

# **Input to the UN Human Rights B-Tech Project**

**IT for Change**

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# Submission to B-Tech Project on Gender, Tech & the Role of Business

IT for Change,<sup>1</sup> October 2023

In global debates, we see a shift in favor of instituting guardrails to prevent human rights violations posed by digital technologies. However, the gender dimension seems to be an afterthought in these discussions. What we see is that accountability measures for technology companies, particularly digital platforms, have simply fallen short in preventing the disproportionate risk to the human rights and freedoms of women.

In this submission, we focus on the following aspects: (1) Technology companies' responsibility to respect the human rights of women in their policies and operations; (2) Gender-related challenges in accessing remedies from state-based grievance redressal mechanisms for harms caused by digital technologies, such as technology facilitated gender-based violence (TFGBV)<sup>2</sup>; (3) Gender-responsiveness in platform-based grievance redressal mechanisms; and (4) The role of civil society in holding technology companies accountable for women's human rights violations.

## 1. Responsibility of Technology Companies to Integrate a Gender Lens in Assessing the Impact of Their Policies and Operations

Although digital technologies have enabled women's participation in the economy and society, women continue to face technological, financial, and social barriers. In many countries, women still have limited access to training, skills, and infrastructure for digital technologies. Women users of digital platforms face pervasive violence and abuse due to the architecture, protocols and functionalities of such platforms. The underrepresentation of women in research and development of digital technologies, along with harmful stereotypes and biases embedded in platform algorithms and emerging technologies like generative AI, continue to perpetuate gender discrimination and limit women's potential to participate in social and economic life. Corporate algorithmic environments are dangerously opaque —they amplify sexism and misogyny on one hand<sup>3</sup> and arbitrarily suppress certain content about women on the other.<sup>4</sup>

Silicon Valley's toxic masculinity fosters an environment of ruthless profiteering antithetical to gender equality, relegating ethical considerations to the backseat. This toxicity doesn't just contaminate the workplace; it also contributes to a larger societal problem, fueling a cycle where unchecked

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<sup>1</sup> For any clarification or queries, we can be reached at [itfc@itforchange.net](mailto:itfc@itforchange.net).

<sup>2</sup> Note: Technology-facilitated gender-based violence (TFGBV) is any act that is committed, assisted, aggravated or amplified by the use of information communication technologies or other digital tools which results in or is likely to result in physical, sexual, psychological, social, political or economic harm or other infringements of rights and freedoms. These are forms of violence that are directed against women because they are women and/or that affect women disproportionately. UN Women. *Frequently Asked Questions: Tech-Facilitated Gender-Based Violence*. <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/faqs/tech-facilitated-gender-based-violence>

<sup>3</sup> Lamensch, M. (2023). *Generative AI Tools Are Perpetuating Harmful Gender Stereotypes*, CIGI, <https://www.cigionline.org/articles/generative-ai-tools-are-perpetuating-harmful-gender-stereotypes/>

<sup>4</sup> Mauro, G., & Schellmann, H. (2023). *There is no standard: Investigation finds AI algorithms objectify women's bodies*. The Guardian. <https://www.theguardian.com/technology/2023/feb/08/biased-ai-algorithms-racy-women-bodies>

hypermasculinity can escalate into violence.<sup>5</sup>

While female workers in high-end jobs are forced to conform to toxic work cultures, those in low-skill jobs within the AI supply chain suffer from violence and exploitation.<sup>6</sup> Content cleaning and moderation jobs erode human dignity and require workers to view harmful content, causing significant psychological distress.<sup>7</sup> For instance, OpenAI employed Kenyan workers at less than \$2 per hour to label examples of violence, hate speech, and sexual abuse to help build a safety system for its AI.<sup>8</sup> In the Global South, workers in the Philippines train AI models for often below minimum wage, and moderators in Hyderabad, a major IT hub in South Asia, have spoken of the strain on their mental health while reviewing images and videos of sexual and violent content, sometimes involving trafficked children.<sup>9</sup> Many social media platforms in the UK, European Union, and US have outsourced this work to countries such as India and the Philippines.<sup>10</sup> The working conditions of data laborers reveal a darker part of the AI industry, which often relies on hidden human labor in the Global South. Tech companies need to take responsibility for protecting their workers and ensuring their safety and well-being. However, these companies often leave vulnerable workers without the protection they need. The scale and wide range of potential uses of AI systems can make it more challenging to attribute responsibility (and legal liability) for harms resulting from complex supply chains.<sup>11</sup>

When it comes to economic opportunities created by digital platforms for women, the rise of e-commerce marketplaces has been viewed as a pathway to reduce gender gaps in women's entrepreneurship activities. This is achieved by improving women's access to digital skills, finance/credit, training, and work opportunities, and by reducing information asymmetries. However, significant gender gaps persist in the Global South in the adoption of digital technologies for entrepreneurship and commerce. Furthermore, evidence suggests that the algorithmic evaluation criteria used by mainstream e-commerce platforms do not account for the reality of women-led enterprises, most of which are small businesses with low output levels, limited growth potential, and minimal capacity to bear inventory and customer service overheads, which leads to their unfair exclusion from such platforms.<sup>12</sup>

As in the case of e-commerce platforms, digital labor platforms were received with great optimism and hailed as tools to 'increase women's participation in the labor markets' and framed as 'a panacea to poverty and inequality among women'. However, the promise of flexibility is often a smokescreen,

<sup>5</sup> McMahon, T. (2017). What's behind the tech industry's toxic masculinity problem? Inside the Valley of the Bros. The Globe and Mail. <https://www.theglobeandmail.com/technology/toxic-masculinity-in-silicon-valley/article35759481/>

<sup>6</sup> Bartholomew, J. (2023). Q&A: Uncovering the labor exploitation that powers AI. Columbia Journalism Review. [https://www.cjr.org/tow\\_center/qa-uncovering-the-labor-exploitation-that-powers-ai.php](https://www.cjr.org/tow_center/qa-uncovering-the-labor-exploitation-that-powers-ai.php)

<sup>7</sup> Newton, C. (2019) *The Trauma Florr*, Verge, <https://www.theverge.com/2019/2/25/18229714/cognizant-facebook-content-moderator-interviews-trauma-working-conditions-arizona>; Banerjee, P. (2020). *Inside the secretive world of India's social media moderators*, Livemint, <https://www.livemint.com/news/india/inside-the-world-of-india-s-content-mods-11584543074609.html>

<sup>8</sup> Perrigo, B. (2023). *Exclusive: OpenAI Used Kenyan Workers on Less Than \$2 Per Hour to Make ChatGPT Less Toxic*. Time. <https://time.com/6247678/openai-chatgpt-kenya-workers/>

<sup>9</sup> Williams et al. (2022). *The Exploited Labor Behind Artificial Intelligence*. Noema. <https://www.noemamag.com/the-exploited-labor-behind-artificial-intelligence/>

<sup>10</sup> Parent, D., & McQue, K. (2023). 'I log into a torture chamber each day': The strain of moderating social media. The Guardian. <https://www.theguardian.com/global-development/2023/sep/11/i-log-into-a-torture-chamber-each-day-strain-of-moderating-social-media-india>

<sup>11</sup> Brown, I. (2023). Expert explainer: Allocating accountability in AI supply chains. Ada LoveLace Institute. <https://www.adalovelaceinstitute.org/resource/ai-supply-chains/>

<sup>12</sup> Dewan, S., & Sanyal, K. (Eds.). (2023, May). *Empowerment or Exploitation: Global Perspectives on Women's Work in the Platform Economy*. JustJobs Network. [https://www.justjobsnetwork.org/files/empowerment-or-exploitation-global-perspectives-on-womens-work-in-the-platform-economy\\_may-2023.pdf](https://www.justjobsnetwork.org/files/empowerment-or-exploitation-global-perspectives-on-womens-work-in-the-platform-economy_may-2023.pdf)

given the control that platforms exercise over work schedules and access to work. Algorithmic management practices of labor platforms reinforce women's lower social status, penalizing them in terms of their earnings and opportunities. Women workers face discrimination not only from algorithms but also from passengers who cancel rides or give negative reviews based on gender stereotypes, hindering their access to stable income and work opportunities.<sup>13</sup>

### **Recommendations:**

It is important to have gender-responsive due diligence practices so that a gender lens is incorporated into due diligence processes of technology companies. To achieve this, technology companies, particularly, digital platform companies, must undertake the following steps:

#### **1.1 Define human rights policies with a gender lens**

Companies should:

- Design and implement gender-responsive policies on human rights issues, clearly articulating commitments. (For instance, within their policies, recognizing human rights risks, labor risks, and environmental risks that impact people, specifying how women are affected and what measures are in place to conduct gender-based due diligence;
- Embed these policies into management systems to ensure implementation as part of the regular business processes and engagement with suppliers and other business relationships. (This can include training for supply chain management and implementing a code of conduct for non-discrimination); and
- Incorporate expectations and commitment to human rights, with specific reference to women's rights. (For example, conduct training sessions on gender and unconscious bias).<sup>14</sup>

#### **1.2 Create fair, equitable, and gender-sensitive labor practices:**

Digital platforms, especially digital labor platforms, must adopt self-regulation standards and follow labor laws in the jurisdictions where they operate. They should meet their obligations towards their workers in cross-border supply chains including wage-setting standards. It has been recommended, for instance, that platforms establish a common minimum wage for all labor-providing countries equivalent to the minimum wage of the most developed country from which they draw their labor.<sup>15</sup> Digital labor platforms must especially take note of Pillar II on the Corporate Responsibility to Respect Human Rights, which requires corporations to comply with the International Labor Organization's (ILO) Declaration on Fundamental Principles and Rights at Work. These platforms must also pay special

<sup>13</sup> Rani et al. (2022). *Women, work, and the digital economy*, Taylor and Francis Online.

<https://www.tandfonline.com/doi/full/10.1080/13552074.2022.2151729>; Slater Slater Schulman LLP. (2022). Uber Facing Lawsuit From Sexual Assault Survivors for Endangering Them on Rides and Failing to Put Adequate Protections in Place. Cision. <https://www.prnewswire.com/news-releases/uber-facing-lawsuit-from-sexual-assault-survivors-for-endangering-them-on-rides-and-failing-to-put-adequate-protections-in-place-301586028.html>

<sup>14</sup> Gender Responsive Due Diligence. (n.d). *Embed in Policies*. Gender Responsive Due Diligence.

<https://www.gendervediligence.org/implement-grdd/step-1/>

<sup>15</sup> Martin, D et al. (2017). *Understanding the crowd: Ethical and practical matters in the academic use of crowdsourcing*, In *Evaluation in the Crowd. Crowdsourcing and Human-centered Experiments*, pp. 27-69. Springer. [https://link.springer.com/chapter/10.1007/978-3-319-66435-4\\_3](https://link.springer.com/chapter/10.1007/978-3-319-66435-4_3)

attention to the rights of women workers, addressing the unique challenges they face in this space.<sup>16</sup>

Furthermore, it is crucial to emphasize the importance of due diligence and responsibility in cross-border supply chains, particularly within the data and AI sectors, in alignment with The Organization for Economic Co-operation and Development (OECD) and European Union (EU) instruments.<sup>17</sup> Accountability to women workers for their data rights must be non-negotiable, regardless of geographical location, especially in the Global South. Just as it is imperative in the North, ensuring fair and ethical treatment of women workers in digital industries worldwide is essential, reflecting a commitment to universal rights and equality. Particularly when it comes to digital platforms, the liability that platforms bear for algorithmic harms is a matter of critical concern in today's digital landscape. In this context, the proposed EU AI Act<sup>18</sup> and liability directives<sup>19</sup> play a pivotal role. These legislative frameworks provide a structured approach to addressing algorithmic harms, outlining guidelines and regulations that platforms must adhere to, ensuring the responsible deployment of AI technologies.

### 1.3 Promote fair marketplaces for women:

E-commerce platforms should adopt socially embedded design i.e. design that is intentional about empowering users belonging to historically marginalized social locations, including gender, caste, class, race, and geographical location.<sup>20</sup> These platforms should also adopt ethical intermediation strategies that prioritize fairness and equity in digital marketplaces, especially for women-led enterprises that are structurally disadvantaged.<sup>21</sup> Creating fair marketplaces for women requires more than just ethical platforms: true fairness emerges from the synergy of competition, labor, consumer, and data and AI laws, working together to guarantee rights. Additionally, government investment in public infrastructure and supportive measures, such as publicly endorsed marketplaces, plays a crucial role in making a tangible difference.

## 2. Gender-Related Challenges to Access Remedy from State-Based Grievance Redressal Mechanisms

There are several barriers that women face in accessing state-based grievance redressal mechanisms

<sup>16</sup> Gurumurthy et al. (2021). *The Macro Frames of Microwork: A Study of Indian Women Workers on AMT in the Post-Pandemic Moment*. IT for Change. <https://itforchange.net/sites/default/files/1739/The-Macro-Frames-of-Microwork-Full-Report-ITfC-2021.pdf>

<sup>17</sup> OECD. (2021). *Human rights due diligence through responsible AI*, OECD Library, <https://www.oecd-ilibrary.org/sites/31e7edcc-en/index.html?itemId=%2Fcontent%2Fcomponent%2F31e7edcc-en>; Due Diligence Guidance for Responsible Business Conduct, OECD, <https://www.oecd.org/investment/due-diligence-guidance-for-responsible-business-conduct.html>; Amendments to EU Directive (EU) 2019/1937, European Parliament (1 June 2023) (COM(2022)0071 – C9-0050/2022 – 2022/0051(COD)) European Union.

[https://www.europarl.europa.eu/doceo/document/TA-9-2023-0209\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2023-0209_EN.html); Chami, Bharati, et.al. (2021). *Data Subjects in the Femtech Matrix: A Feminist Political Economy Analysis of the Global Menstruapps Market*. IT for Change. <https://itforchange.net/sites/default/files/1620/FDJ-Issue-Paper-6-Data-Subjects-In-the-Femtech-Matrix-IT-for-Change.pdf>

<sup>18</sup> European Parliament. (2023). *EU AI Act: first regulation on artificial intelligence*. European Commission, <https://www.europarl.europa.eu/news/en/headlines/society/20230601STO93804/eu-ai-act-first-regulation-on-artificial-intelligence>

<sup>19</sup> *Artificial intelligence liability directive*, European Parliament, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/739342/EPRS\\_BRI\(2023\)739342\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/739342/EPRS_BRI(2023)739342_EN.pdf); *Liability Rules for Artificial Intelligence*, European Commission, [https://commission.europa.eu/business-economy-euro/doing-business-eu/contract-rules/digital-contracts/liability-rules-artificial-intelligence\\_en](https://commission.europa.eu/business-economy-euro/doing-business-eu/contract-rules/digital-contracts/liability-rules-artificial-intelligence_en)

<sup>20</sup> Gurumurthy, A & Ganapathy, A. (2023). *Fixing Platform Power: A Framework for Substantive Inclusion in the Platform Economy*. JustJob Networks. [https://www.justjobsnetwork.org/files/empowerment-or-exploitation-global-perspectives-on-womens-work-in-the-platform-economy\\_may-2023.pdf](https://www.justjobsnetwork.org/files/empowerment-or-exploitation-global-perspectives-on-womens-work-in-the-platform-economy_may-2023.pdf)

<sup>21</sup> Gurumurthy, A & Ganapathy, A. (2023). *Fixing Platform Power: A Framework for Substantive Inclusion in the Platform Economy*. JustJob Networks. [https://www.justjobsnetwork.org/files/empowerment-or-exploitation-global-perspectives-on-womens-work-in-the-platform-economy\\_may-2023.pdf](https://www.justjobsnetwork.org/files/empowerment-or-exploitation-global-perspectives-on-womens-work-in-the-platform-economy_may-2023.pdf)

for remedies related to human rights abuses from technology companies, particularly in cases of TFGBV that may arise from their engagement with social media, labor platforms, or e-commerce marketplaces. Firstly, lack of legal awareness, especially regarding the punitive nature of TFGBV, prevents women from taking steps to address the harm they have suffered. Additionally, the lack of awareness about reporting mechanisms and one-stop centers that may be set up by the State is also a major hurdle for women, particularly those in remote and rural areas, to report instances of TFGBV and seek redress.<sup>22</sup> ,

Secondly, legal recourse is also made difficult by the regressive, and sometimes hostile attitude of police officials who may refuse to register a complaint in the first place.<sup>23</sup> Even if a case is registered, the successful prosecution of TFGBV is also often thwarted by delayed and inefficient investigation and collection of evidence, especially digital evidence, by police officers.<sup>24</sup> Furthermore, when TFGBV occurs beyond territorial limits, challenges arise in securing cooperation from law enforcement agencies and foreign technological companies in the investigation and evidence collection. Lack of legal representation, high litigation cost, and litigation delays are other prohibitive factors in accessing effective and timely remedies for the survivors of TFGBV.<sup>25</sup>

Thirdly, outdated and patriarchal social norms embedded within laws and legal systems contribute to the harm experienced by women due to digital technologies. These norms lead to the portrayal of women's experiences in a manner aligned with traditional gender stereotypes, obsolete ideas of modesty and obscenity, and a limited view of privacy.<sup>26</sup> Consequently, instances occur where a woman is denied remedy for non-consensual distribution of her intimate image on the ground that she shared it consensually initially and thereby allegedly forgoing her privacy. In more distressing situations, she might even be prosecuted for transmitting sexually explicit images in the first instance.<sup>27</sup> Judges adopting outright sexist or even benevolent sexist reasoning further complicate matters, making it difficult for affected women to expect just and rights-based decisions from the court.<sup>28</sup>

Fourthly, access to remedy will be thwarted if the law does not recognize the full panoply of harms resulting from TFGBV. These harms extend beyond physical harm and can also include psychological, sexual, economic, and reputational harm to women.<sup>29</sup> It is also important to take note of the tardy pace

<sup>22</sup> Salim, M. (2021). *How Women from Marginalised Communities Navigate Online Gendered Hate and Violence*. IT for Change. <https://itforchange.net/sites/default/files/1883/Mariya-Salim-Rethinking-Legal-Institutional-Approaches-To-Sexist-Hate-Speech-ITfC-IT-for-Change.pdf>

<sup>23</sup> Gurumurthy, A., et al. (2019). *Born Digital, Born Free?: A Socio-Legal Study on Young Women's Experiences of Online Violence in South India*. IT for Change. [https://itforchange.net/sites/default/files/1662/Born-Digital\\_Born-Free\\_SynthesisReport.pdf](https://itforchange.net/sites/default/files/1662/Born-Digital_Born-Free_SynthesisReport.pdf)

<sup>24</sup> Gurumurthy, A., et al. (2019). *Born Digital, Born Free?: A Socio-Legal Study on Young Women's Experiences of Online Violence in South India*. IT for Change. [https://itforchange.net/sites/default/files/1662/Born-Digital\\_Born-Free\\_SynthesisReport.pdf](https://itforchange.net/sites/default/files/1662/Born-Digital_Born-Free_SynthesisReport.pdf)

<sup>25</sup> UN Women. Situational Analysis of Access to Justice for Victims and Survivors of Violence against Women and Girls in East and Southern Africa. <https://africa.unwomen.org/sites/default/files/2023-02/Situational%20analysis%20of%20access%20to%20justice%20for%20victims%20and%20survivors%20of%20violence%5B33%5D.pdf>

<sup>26</sup> Bhandari, V., & Kovacs, A. (2021). *What's Sex Got to Do with It? Mapping the Impact of Questions of Gender and Sexuality on the Evolution of the Digital Rights Landscape in India*. Internet Democracy Project. <https://internetdemocracy.in/reports/whats-sex-got-to-do-with-it-mapping-the-impact-of-questions-of-gender-and-sexuality-on-the-evolution-of-the-digital-rights-landscape-in-india>

<sup>27</sup> Gurumurthy, A., Vasudevan, A., & Chami, N. (2018). *Examining Technology-Mediated Violence against Women through a Feminist Perspective*. IT for Change. <https://itforchange.net/sites/default/files/1513/ITFC-DISCUSSION-PAPER.pdf>; Bhandari, V., & Kovacs, A.

(2021). *What's Sex Got to Do with It? Mapping the Impact of Questions of Gender and Sexuality on the Evolution of the Digital Rights Landscape in India*. Internet Democracy Project. <https://internetdemocracy.in/reports/whats-sex-got-to-do-with-it-mapping-the-impact-of-questions-of-gender-and-sexuality-on-the-evolution-of-the-digital-rights-landscape-in-india>

<sup>28</sup> Rajkumar, M., & Sen, S. (2023). *The Indian Judiciary's Tryst with Online Gender-Based Violence: An Empirical Analysis of Indian Cases*, pp. 55-56. IT for Change. [https://itforchange.net/sites/default/files/2190/ITfC-Draft-Case-Law-Research-Report\\_1.pdf](https://itforchange.net/sites/default/files/2190/ITfC-Draft-Case-Law-Research-Report_1.pdf)

<sup>29</sup> Gurumurthy, A., Vasudevan, A., & Chami, N. (2018). *Examining Technology-Mediated Violence against Women through a Feminist*

at which the law tends to catch up with technological progress, often failing to address newer forms of TFGBV. Furthermore, the failure of law and legal institutions, such as courts, to recognize the online-offline continuum of violence has led to situations where the gravity of online offenses is disregarded until an offline crime occurs.<sup>30</sup>

Lastly, while many jurisdictions are calling for robust accountability frameworks to address rights violations resulting from the operation of digital platforms, it remains moot to what extent transparency and accountability measures, as well as risk assessment audits, truly make a structural dent in the data extractive model and attention economy logic that perpetuates unfreedom for many women. Governance approaches tend to overlook how freedoms are structured and constrained within the digital ecosystem through network-making and protocol power of digital platforms.<sup>31</sup> Additionally, even when the platforms are statutorily obligated to set up grievance redressal mechanisms, concrete measures to ensure the accessibility and inclusivity of such mechanisms for women are often lacking.<sup>32</sup>

Apart from solutions to TFGBV, women also lack access to adequate institutional mechanisms to remedy the unjust and unfair treatment they receive in the digital labor and market economy. Discussions around the problems faced by platform workers often overlook the unique challenges that women workers face in digital value chains. Consequently, laws also tend to gloss over the issue.

### **Recommendations:**

Governments must adopt measures that include legal and institutional reform, regulation of digital platforms, awareness-raising, capacity-building, and education. Governments must:

#### **2.1 Undertake legal reforms to combat TFGBV and empower women while safeguarding rights:**

Governments should revise existing laws used against TFGBV so that they are weaned off patriarchal and sexist underpinnings, as well as archaic notions of womanly modesty and obscenity. Instead, laws should specifically address the rights violations suffered by women, including freedom of expression (encompassing both positive and negative connotations of the right, as well as the right to speak and to be heard), right to online public participation, right to privacy, right to equality and dignity, among others. Laws should provide redress against physical, sexual, psychological, economic, and reputational harm that could result from TFGBV. Governments should also undertake a regular revision of existing laws, including (cybercrime laws, criminal laws, laws on domestic violence and violence against women, hate speech laws and laws on data protection and privacy. Updates or amendments to existing laws should be made to address new forms of violence and abuse in the digital space.

#### **2.2 Strengthen law enforcement and judiciary through training and awareness:**

Police officers and judges should be given gender-sensitization training and directed to steer clear of gender stereotypes in the discharge of their duties. A significant step in this direction is the release of a

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*Perspective.* IT for Change. <https://itforchange.net/sites/default/files/1513/ITFC-DISCUSSION-PAPER.pdf> ; UN Human Rights Council. Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences on online violence against women and girls from a human rights perspective. 2018. A/HRC/38/47. <https://digitallibrary.un.org/record/1641160?ln=en>

<sup>30</sup> Rajkumar, M., & Sen, S. (2023). *The Indian Judiciary's Tryst with Online Gender-Based Violence: An Empirical Analysis of Indian Cases*, pp. 55-56. IT for Change. [https://itforchange.net/sites/default/files/2190/ITfC-Draft-Case-Law-Research-Report\\_1.pdf](https://itforchange.net/sites/default/files/2190/ITfC-Draft-Case-Law-Research-Report_1.pdf).

<sup>31</sup> Mondal, A. (2018). *The shape of free speech: rethinking liberal free speech theory*. *Continuum*, 32(4), 503-517.

<sup>32</sup> See, Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (India).

handbook by the Supreme Court of India on combating gender stereotypes.<sup>33</sup> The handbook contains a glossary of gender-unjust terms and suggests alternative words or phrases which may be used while drafting pleadings as well as orders and judgments. It also identifies common stereotypes about women, many of which have been utilized by courts in the past and demonstrates why they are inaccurate and how they may distort the application of the law. It is essential to increase capacity building and sensitization training/resources of law enforcement agencies and judicial members about different forms of TFGBV, the offline-online continuum of violence, the dynamics of the online public sphere, and the unique experiences of online violence for the most vulnerable women.

### **2.3 Ensure swift investigation and accessible remedies for TFGBV survivors:**

Governments should enact appropriate legislative and policy measures to ensure prompt and speedy investigation of TFGBV by the police. This includes the provision of infrastructure and resources needed for efficient collection of digital evidence and strengthening Mutual Legal Assistance Treaties and other instruments to gather evidence from foreign jurisdictions. Additionally, legal remedies must be made accessible to survivors of TFGBV through measures such as legal aid services.

### **2.4 Foster inclusive digital literacy and gender equality across education:**

Governments should also promote digital literacy for all, without gender-based discrimination, and foster gender equality at all levels of education, including online education, starting from early childhood.

### **2.5 Strengthen regulations for digital platforms to safeguard women's rights online:**

Laws regulating digital platforms should lay down definitive parameters to fulfill accessibility and inclusivity for women and girls from all communities. This can happen through gender-based due diligence measures such as periodic consultation with affected stakeholders, ensuring the inclusion of women in senior management roles within digital platform companies, especially in areas where content moderation decisions are made. Regular gender audits of their grievance mechanisms, establishing a robust appeal mechanism, and providing users with avenues to access state-based mechanisms in case of dissatisfaction with platform grievance redressal mechanisms are essential steps as well.

In the context of tackling online sexist hate, a gendered perspective on the right to freedom of expression must include a framework for promoting both positive freedoms (freedom for), such as the right to public participation, or the right to publicness, as well as negative freedoms (freedom from). Such a perspective on freedom of expression can be ensured by measures like mandating digital platforms to implement measures aimed at arresting the algorithmic amplification of misogynistic content. This action should be viewed as an ongoing commitment to their statutory duty of care owed to users.

Therefore, regulatory oversight over moderation practices of digital platforms must not be limited only to decisions about taking down or reinstating content: it must also extend to design choices and algorithmic processes that amplify content. For instance, an independent regulatory authority should be tasked with investigating practices such as shadowbanning and the use of dark patterns by

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<sup>33</sup> Supreme Court of India. (2023). Handbook on Combating Gender Stereotypes. [https://main.sci.gov.in/pdf/LU/04092023\\_070741.pdf](https://main.sci.gov.in/pdf/LU/04092023_070741.pdf)

platforms. Additionally, it should ensure that the trending page on a platform does not cause hateful content to spread virally.

## **2.6 Empower civil society and whistleblowers to hold technology companies accountable for gender-based violence and systemic failures**

Governments should create an enabling environment through legislation and policy measures, allowing civil society participants and whistleblowers to expose a) the systematic and intentional failures of technology companies, particularly digital platform companies, to prevent gender-based violence on their platforms, b) the failure to address local socio-political-linguistic complexities in their operation, c) their role in fueling offline violence and harms, d) serious shortcomings in their redressal mechanisms that make access to immediate remedy prohibitive for women, and e) any undesirable collusion between states and technology companies.<sup>34</sup>

## **2.7 Ensure legal protections and data rights in the age of algorithms:**

To protect and promote women's labor participation in the digital economy, labor laws should not only include provisions for social security but also extend protections related to minimum wage, equal pay for equal work, the right to organization and collective bargaining, as well as regulations for working hours and conditions. These protections must cover all those who work on digital labor platforms, with specific provisions to address the unique challenges faced by women in the digital labor economy.<sup>35</sup>

Considering that women workers on digital labor platforms are governed by algorithms that run on the engine of data, labor legislation must also incorporate provisions that protect workers' data rights, and recognize their right to be free from undue surveillance in the workplace. The concept of 'right to explanation' must be given a strong legislative push to ensure that workers have the opportunity to challenge seemingly arbitrary decisions taken by AI, and are also guaranteed an explanation for the same. Additionally, there should be institutional mechanisms and regulatory bodies to oversee and enforce the above obligations, with adequate expertise to address gender-specific challenges.<sup>36</sup>

## **3. Gender-Responsiveness in Platform-Based Grievance Redressal Mechanisms**

There is mounting evidence to demonstrate that grievance redressal mechanisms on digital platforms, such as social media, are woefully inadequate in providing effective redress in many cases of TFGBV.<sup>37</sup> On one hand, platform responses can be slow, and hence, ineffective in dealing with harmful content that has gone viral. On the other hand, these platforms are inaccessible to many women, especially women in the Global South due to issues related to language barriers, lack of awareness, lack of

<sup>34</sup> European Network of Corporate Observatories. (2018). *The EU And the Corporate Impunity Nexus Building the Un Binding Treaty On Transnational Corporations And Human Rights*. Transnational Institute, [https://www.Tni.Org/Files/Publication-Downloads/The\\_eu\\_and\\_corporate\\_impunity\\_nexus.Pdf](https://www.Tni.Org/Files/Publication-Downloads/The_eu_and_corporate_impunity_nexus.Pdf)

<sup>35</sup> Gurumurthy et al. (2021). *The Macro Frames of Microwork: A Study of Indian Women Workers on AMT in the Post-Pandemic Moment*. IT for Change. <https://itforchange.net/sites/default/files/1739/The-Macro-Frames-of-Microwork-Full-Report-ITfC-2021.pdf>

<sup>36</sup> Gurumurthy et al. (2021). *The Macro Frames of Microwork: A Study of Indian Women Workers on AMT in the Post-Pandemic Moment*. IT for Change. <https://itforchange.net/sites/default/files/1739/The-Macro-Frames-of-Microwork-Full-Report-ITfC-2021.pdf>

<sup>37</sup> Nicolas Suzor et al. (2018). *Human Rights by Design: The Responsibilities of Social Media Platforms to Address Gender-Based Violence Online: Gender-Based Violence Online*. ResearchGate. [https://www.researchgate.net/publication/327962592\\_Human\\_Rights\\_by\\_Design\\_The\\_Responsibilities\\_of\\_Social\\_Media\\_Platforms\\_to\\_Address\\_Gender-Based\\_Violence\\_Online\\_Gender-Based\\_Violence\\_Online/link/6030763f92851c4ed5837306/download](https://www.researchgate.net/publication/327962592_Human_Rights_by_Design_The_Responsibilities_of_Social_Media_Platforms_to_Address_Gender-Based_Violence_Online_Gender-Based_Violence_Online/link/6030763f92851c4ed5837306/download)

resources etc.<sup>38</sup> Furthermore, automated tools used in grievance redressal mechanisms are not always successful in correctly identifying harmful content. This is due to inherent social bias, limited ability to understand the context of a text or image, variations in language cues and meaning, linguistic and cultural particularities, and failure to detect content that is not already identified as problematic content.<sup>39</sup>

Access to remedy is thwarted due to a lack of cultural specificity in content moderation. This is exemplified by platforms' terms of service, such as Facebook's Community Guidelines and Twitter Rules, which have a universal scope and often reflect Americanized frames of legitimacy of speech. These guidelines are not always in tune with the realities of the Global South,<sup>40</sup> leading to the oversight of context-specific forms of abuse (cultural references and textual nuances). As a result, this oversight may perpetuate unique disadvantages faced by a particular group or community, especially those with intersectional identities. It could also result in misrecognition and erasure of the voice of users from vulnerable social groups. For instance, in India, caste is a protected identity marker, and caste-based discrimination and violence are widespread. Despite this, for many years, the community guidelines of major social media platforms operating in India did not incorporate caste as a protected category in their hate speech and harassment policies.<sup>41</sup> Even when many platforms incorporated this category, their forms for reporting harmful content still did not list caste as an option.<sup>42</sup> This makes it difficult or even impossible to report context-specific forms of abuse that women and girls may face.

## Recommendations:

### 3.1 Effective and inclusive grievance redressal mechanisms for women:

Apart from reporting on actual instances of harm encountered by women users, there should also be a mechanism for women to raise complaints with platforms on any issues they have encountered that limit their rights and freedom while using the platforms.

Technology companies must ensure that they avoid any processes or modes of communication that are patronizing, culturally insensitive, or otherwise not sufficiently respectful of the needs of affected people or groups.<sup>43</sup>

### 3.2 Ensure user access to reporting and grievance redressal information on digital platforms:

Users should have access to comprehensive information related to reporting and grievance redressal

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<sup>38</sup> Web Foundation. (2020). *The Impact of Online Gender-Based Violence on Women in Public Life*. <https://webfoundation.org/2020/11/the-impact-of-online-gender-based-violence-on-women-in-public-life/>

<sup>39</sup> Gillespie, T. (2018). *Custodians of the Internet: Platforms, Content Moderation, and the Hidden Decisions that Shape Social Media*. (p. 99); Center for Democracy and Technology. (2017). *Mixed Messages? The Limits of Automated Media Content Analysis*. (p. 4).

<sup>40</sup> Gurumurthy, A., & Dasarathy, A. (2022). *Profitable Provocations: A Study of Abuse and Misogynistic Trolling on Twitter Directed at Indian Women in Public-Political Life*. IT for Change.

<https://itforchange.net/sites/default/files/2132/ITfC-Twitter-Report-Profitable-Provocations.pdf>

<sup>41</sup> Kain, D., et al. (2021). *Online Caste- Hate Speech: Pervasive Discrimination and Humiliation on Social Media*. APC.

<https://www.apc.org/en/pubs/online-caste-hate-speech-pervasive-discrimination-and-humiliation-social-media>

<sup>42</sup> Kain, D., et al. (2021). *Online Caste- Hate Speech: Pervasive Discrimination and Humiliation on Social Media*. APC.

<https://www.apc.org/en/pubs/online-caste-hate-speech-pervasive-discrimination-and-humiliation-social-media>

<sup>43</sup> Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups. B-Tech Project. <https://www.ohchr.org/sites/default/files/Documents/Issues/Business/B-Tech/access-to-remedy-perspectives-needs-affected-people.pdf>

processes. This includes details of the representative appointed by the digital content platform in their own country, information about policies in a digestible format and in all relevant languages. Users should be informed about the recourse/appeal mechanisms available for various reasons, such as removal of content, suspension of an account, or any other type of action affecting users' human rights, including the right to freedom of expression and freedom from violence.<sup>44</sup> Priority in response should be given to addressing harmful content that poses an immediate threat to the life and safety of women such as non-consensual dissemination of intimate images, morphed images, doxing, incessant and violent trolling, among other forms of harassment.

### **3.3 Enhance representation and stakeholder engagement for effective TFGBV response on digital platforms:**

The content moderation team on digital platforms, across different tiers, should have adequate representation of women and gender minorities, especially those with expertise in the specific linguistic, social, and cultural context of the region in which the platform is operating. In addition to this, there should be periodic consultation and stocktaking involving women users, civil society representatives, researchers, and other stakeholders to evaluate the effectiveness of grievance redressal mechanisms in addressing existing and emergent forms of TFGBV on digital platforms.

When applying human rights standards, technology companies, particularly digital platform companies, should be cautious not to impose their interpretation of rights. Instead, they should call for region and community-specific public comments and representations, seeking the inputs of relevant public bodies, including national human rights institutions.

### **3.4 Ensure Human Oversight of Content Moderation Decisions:**

In the case of the use of automated tools in content moderation, there should be appropriate human oversight and review of the decisions. Further, platforms should continuously invest in bettering the automated tools and making them sensitive to gender, linguistic and cultural considerations.

## **4. Role of Civil Society in Holding Technology Companies to Account for Women's Human Rights Violations**

As technology increasingly shapes our lives, it is vital to align these advancements with fundamental human rights, especially those related to women. Civil society organizations and non-governmental organizations (NGOs) play a crucial role by mobilizing public opinion, raising awareness, holding technology companies, particularly, digital platform companies, accountable, and providing insights into challenges like online harassment and privacy violations. Their expertise is invaluable for shaping policies that respect women's rights.<sup>45</sup>

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<sup>44</sup> Principle 31, UN Guiding Principles on Business and Human Rights.

<sup>45</sup> *Human Rights Activism and the Role of NGOs*, Council of Europe. <https://www.coe.int/en/web/compass/human-rights-activism-and-the-role-of-ngos>

## Recommendations:

### 4.1 Holding technology companies accountable through oversight:

To ensure that technology companies uphold human rights, civil society and NGOs must assume the crucial role of watchdogs, actively monitoring these companies' activities. Several effective methods can

be employed to exert pressure on technology companies, including the development and utilization of scorecards and comprehensive reports assessing their conduct. These assessments act as powerful tools, holding technology companies accountable for their actions. Some keynote examples include:

- The Ranking Digital Rights (RDR) Big Tech Scorecard meticulously evaluates the world's largest technology companies, gauging their commitment to freedom of expression, privacy, and other human rights aspects. The assessment encompasses 35 indicators, ranging from the disclosure of policies and practices to governance and user empowerment.<sup>46</sup>
- Initiatives like the Access Now Human Rights Scorecard<sup>47</sup> further reinforce this oversight. By evaluating giants such as Amazon, Google, and Meta, these scorecards scrutinize companies based on their policies and practices pertaining to freedom of expression, privacy, and other fundamental human rights. These systematic evaluations empower civil society organizations, enabling them to keep technology companies accountable for their human rights performance.
- Coalitions such as the Alliance for Corporate Transparency in Europe actively advocate for stricter and clearer reporting requirements within the European Union.

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<sup>46</sup> Afef Abrougui et al. (2022). *Key Findings from the 2022 RDR Big Tech Scorecard*. Ranking Digital Rights.

<https://rankingdigitalrights.org/mini-report/key-findings-2022/>

<sup>47</sup> Access Now. *RDR Scorecard: How Amazon, Google, Meta, and more rank on human rights in 2022*. <https://www.accessnow.org/big-tech-amazon-google-meta-human-rights-scorecard-2022/>