

Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes

Sixth Session, 21 August – 1 September 2023

UN Women submission

18 August 2023

Article 5. Respect for human rights

UN Women recommends the inclusion of a provision to emphasize that women’s and girls’ rights are human rights and that women and girls are at higher risk of experiencing technology-facilitated violence, especially adolescent girls¹ [E/2023/27-E/CN.6/2023/14, para. 19; A/77/302, para. 14] and women and girls who face different and intersecting forms of discrimination [A/RES/76/304, PP8]. Relevant data and surveys have shown that, in the majority of cases, online violence is not a gender-neutral crime, [A/HRC/38/47, para. 42] and technology-facilitated violence against women and girls is part of a continuum of multiple, recurring and interrelated forms of violence across online and offline spaces. [A/77/302, para 17; A/HRC/38/47, para. 14] A global study found that 38 per cent of women have personal experiences of online violence, with 85 per cent of women who are online having witnessed digital violence against other women, although the absence of agreed definitions and methodologies for measurement coupled with widespread underreporting are a challenge for understanding the true prevalence of the issue. [A/77/302, para. 12]

In particular, UN Women recommends that the provision make it clear that States Parties shall:

- (a) Mainstream a gender perspective throughout the convention, and empower women and girls, and
- (b) Take into consideration the special circumstances and needs of persons who are in vulnerable situations, including women and girls.

Article 15. Non-consensual dissemination of intimate images

UN Women welcomes the inclusion of the offence of non-consensual dissemination of intimate images. The non-consensual online dissemination of intimate images², whether real (i.e. original) or simulated/manipulated (e.g. “deepfakes”), obtained with or without consent, with the purpose of shaming, stigmatizing or harming the victim, is a significant and growing issue that has a disproportionate

¹ Research found that more than half of the girls and young women surveyed globally had experienced online violence. See A/HRC/38/47, para. 14.

² This has sometimes also been referred to as “revenge porn”, but UN Women is not in favor of using this term, including for the reason that this behavior is not always motivated by revenge. Therefore, using the term “revenge porn” would limit its legal application. This is also tied to the ability of a minor to consent.

impact on women and girls. Surveys of the gender dimension of online violence indeed indicate that 90 per cent of those victimized by non-consensual digital distribution of intimate images are women. **[A/HRC/38/47, para. 42]**

UN Women notes that there may be an overlap between Article 13 and Article 15 in cases of images depicting persons under the age of 18. In those cases, Article 15 should not be used to weaken the provisions included in Article 13. At the same time, depending on the circumstances, Article 13 may not always be the most appropriate measures to address the core behavior in non-consensual sharing of intimate images of a person under the age of 18, especially when the alleged perpetrator is also a person under the age of 18. UN Women recommends including a provision that each State Party shall adopt appropriate legislative and other measures to ensure that in cases of non-consensual dissemination of intimate images where the victim and alleged perpetrator are close in age, maturity, and development, and both are under 18 years of age, the best interests of the child victim and the best interests of the alleged child in conflict with the law are taken into account for the purpose of determining whether to apply the provisions of Article 15 or those in Article 13.

Article 34. Assistance to and protection of victims

UN Women welcomes the inclusion of a provision on the assistance to and protection of victims. UN Women recommends elaborating further on the support required to address the unique needs of women and girls, particularly those who face multiple and intersecting forms of discrimination. In particular, UN Women suggests that the Convention provide that each State Party shall take appropriate measures within its means to:

(a) provide all victims and survivors with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies, reparations and assistance for the harm that they have suffered and inform them of their rights in seeking redress through such mechanisms, as well as to consider measures to enable secure reporting and alleviate burdens while in pursuit of justice, remedies, reparations and assistance. **[A/RES/76/304, OP1, OP2(a); A/RES/77/193, OP6(a); and CEDAW/C/GC/35, para. 33]**

(b) pay particular attention to those groups of women and girls who are at higher risk of facing cyberviolence, including women and girls facing multiple and intersecting forms of discrimination, **[A/RES/76/304, OP1, OP3(a)]**, women human rights defenders, politicians, journalists and other media workers, and women in leadership positions that challenge accepted sociocultural norms, traditions, perceptions and stereotypes, including gender stereotypes and negative social norms. **[A/RES/77/193, PP. 32, OP5(n)].**

(c) ensure that all victims and survivors [of offences established in accordance with this Convention] have access to comprehensive, timely, coordinated, interdisciplinary, accessible, sustained and gender-responsive multisectoral services, programmes and responses, in full respect of human rights and centered on such victims and survivors, across the health, police and justice, and social services sectors, including services to support the full recovery and reintegration of victims and survivors into society. **[A/RES/76/304, OPs 2(d) and (e); A/RES/77/193, OPs 6(a), (d), (e), (f)]**

Article 53. Preventive measures

The elimination of violence and discrimination against women and girls across the online-offline continuum requires a comprehensive, coordinated and sustained approach that includes both prevention and response. UN Women recommends strengthening Article 53 by including the following language to para. 3(f):

(f) Developing strategies and policies to prevent, eradicate and address the underlying causes of gender-based violence that occurs through or is amplified by the use of information and communications technologies, including patriarchal attitudes and stereotypes, inequality in the family and the neglect or denial of women's civil, political, economic, social and cultural rights [CEDAW/C/GC/35, para. 30(a); A/RES/77/193, OP5(l), (k), (l), (s) and (t); A/RES/76/304, OPs 2(l), 3(c), and 6], and to address the continuum of multiple, recurring and interrelated forms of violence occurring across online and offline spaces. [A/77/302, para. 17; A/HRC/38/47, para. 14]. In doing so, States Parties shall take into consideration the special circumstances and needs of women and girls facing multiple and intersecting forms of discrimination, [A/RES/76/304, OP 1; A/RES/77/193, OP4, OP5(d)] and of those who are at greater risk of facing technology-facilitated violence, such as women human rights defenders, politicians, journalists and other media workers, and women in leadership positions that challenge accepted sociocultural norms, traditions, perceptions and stereotypes, including gender stereotypes and negative social norms. [A/RES/77/193, PP23].

Article 54. Technical assistance and capacity building

UN Women recommends explicitly referring to the importance of gender mainstreaming in reference to technical assistance and capacity building, including committing to gender-, sexuality-, and age-sensitive training for legal and judicial personnel interacting with victims of cybercrime, e.g. training on trauma-informed and culturally-relevant practices for legal and judicial personnel interacting with victims and accused people.

Annex – Definition of terms

Gender mainstreaming: Gender mainstreaming is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality. [UN Women, *Handbook on Gender Mainstreaming for Gender Equality Results*, p.11]

Gender-based violence: Any act of violence that is directed against a woman because she is a woman or that affects women disproportionately. [CEDAW/C/GC/19, para. 6]

Victim/survivor: The term “victim/survivor” refers to women and girls who have experienced or are experiencing gender-based violence to reflect both the terminology used in the legal process and the agency of these women and girls in seeking essential services. [United Nations Joint Global Programme on Essential Services for Women and Girls Subject to Violence, *Essential Services Package for Women and Girls Subject to Violence, Module 1*, p.11]

A study of the UN Secretary-General notes the ongoing debate regarding the terms victim and survivor. Some suggest that the term “victim” should be avoided because it implies passivity, weakness and inherent vulnerability and fails to recognize the reality of women’s resilience and agency.³ For others the term “survivor” is problematic because it denies the sense of victimization experienced by women who have been the target of violent crime. Therefore, UN Women recommends the use of the term “victim/survivor”.

³ United Nations (2006) Secretary-General’s In-depth Study on Violence Against Women A/61/122/Add.1.