

Broadening the Policy Debate on ICTs and Violence Against Women - Some Considerations¹

*Input for the Sakhi-Jagori National Consultation, Kerala, 27th and 28th March 2009
on 'Misuse of communication technology and its linkages with Violence against Women'*

Introduction

Feminists need to understand digital technologies for how these new technologies mediate and reshape dominant taxonomies and identity categories of gender and sexuality. New information and communication technologies (ICTs) disrupt dominant categories. We need to therefore evolve new lenses to examine and understand identity in digital spaces and how relationships of power are constructed and reproduced in the emerging social paradigm called the information society.

Our immediate concern may emerge from the fact of the violation of women through abuse of technology and the resultant social outcomes that are as extreme as suicide by women victims of online harassment. But digital reality is intrinsic to the world we live in and not just a site of patriarchal control of women's bodies. This requires us to use wider lenses in understanding the phenomenon of ICTs, how they construct new social relationships and structures and how current controls over ICTs (by the market, state, community elite) can influence negatively or positively women's appropriation of these structures for their empowerment.

Looking at the new configurations of power that ICTs effect is necessary to understand the social construction of gender in emerging times - both in terms of its potential for a significant rupture from current structures of oppression, exploitation and control as well as for the more virulent reproduction of gender power. Two vantages of enquiry will be useful. One is to look at the emerging debates around privacy and personhood; what 'digital personhood'² is and how this may be gendered. Data retention and sharing by social networking sites where private transactions occur are a much debated issue raising questions about to what extent the use of online public spaces may imply forfeiting of the individual right to privacy. These debates have to be analysed for how digital personhood is indeed gendered and how the integrity and dignity of persons online, and the incursions on their privacy are gender issues.

The other issue for close engagement is that of normative structures in emerging spaces – how rules are being made and who is making the rules that define power. This thread of enquiry is about paternalism and patriarchal controls in digital spaces and their articulation through the notions that subordinate women, such as of modesty, shame and honour. Violence against women cannot be understood in relation to new ICTs unless we see it as a function of how women's personhood and the norms dictating morality are recast in digital spaces.

A critical question for us is how do feminists challenge masculinities online and how do we get to shape these spaces through new rules given that the emerging information society is still nascent? What is our position about the realignment of gender and sexuality that is inherent to the information society? Given that ICTs are not just a tool but underscore a new social reality and that ICTs are reshaping institutional regimes right now and thus opening up spaces for rule setting, what should be a feminist response?

1 This note has been prepared by Anita Gurusurthy along with the IT for Change team.

2 Recently, German law defined online privacy in terms of 'digital personhood'.

This note will address these questions providing a broad overview of the following:

1. The emerging information society context and its redefinition of the public sphere.
2. The policy context that has emerged in relation to the social-structural nature of ICTs.
3. Considerations that are important for a feminist response to the policy context.

The Emerging Information Society

Our conceptions of the world we live in decisively influence our responses to the opportunities and challenges for feminism. Many, or most of us, are 'digital immigrants'³, and our worldviews of the space and time we inhabit are coloured by perceptions we carry of the earlier paradigms that defined our existence. Which is why, we imagine digital technologies not so much for their paradigmatic implications – as technologies shaping our social structures and everyday lives - but as tools that can be used and misused. This logical fallacy often misinforms our approach as feminists in our treatment of ICTs merely as artefacts that can be manipulated, rather than also as harbingers of change that is systemic. In fact, as a transformatory social paradigm, the information society we are part of needs to be understood distinctly from the technological artefacts that represent such transformation.

The information society lens is critical to feminist analysis. Since feminism is a project of radical change, the nature and meaning of change in the contemporary context, marked as it is by new ICTs, is vital to our efforts towards women's rights and gender equality. At a more fundamental level, the information society is about a changing public sphere that requires new tools for feminist inquiry. The precise nature of change has been theorised by media and communications scholars, sociologists and political scientists and economists. In these analyses, the terms 'network economy' and 'network society' have often been used to signify the diffusion of a networking logic embedded in the information society that substantially modifies the operation and outcomes in processes of production, experience, power and culture. The power of network capitalism has been examined in this regard and so has the coming together of interpersonal, organisational and mass communication. Other ways to think about the information society paradigm have also been suggested. The 'gel' metaphor for instance has been used to indicate how slippages between the private and the public characterise communication in the times we live in that then suggest fundamental reconfigurations in the spatialities of our social transactions. For instance, what may be interpersonal and private communication on the Internet invariably occurs on platforms that are public (chat rooms, face-book). The slippages also allow for new kinds of publics to assemble momentarily (for instance the sms based protest against the court verdict in the Jessica Lal murder case).

Nancy Fraser's framework⁴ on the transnational public sphere provides a useful window for feminist inquiry on the information society. Fraser points to how the Internet age embodies communities that do not map onto one another - the imagined community or nation, the political (or civic) community or citizenry, the communications community or public, and the community of fate or the set of stakeholders affected by various developments. These alignments provide a good point of departure to conceptualise the emerging public sphere, and how participation, membership and citizenship can be thought of in the communities we belong to.

3 Marc Prensky authored a seminal article titled Digital Natives, Digital Immigrants in 2001, in which he coined and used these phrases to describe (respectively) the students of today who are “native speakers” of the digital language of computers, video games and the Internet; and those of us who were not born into the digital world but have, at some later point in our lives, adopted new technologies.

4 http://www.republicart.net/disc/publicum/fraser01_en.htm

Very evidently, the categories of our analysis need to keep pace with the historical moment that we are in. So while we talk about technologies and their 'misuse' in violating women's rights, we also need to examine the perspectives of women (and men) who find forging new social relationships and new forms of social relationships empowering in the realignment of the public sphere.

It is widely accepted now that the Internet holds emancipatory potential. In cultural contexts where women's access to public spaces is constrained by patriarchal taboos, it opens up for women new social spaces that breach the inside-outside divide. As a space for self expression, communication, organisation, networking and solidarities, the Internet provides unprecedented avenues for women. However, social and cultural norms regarding women's status, local patriarchies, conceptions of honour and family consent have a profound influence over women's access to and engagement with ICTs. Ideologies of the state are also important and define the boundaries of what is possible for gender equality. For example, gender stereotypes and norms can get recast in policy constructions that define what kind of access is appropriate for women. The subversive potential of ICTs also threatens status quo giving rise to moral panic and so, states exercise control and in fact use technology to curtail rights, rather than secure them for women.

The information society is not only about those who have access to online spaces or those who are users of ICTs. This is an important analytical issue. Non-users are impacted by the changing institutional order as much as users. The network economy, explained above creates new exclusions – in what is known as the digital divide – that exacerbate the structural disadvantages of marginalised communities and social groups, while strengthening corporate capitalism. On the other hand, even without being literate or having access to a computer, poor women can be favourably impacted by ICTs, for example through progressive e-governance schemes that address their interests.

The Policy Context of ICTs

Policy frameworks in the emerging information society need to address a multiplicity of issues. The last OECD Ministerial meeting for instance identified the following themes as important in relation to the future of the Internet: Respect for Human Rights and the rule of law, Protection of Privacy and Transparency, Freedom of expression and of information, Internet governance, Employment, Decent Work and Skills, Consumer protection, Cultural Diversity, Promotion of Access to Knowledge, Intellectual property, Support for Pluralistic Media, and Promotion of Open Standards and Net Neutrality. The breadth of these themes speaks to the deep and vast socio-political meanings of the transformation that we are witness to in the digital age.

Policy regimes impacting sexuality and women's rights in relation to the new context are very complex and have to navigate many points of tension owing to the wide array of often conflicting concerns that are implicated - individual rights to communicate, get information, association, assembly, rights to liberty, security, freedom from cruelty, etc.

By and large, ICT policies in developing countries, including India, have adopted a neo-liberal, market view of ICTs and their default definition as market infrastructure and have thus marginalised their larger social significance. Therefore, what we find is that existing policy frameworks usually address the ICT 'economy'. Cybercrimes are also dealt with in policy mostly in their relationship to trade and the economy (except for child pornography and child protection, which have emerged as critical themes in many regional and national policies). In the legislation of many countries, an attack against the image or private life of a person is still not viewed as a form of cybercrime⁵.

5 <http://www.genderit.org/en/index.shtml?apc=a--e96159-1>

Since most violations involving sexual content online are directed against women, the present biases in policy and law compromise women's rights. The IT Act in India also concerns itself primarily with issues of commerce and governance, and discussions of cybercrime focus on individuals in their role as users and consumers. Chat room abuse or cyber stalking do not have provisions under which these crimes can be reported. Such cybercrimes actually get addressed under the archaic provisions of the Indian Penal Code, which speaks to the fact that law is yet to keep pace with the changing social paradigm. However, the recent amendment to the IT Act penalises the intentional capturing, publishing and transmission of the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person.

The complexity surrounding issues of women's rights and sexuality online no doubt makes policy debates nebulous and inconclusive and hence policy response, more elusive. However, the hardest challenge in policy advocacy for gender justice is the control of media and communications by capitalist interests. Donna Hughes analyses how newer technologies are being appropriated by the porn industry creating newer and more violent forms of pornographic material, using new ICTs actively to circumvent law.⁶ The global sex trade industry is huge and among the fastest growing international crime industry. Commercial interests thus complicate consensus around online violence against women. For example, the Convention on Cybercrime adopted by the Council of Europe in 2001 and signed by some other countries including South Africa, addresses the issue of child pornography but is silent on violence against women.

The fact that a coherent 'global' governance framework does not exist in the many arenas of transnational significance that arise because of new technologies often works to the disadvantage of developing countries. Also, institutional maturity of legal and policy processes in respect of information society realities is mostly poor, in developing countries. The implications of such governance deficits are obvious. ICTs complicate not only the divisions between the public and private spheres, but also break down national boundaries that define the jurisdictions of law. The lack of territorial jurisdiction over the Internet makes it difficult to prosecute the guilty; establish who should be accused of the crime, and before what authority. Lack of cooperation from foreign-based websites is one of many hindrances to the resolution of cybercrime cases.

Framing a Feminist Response – How to Approach Policy Advocacy in relation to ICTs?

As much as the appropriation of new ICTs and membership in the emerging public sphere is fraught with risks and dangers, it is in fact the very basis of expansion of capabilities for women's citizenship in the emerging social order. Policy approaches therefore need to recognise both women's 'public', political rights as well as 'private', individual rights.

To grapple with the social and economic policy issues arising from the rapid and wide ranging changes ushered in by new ICTs, countries like South Africa have set up an Information Society Commission, a policy body empowered to think through and put in place measures to address concerns about inclusion and participation of citizens. Such an institutional mechanism is necessary for policies in developing country contexts to keep pace with technological change processes. Further, in respect of equity and social justice concerns, policy must be anchored in a vision that spans the totality of ICT induced change, even if specific areas and their legal frameworks need rethinking and reformulation. Piecemeal efforts to tinker with policy domains like employment and education or legal arenas like crime, may fail to add up to a cogent national response to the opportunities and challenges presented by new technologies, especially for transformatory change that privileges the marginalised.

6 http://www.uri.edu/artsci/wms/hughes/new_tech.pdf

For marginalised women, new ICTs provide radical choices for empowerment and new pathways to citizenship. For instance, in respect of the RTI or of information basic to survival such as about the NREGA, information architectures supported by ICTs catalyse a push for institutional transparency and accountability. Yet, as development intervention adopts ICTs more and more to democratise information, that is, put information in the public domain for ensuring the positive rights of the marginalised, the technological architectures supporting these processes need also to have adequate safeguards for privacy. Information society related policies to protect and further women's rights must therefore address both negative and positive rights, protecting individual privacy while enabling highest transparency in government. The US RTI Act in its recent amendment specifically deals with this balance. The amendment to section 89 requires public agencies to consider access to information within the systems and the protection of privacy, to ensure easy access to portions of records that are available to the public while guaranteeing the security of other portions that may properly be withheld.

The protection of women's rights to information and communication implicates the need to balance self expression concerns with those about protecting them from exploitation. While there is no doubt that policies are needed as also legal redress when violence is experienced in online spaces, the boundaries of state involvement in effecting such protection become critical. While the government should be able to prosecute those engaged in violence against women, a right to surveillance in general, without adequate basis is likely to infringe on women's privacy. The state's duty to intervene and prosecute violence when it happens online should not become an excuse for surveillance over the internet.

Concerns about online violence also bring to the fore the question of what is violence and who decides this. This is of course well debated in criminal and civil law and feminist reflections around this are important in debates around cyber crimes. The subjectivity of the woman victim becomes central to resolving what may be seen as violence and therefore state intervention cannot be seen as legitimate when sexual matters online are consensual.

Policy intervention needs to also include measures to enable women to address threats and dangers. However, in the name of protection, ICT access cannot be cast as a dangerous proposition. Violence against women is an ideological tool of power and control and as Charlotte Bunch⁷ says, “We need to ensure that whatever work is done to teach women about the danger of violence doesn't reinforce the very purpose of that violence, which is to make them afraid to do something in the first place.... We should empower women so that they don't get victimized or have to participate in anything that they don't want to do and that they have the right to report anything that they see or experience that they think is objectionable. Whether the court rules that it is objectionable or not, at least there should be a place they can take their feelings and ideas about it. I think those are the kinds of policies we need to shape—policies that are empowering women to deal with violence rather than protecting them from the outside.”

Among the greatest challenges to a strong feminist response to issues of violence against women and ICTs is the fact that feminist analytical frameworks have not adequately admitted the changing realities restructuring gender relations. The 'information society' lens needs to penetrate feminist advocacy around many a global issue. Movements and platforms need to articulate new dimensions of old issues, in spaces like the CSW and the HRC, where discussions about online violence and policies that we want from governments are important. Feminist advocates have also to lobby for greater awareness training of the police, judges and lawyers. Typically, state actors are less exposed to debates around technology and this creates a vacuum that is readily filled by 'professionals' with

7 <http://www.genderit.org/en/index.shtml?apc=a--e96169-1>

'technical expertise' who exercise enormous power in mediating between the state and the citizen.

The discourse of ICTs and violence cannot be limited to tactics that deal with what is disempowering. Since feminist politics is about construction of alternatives, feminist engagement with policies also needs to approach rights from the vantage of an alternative ICT discourse. Policies are needed to promote appropriate technologies that can create secure and empowering online spaces. And feminist engagement with such policies is part of the imperative to shape the emerging technological paradigm.

By far the most urgent feminist response that is required is to move beyond seeing digital and online spaces as a different realm confined to technology users, but as yet another site of power that needs feminist intervention for addressing gender justice concerns.