

## Chapter 29

# Human Rights, Privacy Rights, and Technology-Facilitated Violence

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### Abstract

This chapter examines technology-facilitated violence from the perspective of international human rights law. It explores current research relating to technology-facilitated violence and then highlights the international human rights instruments that are triggered by the various forms of such violence. Ultimately, it focuses upon international human rights to privacy and to freedom from violence (especially gender-based violence) and the obligations on State and Nonstate actors to address violations of these rights. It argues that adoption of a human rights perspective on technology-facilitated violence better enables us to hold State and Nonstate actors to account in finding meaningful ways to address violence in all of its forms.

*Keywords:* Gender-based violence; international human rights; privacy; corporate responsibility; state obligations; technology-facilitated violence and abuse

### Introduction


Violence is among the leading causes of death worldwide for people aged 15–44 years. Each year, 1.4 million people lose their lives to violence and many more are injured and left with physical, sexual, reproductive, and mental health problems (WHO, 2017). Violence cuts across generations, nationalities, communities, and societies, takes many forms, and is facilitated by technology.

While new information communication technologies are enabling learning, creativity, and social connections; reducing isolation; communicating ideas, news, and activism; providing employment and business opportunities; and enabling

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transactions, financing, and services, they also enable covert commercial monitoring and data harvesting; surveillance in public and private places; hate speech and disinformation; privacy infringements; and violence and abuse. These negative uses of technologies facilitate polarization of societies and violations of human rights (UN Digital Co-operation, 2019). Further, distinctive features of information communication technologies such as portability, reach, and speed deliver maximum impact for technology-facilitated violence and abuse (TFVA) (Hall & Hearn, 2017).

Numerous international human rights instruments guarantee, among other things, rights to privacy, and freedom from violence and abuse, and impose obligations on States to honor and protect those rights, and in some cases, to ensure that Nonstate actors such as corporations, respect them as well. The United Nations (UN) Human Rights Council and the General Assembly have confirmed that “the same rights that people have offline must also be protected online” (United Nations General Assembly [UNGA], 2018; United Nations Human Rights Council [UNHRC], 2016). This chapter brings together some current research on TFVA with applicable international human rights instruments and argues that the international human rights framework can and should be brought to bear in assessing both State and Nonstate actors’ actions and inactions relating to TFVA. The first section highlights relevant research on TFVA, particularly its forms, discriminatory patterns, and impacts. The second section provides an overview of applicable aspects of the international human rights framework as it relates to State and Nonstate actors, ultimately focusing specifically on the rights to privacy protection and to freedom from gender-based<sup>1</sup> violence such as that directed at women and individuals of diverse gender orientations, identity, and sex characteristics.

## **TFVA: Definition, Forms, Discriminatory Patterns, and Impacts**

There are different views of what constitutes “violence” (see Dunn, this volume). The definition used here is “the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation” (Krug, Dahlberg, Mercy, Zwi, & Lozano, 2002). The term TFVA refers to violence carried out using technologies such as the internet and/or mobile devices (European Institute for Gender Equality [EIGE], 2020; International Center for Research on Women [ICRW], 2018).

Violence is more than interpersonal incidents between individuals. The social, political, and economic dimensions of violence cannot be ignored. This definition expands the narrow view of violence to include actions arising from power relationships. It captures acts of omission, such as States’ failure to act, in addition to acts of commission, and encompasses violence against groups committed for social, political, and/or economic reasons (Krug et al., 2002). Importantly, it enables the proposition that human rights – as a protection against abuse – are a necessary dimension of discussions of violence, including TFVA.

The diversity of digital technologies enables TFVA to take many forms. For example, social networking sites and global positioning systems facilitate cyberstalking behavior by making it easier for perpetrators to monitor the activities and

whereabouts of their targets, and to repeatedly communicate with them via email, instant messages, voicemails, and texts. Spyware is now cheaper and more readily available. Abusers are installing spyware apps on phones to track location, monitor communications, and exert control. Not only are there several hundred spyware apps but also numerous tools with legitimate purposes which can be easily repurposed for spying (Chatterjee et al., 2018; Parsons et al., 2019). Phone control and child monitoring apps enable remote control of phone settings, such as GPS or Wi-Fi, provide access to location, SMS content, call logs (sometimes recordings), media content, app usage, internet activity logs, keylogging, plus, in some cases, the sending of notifications when the monitored phone leaves a set geofence or calls certain numbers. Where these “dual-use” apps are built into the phone’s operating system, they can be impossible to remove (Chatterjee et al., 2018). Websites, email, and texts are commonly used in online child sexual exploitation (West Coast LEAF, 2014). The geolocation features of dating apps, such as Grindr, have been reported to be used to lure, entrap, and abuse gay and transgender users (Article 19, 2018; see also Dietzel, this volume; Waldman, this volume). Smart home devices enable new ways to control and harass (Bowles, 2018; UCL IoT, 2019). Technological devices designed to prevent sexual violence can also be hacked or used by perpetrators to track or stalk (Harris, 2019). Other technologies, such as virtual assistants, have been found lacking in their responses to requests for assistance with violence (Radhakrishnan, 2018).

Social media platforms, text and messaging apps, email and online gaming sites, phones, and phone messaging apps are commonly used facilitators of online harassment which often spans multiple online venues. One US study, for example, found that 41% of respondents had been personally subjected to online harassing behaviors, and 66% witnessed others being harassed (PEW, 2017, p. 3). In that study, harassing behavior ranged from offensive name-calling to intentional embarrassment, physical threats, stalking, and sexual harassment, with 26% of adult respondents having had false information posted about them online and 9% experiencing mental or emotional stress as a result (PEW 2017, p. 58). Since apps and platforms are most often created and operated by Nonstate actors, it is unsurprising that 79% of respondents to the PEW (2017) survey felt online services had a responsibility to intervene when harassing behavior occurred on their platforms, while only 15% said these services should not be held responsible for the behavior and content posted by users (p. 46).

Deeply disturbing gender-based online infringements of privacy have led to violence and discrimination in online and offline spheres, in private and public settings, and across physical and national boundaries (UNSRP, 2019, Annex 2). Research such as PEW’s 2017 survey which showed online harassment was especially prevalent in the lives of younger adults (67% of 18–29-year olds) (p. 5) also suggests that women and young people (especially young women) may be particularly affected by TFVA. In terms of TFVA prevalence, a Fundamental Rights Agency (FRA) (2014) survey of 28 European countries found 11% of women received unwanted and offensive sexually explicit emails or SMS messages or intrusive, inappropriate advances on social media, and 14% of women received offensive or threatening messages or phone calls repeatedly from the same person

(pp. 81, 104). Cyberstalking by text messages, email, or the internet particularly affected young women with 4% of all 18–29 year olds having experienced cyberstalking in the preceding 12 months (FRA, 2014, p. 87). Fears of gender-based violence affected women's freedom of movement with 53% of all women avoiding certain places for fear of being physically or sexually assaulted (FRA, 2014, p. 109) and 7% closed their social network account in response to stalking (FRA, 2014, p. 90). Recent research has highlighted abusive behavior directed at LGB social media users (PEW, 2020).

The greater prevalence of TFVA in younger age groups, with sexualized TFVA particularly directed at younger women, is supported by research from other parts of the world including developing countries. Over 60% of poor urban women and men in developing countries aged 18–24 years using the internet reported being abused online in a 2016 study (African Development Bank Group, 2016, p. 1; see also Makinde et al., this volume). The African Development Bank Group's (2016) research in Kenya found abuse spanned personal hate speech, intimate image abuse, online intimidation, trolling, and cyberbullying, with the majority of victims being women. The consequences included 25% exiting the platform and a majority avoiding engaging with strangers online (p. 2). Research from Brasil and other parts of Latin America reveals similar findings (CODING RIGHTS; INTERNETLAB, 2017).

Age and gender may also affect the experience and impact of TFVA. Those reporting severe experiences of harassment in the 2017 PEW survey, for example, were more likely to say personal characteristics, such as gender or race/ethnicity, triggered the harassment, and to report they deleted their profile or changed their username, ceased attending certain offline places, or contacted law enforcement. Women were twice as likely as men to say they had been targeted as a result of their gender (11% vs. 5%) (PEW, 2017, p. 5). Men, however, were around twice as likely as women to say they had been harassed as a result of their political views (19%:10%) (PEW, 2017, p. 5). And while men were somewhat more likely to report experiencing any form of harassing behavior online (44% of men and 37% of women), women, especially young women, encountered sexualized forms of abuse at much higher rates (although slightly more men than women reported incidents of nonconsensual distribution of intimate images) (PEW, 2017, p. 7). Twenty one percent of women aged 18 to 29 reported being sexually harassed online, more than double that of men in the same age group (9%), and roughly half (53%) reported receiving explicit images without consent (PEW, 2017, p. 5). Among the youngest adults (ages 18–24), women were more than three times as likely to be sexually harassed online (20%:6% men) (PEW, 2017, p. 5).

In the PEW (2017) study, women were especially likely to report being deeply impacted by harassment with 35% reporting their most recent experience as either “extremely” or “very” upsetting, more than double the men who said the same (16%) (p. 5). Witnessing harassment of others saw 27% refraining from posting online and 13% stopped using an online service after witnessing other users engage in harassing behaviors. This “chilling effect” especially affected women aged 18 to 29 with 45% not posting something online after witnessing the harassment of others

(PEW, 2017, p. 36). Unsurprisingly, women, particularly young women (ages 18–29), were more likely than men to see online harassment as a major problem (PEW, 2017).

Gender-based violence directed at groups such as feminists, Human Rights Defenders, journalists, gender diverse individuals, and activists on social media platforms such as Twitter have led many of members of these communities to censor their postings, limit their interactions, and even leave Twitter completely (Bailey & Mathen, 2019; CODING RIGHTS; INTERNETLAB, 2017; Privacy International, 2017; Valente, 2018; Varon, 2017; Zuckerberg, 2018; Amnesty International, 2018a, b). Research relating to other websites and dating apps also suggests gendered and homophobic patterns of TFVA, with young women reporting threats of physical harm at roughly twice the rate of men of the same age, and higher rates of abusive behavior being reported by LGB users (PEW, 2020).

While research relating to individual experiences with TFVA is crucial to understanding its shape and dimensions, it is also critical to recognize the ways in which systemic factors and patterns, such as misogyny, act as underlying societal drivers of violence. New technologies, for example, facilitate creation of networks supporting a collective subculture of male dominance conducive to gender-based violence (Henry & Powell, 2015). This subculture both reflects and amplifies “backlash attitudes” that have surfaced in recent years leaving gender rights advocates, including Human Rights Defenders, increasingly subjected to online and offline violence (Pavone, 2018; UN Women, 2015; UNIESOGI, 2019; Women Against Violence Europe [WAVE], 2017). It is a subculture that espouses binary gender norms and views such as “biological differences between women and men result in specific gender roles” and “women perpetrate domestic violence at the same rate and gravity as men” (FRA, 2017, p. 21).

These are more than isolated or random incidents of cyberbullying. Patriarchal and white supremacist ideology has appropriated online, the literature and history of ancient Greece and Rome, along with the artifacts, texts, and historic figures evocative of this era, to promote and lend cultural weight to reactionary visions of ideal white masculinity (Zuckerberg, 2018). These ideologies promote divisive and discriminatory views about gender, and proponents have targeted women and activists advocating online gender equality and gender inclusive policies (Hall & Hearn, 2017; Tomkinson, Attwell, & Harper, 2020; UNIESOGI, 2018; Zuckerberg, 2018). And it is effective – one of the main reasons deterring women from engaging in politics and public life is the level of abuse and violence directed toward them because of their gender and their increased presence (Inter-Parliamentary Union and the Parliamentary Assembly of the Council of Europe, 2018). The extreme forms of online abuse and the invasion of the personal and familial privacy inflicted upon high-profile women not only discourage girls and women from participating in politics but also adversely affect gender representation in democratic institutions (Australian Women Against Violence Alliance [AWAVA], 2018). The ideological nature of the more extremely violent online rhetoric of some groups such as “Incels,” has been

assessed as “an emerging domestic terrorism threat as current adherents demonstrate marked acts or threats of violence in furtherance of their social grievance” – a threat that “could soon match, or potentially eclipse, the level of lethality demonstrated by other domestic terrorism types” ([Texas Department of Public Safety, 2020](#), p. 3).

This snapshot of some current research on TFVA (in addition to detailed TFVA findings in this volume) helps to frame TFVA as a phenomenon carried out through a wide variety of technologies and platforms typically provided by Nonstate actors with sometimes serious repercussions for individuals’ privacy, safety, physical and emotional well-being, and engagement in both personal and public life. The consequences of TFVA include: physical and mental health issues; chilling of self-expression; restrictions on freedom of movement and association; suicides; inability to work and participate in social, cultural, and political life; damage to reputation and careers; curtailment of education; homelessness; reduced opportunities for creativity and self-expression; and inability to find redress ([UN Women, 2020a, b](#); [Al-Alosi, 2017](#); [Australian Institute of Health and Welfare \[AIHW\], 2019](#); [Bailey, Steeves, & Dunn, 2017](#); [FRA, 2014, 2017](#); [Solove, 2004](#); [UNSRVAW, 2018a, b](#); [UNIESOGI, 2019](#); [UNSRP, 2019](#); [UNSRFOE, 2018](#); [PEW, 2017, 2020](#)).

The cost of violence is known to be high, and highest to the individuals and communities affected, but also to economies and societies. The chilling effect of TFVA produces a loss of confidence of individuals to share ideas and to assemble, undermining societies and democracy ([Bailey et al., 2017](#); [Franklin, 2018](#)). And while financial and economic costings specifically for TFVA are unavailable, it has been reported that women experiencing violence earn less than those who had never been abused, and those severely abused earn even less again ([World Bank Group, 2014](#)). In Australia, a country of some 25.5 million people, the cost to the economy in 2015–16 was estimated at \$AU22 billion ([KPMG, 2016](#)).

For all of these reasons, TFVA and all forms of violence must be taken seriously as a human rights concern, one that triggers international obligations relating to both State and Nonstate actors.

## **TFVA and the International Human Rights Framework: State and Nonstate Actors**

The wide variety of forms and effects of TFVA discussed above affect an equally wide variety of internationally protected human rights, including (as depicted in [Table 29.1](#)) rights to privacy, freedom of movement, freedom of expression, and freedom of assembly to name a few, as well as rights relating to freedom from violence. Given space constraints, however, the balance of this section focuses on two: the right to privacy and rights relating to freedom from violence (and related protections against discrimination), in relation to both State and Nonstate actors.

Table 29.1. Relating Technology-Facilitated Violence and Abuse Harms to Human Rights Instruments.

Harms Reported	Research	Human Rights Instrument
Reputational damage	PEW (2017)	UDHR Art. 12 (UN General Assembly, 1948); ICCPR Art. 17 (UN General Assembly, 1966) relating to the right to privacy
Avoided certain places	FRA (2014)	UDHR Art. 13 (UN, 1948); ICCPR (UN General Assembly, 1966) Art. 12 relating to the right to freedom of movement
Ceased attending certain offline places	PEW (2017)	
Stopped using an online service	African Development Bank Group, 2016;	UDHR Art. 19 (UN, 1948); ICCPR Art. 19 (UN General Assembly, 1966) relating to the right to freedom of opinion and expression, through any media
Deleted their profile or changed their username	FRA, 2014; PEW, 2017	
Refrained from posting something online	PEW (2017)	
Exited the platform	PEW (2017)	
Avoided engaging with strangers online	African Development Bank Group, 2016; FRA, 2014; PEW, 2017 African Development Bank Group (2016)	UDHR Art. 20 (UN, 1948); ICCPR Art. 22 (UN General Assembly, 1966); CEDAW Art. 13 (UN General Assembly, 1993) relating to freedom of peaceful assembly and association, and participation in all aspects of cultural life

### *The Right to Privacy*

The groundwork for respect of privacy as a human right tied to the right to free development of personality, and the role privacy plays in allowing the enjoyment of other human rights is laid out in Article 12 of the Universal Declaration on Human Rights (UDHR):

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour



and reputation. Everyone has the right to the protection of the law against such interference or attacks. (UN General Assembly, 1948, Art. 12)

The language of Article 12 creates a broad legal right to privacy and casts that right as an essential element of human dignity, autonomy, and the democratic process:

[Privacy] is directly tied to our sense of identity and dignity, and it is the umbrella that enables us to enjoy our other human rights. Privacy is by definition a commitment to the human over the technical. (Steeves, 2017)

While not an absolute right, the right to privacy is essential to the free development of an individual's personality. It is a right that derives from and conditions the innate dignity of the person and applies in both public and private spheres. Privacy also protects against violence and discrimination that stunt personal and societal development and is particularly important for those vulnerable due to their gender. In some countries, for example, members of LGBTQI + communities are subject to higher degrees of surveillance, and fake accounts on dating apps and social media platforms have been reported to be used by State and Nonstate actors to lure gay men, expose, entrap, and arrest them or subject them to cruel and degrading treatment or extortion (UNSRP, 2019).

As human rights are inalienable, indivisible, and interrelated, when TFVA violates one right such as privacy, it can undermine other human rights such as freedom of association and expression.

The ultimate objective of human rights is the recognition of the inherent dignity and the equal and inalienable rights of all members of the human family (Santos-Pais, 1999). Every person is entitled to the human rights and freedoms enshrined in international human rights law. But intersectionality and gender for instance, mean for some, the protection of privacy rights is particularly connected to freedom from violence and discrimination, placing a specific onus upon State and Nonstate actors to secure the right to privacy. The lack of action by both has left many with the belief that online gender-based privacy incursions, no matter how abusive or potentially dangerous, are tolerated if not condoned (UNSRP, 2019).

In essence, gender-based privacy infringements are a systemic form of denial of human rights, discriminatory in nature and frequently perpetuating unequal social, economic, cultural, and political structures (UNSRP, 2019). Their discriminatory harms extend beyond individuals to impact society as a whole. As information technologies become an integral part of our lives, the harms arising from technology-facilitated infringements of privacy such as cyberstalking, and technological surveillance and monitoring are not trivial matters for individuals, communities, or society.

### *Protections Against Violence and Discrimination*

Like protections for privacy, protections against violence and discrimination are contained in universally accepted human rights standards, from the UDHR to the almost universally ratified Convention on the Rights of the Child (UN General



Assembly, 1989),<sup>2</sup> as well as in other nonbinding international covenants and agreements that relate to State and Nonstate actors.

The UDHR Article 3 states that “Everyone has the right to life, liberty, and security of person” (UN General Assembly, 1948) and other UN conventions, such as the International Covenant on Civil and Political Rights (ICCPR) (UN General Assembly, 1966), and the International Covenant on Economic, Social, and Cultural Rights (1966), the Convention on the Elimination of all Forms of Racial Discrimination (UN General Assembly, 1965), and the Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment (UN General Assembly, 1984), also guarantee rights to freedom from violence and discrimination (UN Office of the High Commissioner Human Rights, 2020). These conventions apply universally and are not open to arbitrary interpretation. While predating the digital era, their intent and inherent values remain applicable as confirmed by the UN Human Rights Council and the UN General Assembly affirmations that human rights apply online not just offline (UNGA 2018; UNHRC, 2016).

In addition to legally binding instruments, there are UN human rights declarations relating to gender-based violence, and most explicitly to violence directed toward women, for example, the Declaration on the Elimination of Violence Against Women (UN General Assembly, 1993)<sup>3</sup> and intergovernmental documents, standards, and norms that address violence against women and girls. The 1995 Beijing Declaration and Plan of Action adopted by the Fourth World Conference on Women<sup>4</sup> established strategic objectives in relation to understanding, preventing, and eliminating violence against women.<sup>5</sup> The legally binding framework on women’s rights and protections against violence is provided by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (UN General Assembly, 1993)<sup>6</sup> and General Recommendations Nos. 19 and 35, and regional instruments on violence against women. The past 25 years of jurisprudence developed by the CEDAW Committee connects violence against women with discrimination prohibited under Article 17 and recognizes intersecting forms of discrimination that increase some women’s vulnerability to violence and interfere with their enjoyment of human rights.<sup>8</sup>

The 1993 World Conference on Human Rights recognized violence against women as a human rights violation. A variety of regional instruments reflect this recognition. The regional Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belem do Para  Convention) adopted in 1994 was the world’s first binding international treaty to recognize violence against women as a violation of human rights. It has been widely ratified, with only two member states of the Organization of American States (Canada and the United States), not parties. Similarly, the Council of Europe’s Istanbul Convention adopted in 2011 and applicable to all victims of domestic violence, including men, children, and the elderly, provides that “violence against women is understood as a violation of human rights and a form of discrimination against women” (Art. 3). The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol adopted 2003, in force 2005) (African Union, 2003) also imposes legally binding obligations on ratifying States for combatting violence against women.

### *Protections Against Violence and Discrimination by Nonstate Actors*

Gender-based rights to protection from violence and discrimination also intersect with international obligations relating to business, reflecting the fact that women and girls generally experience adverse impacts of business activities differently and often disproportionately compared to men and boys (UNHRC, 2016). The responsibility for States' regulation of business enterprises' activities entailing violence against women is established under the "due diligence obligation" of States through the Declaration on the Elimination of Violence Against Women (UN General Assembly, 1993) Article 4(c) and CEDAW General Recommendation No. 35. These importantly link human rights obligations to the acts of Non-state actors (UNOHCHR, 2020). The due diligence obligation means States have a duty to take positive action to prevent and protect against violence, including that committed by corporations, and their products and services (UNB-Tech, 2019). The failure of a State to take all appropriate measures to prevent acts of gender-based violence tacitly permits or encourages such acts and constitutes a human rights violation.

The UN Guiding Principles (UNGP) for business-related human rights impacts reinforce States' international human rights obligations to protect against human rights abuse by third parties, including business enterprises (UN Working Group on the Issue of Human Rights and Transnational Corporations and other Business Enterprises, 2019). A central premise of the UNGP is that companies should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved (UNB-Tech, 2019). The gender dimension is addressed in Guidance accompanying these "Guiding Principles."

Additionally, two of the UN's 2030 Sustainable Development Goals (SDGs) (UN General Assembly, 2015) are particularly relevant to TFVA. SDG 5 is to "achieve gender equality and empower all women and girls" with SDG5 (b), explicitly positioning technologies to empower women. SDG 16 addresses violence more broadly with SDG 16.1 aiming to "significantly reduce all forms of violence and related deaths everywhere."<sup>9</sup> Regionally, the Istanbul Convention (Art. 17) requires State parties to encourage the private sector, particularly the information technology sector and the media, to address the issue of violence against women (Council of Europe, 2016).<sup>10</sup>

Addressing obligations relating to the private sector is particularly important in the context of gender-based TFVA since, as noted above, TFVA is conducted using digital technologies and platforms predominately supplied by private sector technology companies. As the UN Special Rapporteur on violence against women (2018a) stated:

... the use of ICTs without the provision of a proper human rights-based protection of women's rights and against gender-based violence of women, could even widen sex and gender-based discrimination and increase violence against women and girls in the whole society. (Thematic report, para 6)

Relevantly to TFVA, the Special Rapporteur noted "most States still fail to recognize violence against women in digital spaces as a 'real' form of violence" (UNSRVAW, 2018a).

TFVA expresses and maintains unequal power relations between perpetrators and victims. It also depends upon the unequal relationship between platform providers and their users which characterizes the business models of the titans of the digital economy. To date, the operations of these companies have been largely unregulated (see Henry & Witt, this volume). Increasingly, however, questions are being raised around the operations of social media giants, particularly the regulation of the content of their sites (UK Parliament, 2019), the commercial surveillance at the heart of their business model (Zuboff, 2019), and the management of personal information (Australian Competition and Consumer Commission [ACCC], 2018, 2019; Norwegian Consumer Council, 2016, 2020). As the analysis of Henry and Witt (this volume) makes evident, relying upon big tech to self-regulate has proven problematic. Regulation will be essential to establishing big tech companies' corporate responsibility to the people and societies from whom they make their vast profits (Rushe, 2020) and to upholding human rights.<sup>11</sup>

In view of the power of digital platforms and the increasing reliance upon them by individuals, economies, and democracies globally, their impact upon fundamental human rights cannot be ignored. There is a critical need for action on human rights compliance by private companies as they develop and deploy digital technologies – a need especially pressing for social media companies (UNDC, 2019). The principle of due diligence requires States to ensure respect for the international rights framework that prohibits gender-based violence (UNSRVAW, 2018b) and protects privacy (Steeves, 2017; UNSRP, 2019, 2020).

Supporting and utilizing the human rights framework is pressing as is embedding digital technologies in commitments to human rights and the rule of law. Technology is constantly evolving, and there is an increasing array of technologies that can be, and are being, used to stalk, intimidate, humiliate, abuse, and violate human rights. Public and international scrutiny of States' and private actors' actions and inaction to prevent violence, including TFVA, is essential.

## Conclusion

Violence, whether offline or online, is a destructive attack upon human dignity which effectively deprives individuals of their fundamental human rights, restricts the free development of personality, and perpetuates gender-based inequalities – not just of women and girls but also of gender diverse individuals. Violence and its pernicious effects are matters that States have legal and moral obligations to address, as articulated in numerous international and regional human rights instruments, and as called upon by UN experts such as the Special Rapporteur on violence against women; the Special Rapporteur on the right to privacy and the Independent Expert on sexual orientation and gender identity, among others. The common theme is the urgent need to fully apply human rights standards to gender-based violence whether online or offline.

While the international and regional instruments signed and ratified by Member States of the UN have not eradicated violence, the values, humanity, and principles

captured within their Articles provide the foundations for addressing TFVA in all its forms. These instruments also provide a measure against which to assess States' and Nonstate actors' actions and failure to act. These foundations and the benchmark they provide are not to be discounted. TFVA is not a simple issue that can be fixed by a few codes of conduct and some technological solutions. A human rights standpoint enables us to hold States to account for their responses to TFVA, and their acquittal of their due diligence obligations to protect our rights to be free from violence.

## Notes

1. All references to "gender" should be read as inclusive of cishnormativity, sexual orientation, gender identity, gender expression, and sex characteristics and the social norms attributed to biological characteristics.
2. The United States has not ratified the Convention on the Rights of the Child.
3. General Assembly resolution 48/104, 20 December 1993. Other examples include General Assembly resolution 65/228 2010 adopting the "Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice" (UN General Assembly, 2011).
4. Beijing Declaration, adopted at the 16th plenary meeting, on 15 September 1995 (para 14).
5. Beijing Declaration (Annex I) and Platform for Action (Annex II), Chapter IV, Section D. Violence Against Women (paras 112–130, p. 48).
6. Adopted in 1979, instituted in 1981, and adopted by 189 countries.
7. The Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol do not explicitly cover violence against women.
8. General Recommendation No. 28, which calls upon states to legally recognize and act upon intersecting forms of discrimination and their compounding negative effect.
9. See <https://www.un.org/sustainabledevelopment/development-agenda/> for Sustainable Development Goal information.
10. Nonbinding standards give detailed recommendations for putting Article 17 into practice.
11. This responsibility is distinct from issues of legal liability and enforcement defined largely by national law provisions in relevant jurisdictions.

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