

In a capitalist Internet, platform design focuses on locking in user attention (data for the market)

Image-based media cultures promote a focus on self-documentation (Eg. selfie, evaluative photo commentary) and self-surveillance

Virality that amplifies hegemonic discourses (aggressive masculinity snowballing into misogynistic trolling)

———

How moral panic around women's sexual expression ends up isolating victims

Caught in judgemental institutional cultures, women victims have only individualized solutions to turn to.

The way forward

A systemic response is needed and law is a significant part of this.

Need for a legal framework that provides an effective response to cyberviolence (both to provide redress for victim survivors and to lay down the 'duty of care' of the platform intermediary)

By ignoring the harms caused by online violence, the legal system itself becomes complicit in their trivialization. The "metanarrative of what is justice itself is unjustly framed" (Fraser 2008), thus depriving women of their very right to make a claim.

Effective redress through the law

- Striking the balance between free speech and freedom from misogynistic hate speech in digital times (what the repeal of Section 66 A has led to)
- Patchwork of anti-obscenity and privacy and consent provisions
- Conceptualisations [eg. IPC Section 354C (voyeurism), IPC Section 354D (cyberstalking), and Section 66E of the IT Act (privacy violation)] co-exist uneasily with archaic 'anti-obscenity' provisions [eg. Section 292 of the Indian Penal Code, Section 67 of the IT Act]
- "What is obscene is what harms women, not what offends a community's values"

Effective redress through the law: some questions

What do we do about emerging forms of cyberviolence for which currently the only recourse are archaic anti-obscenity sections?

Do we go the route of enacting a new law on addressing sexual harassment in digital spaces?

While agreeing that the repeal of Section 66A was justified, how do we address gendertrolling?

What do we do in a situation where our hate speech law is premised on the idea of maintaining public order and not on the idea of addressing the dehumanizing effects and intrinsic violence of discriminatory speech?

Though platform intermediaries have introduced new features for enhanced safety, their response to gender-based cyberviolence has been lukewarm at best and dismissive at worst. The tendency is to hide behind the smokescreen of 'community standards' or argue in courts that they are after all mere intermediaries

Belling the cat - the intermediary's role and responsibility

"During the years 2016 to 2018, the Chennai City Police, Cyber Crime Cell had sent about 1940 [IP log] requests to such online social media companies. Out of which, IP logs details were received for only 484 requisitions. It is necessary to state that remaining 1456 IP requisitions were rejected by social media companies." - **Court affidavit from Tamil Nadu**

Holding platforms accountable to their duty of care: some questions

How can we ensure that social media platforms, in the design of their community standards, do not treat women's human rights as an aspiration but as a non-negotiable?

Following the Sabu Mathew and Prajwala PILs, the debate on intermediary liability has opened up anew. How do we address the difficult aspects of traceability & automated filtering, given the reality of intermediary impunity and threat of state incursion into civil liberties?

Thank you

www.ITforChange.net/righting-gender-wrongs