Submission to UN Special Rapporteur for Freedom Of Expression and Opinion

Online Gender-based Violence and Gendered Disinformation:
Asia Consultation

IT for Change

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- At the outset, it must be said that gendered violence online, including gendered hate speech, is a matter of immediate and pressing concern which requires national, regional, and global action to enable women and non-binary people (including across intersectional marginal locations) to be full citizens of the world.
    - In order to do this, their rights to freedom of expression have to be protected, as well as ensure that in the protection of the liberal conception of free speech, their rights (as protected in the exception clause of Article 19(3)(a) of the ICCPR) is not sacrificed.
    - Women and non-binary people are on the receiving end of a majority of the violence on social media, which has been established through a variety of studies (ITfC 2022, Amnesty International 2018).
    - Their right to publicness, i.e., ability to be part of the public sphere, shape public opinion, as well as access the public space, their right to public participation (as guaranteed under Article 25 of the ICCPR), as well as right to freedom of expression is threatened by the incessant stream of misogynistic speech — which ranges from 'innocuous', or mildly offensive, to outright violent.
- In order to safeguard these rights, the need of the hour is to construct a mechanism that is not over-reliant on the locutionary aspects of speech, but also its intent and effect, as well as the enabling environment — the platformized and capitalist social media. In that respect, through IT for Change's study of hate received by women in public-political life, it is clear that the 'milder' variety of hate received is more common, and creating a threshold for hate speech can exclude these lesser variants of misogyny. There is also an absence of consideration of the volume of such messages received, which have the effect of silencing recipients of such violence.

With that context in mind, the responses to the questions posed by the Special Rapporteur on Freedom of Expression and Opinion (SR of FOE) are answered as below.

- *How is gendered disinformation different from other types of online harassment? What characterizes it? What responses are necessary?*
    - Gendered disinformation is an important sub-type of online gender-based violence, and important to take note of in an environment where there is a consistent churn of information, and multiple motivations to divert attention to false and disingenuous content.

- Gendered disinformation as an analytical category only casts the spotlight on the adverse effects of the spread of deceptive/inaccurate information that harms the reputation of women political figures on the quality of democracy in the public sphere.

- However, it is not the only facet. Disinformation is unable to address issues of misrecognition, disenfranchisement, and dislocation that targeted women face as a result of misogyny.

- Sexist hate can take on many shapes, as evidenced in IT for Change's Twitter Study which categorized 22 types of violent speech, including casteist slurs, sexualization, dehumanization, religious hate and it is imperative that all these be considered for addressing online gender-based violence.

- *When misogynistic narratives amount to hate speech? What is the threshold?*

    - Creating a threshold to recognize conversion of misogynistic hate to hate speech, while sound in the legal regime, can be counterproductive in the social reality of online gender-based violence women and non-binary people face.

    - Our study shows that milder forms of misogynistic speech are much more prevalent and it is not as much their content, but their virality that can cause harm.

    - The online space is also having to engage with concerns of the originator of the message versus the thousands of people who may reshare or retweet that message, or jump on the bandwagon and follow suit.

    - Choosing to regulate only the most virulent forms of gendered violence and stepping back from the issue of trolling would result in overlooking one of the most pervasive and insidious forms of gender discrimination online.

    - In light of this, pinning the resolution of hate speech on a threshold definition and working out of that can only address contents of speech that are incendiary, or so violent that criminal law must step in.

    - However, for all other types of misogyny, one must place responsibility on the enabling environment that allows for viral hate to propagate — the social media platforms.

    - It includes recognizing that social media platforms benefit from the clicks and engagement of viral hate, and accordingly mediate content, and regulate speech, not by directly muzzling or stifling user speech, but by steering and manipulating the attention of users in particular ways through algorithmic means—organizing, ranking, recommending, hiding, and curating.

- A stringent accountability mechanism for platforms, which recognizes their role in viral hate transmission, along with transparency on platform's algorithmic models of curating content, is needed.

- There is also need to understand how platform's features, like exemptions from content policies to popular handles, and retweet and reshare options work toward propagating hateful messages, or trolls.

- Further, contextual understanding of messages is significant, since a lot of online trolling falls under the umbrella of insinuations, coded phrasing that cannot be caught by algorithms. Human moderation, with adequate training, and sufficient support structures, that do not abuse existing structural inequalities ([Kenyan case](#) of Facebook moderation) is a must.

- *Do we need an updated definition of GBVO?*

  - An updated definition is much needed, especially from the one from the UNSR in 2018.

  - This definition is rooted in biological essentialism, and does not recognize the advances of the transgender rights movement. Transgender and non-binary persons, who continue to face misogynistic hate for challenging patriarchal notions have to be considered within the ambit of online gender-based violence, given that it is also their rights of publicness, participation and freedom of speech that is impacted — as such, the phrasing "against a woman because she is a woman" cannot be part of a definition.

  - The current definition also invisibilizes intersectional operations of gender power. Misogyny is the policing force of patriarchy but it intersects with the other hierarchies of caste, race, and class that sustain the patriarchal-capitalist complex, and any definition must be cognizant of this intersectionality of marginalization.

- *From an activist / practitioner point of view, how useful are these concepts and why is it important to discuss them? What strategic use can they have?*

  - Learning from other contexts, as well as other practitioners, enables us to understand the nuance of online gender-based violence and the steps needed to address it not only from a global definitional perspective, but also from a regional and national lens.

- *What are the key global policy advocacy goals to respond to the above, and what is the best strategy to achieve them?*

  - Regulation of online misogynistic speech on social media is a move away from criminal, carceral, and retributive notions of justice towards those based on a

model of accountability that foreground the effective delivery of justice in ways that are responsive to the needs of the victim.

- Policy advocacy should drive towards laying responsibility on social media platforms for enabling an environment for misogynistic hate. This can be done through the steps already discussed above.

- Egregious forms of violence online, including threats of death and sexual violence, non-consensual intimidate image distribution, may still require intervention of the criminal justice system

- Policy goals should also concern themselves with the algorithm-driven structures of the online publics — and ask for laws that enable real transparency, outside of the high-level reports published by social media platforms in recent months. Transparency in the decision-making of algorithms will enable discussions on the platform model of communication that we currently have and create scope for either alternative models of communication or an overhaul in existing structures.