



Canadian Women's Foundation

Online Hate

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Committee on Justice and Human Rights

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Online Hate and its Harms for Women in Canada

Introduction

The Canadian Women's Foundation is Canada's national public foundation for women and girls, one of the ten largest women's foundations in the world and a leader in the movement for gender equality in Canada.

The Canadian Women's Foundation has decades of experience addressing violence against women and girls. Through our support for community programs, we empower women and girls to move themselves out of violence and into confidence and leadership. We have raised more than \$90 million since our founding in 1991 and funded over 1,900 programs serving women and girls across the country. This paper reflects our knowledge acquired through this work, including learnings about the nature of violence against women and girls and about the impacts of misogynist violence and hate speech.

Addressing online speech or comments that encroach on the safety and wellbeing of others should be a core principle for Canadian law. The current options do not sufficiently support women experiencing online hate crime because they are women or girls, men who experience it because they support women's rights, people who are LGBTQ2S+ and experience it because of homophobia and transphobia, or indeed anyone who experiences online hate because of their biological sex, gender associations and/or sexual orientation.

Root causes of online misogyny and misogynoir

Because online hate that is directed to women is influenced by sex, gender and sexuality, it is important to identify the source of hate in social inequity, based on patriarchy and heteronormativity (Moloney & Love, 2017). Male aggression and dominance are normalized and excused in a society that accepts and promotes masculinity norms that place men as having more right than women to public space, as being the larger wage earner, as being the decision maker in the home, as being the more senior staff member or as being a more significant contributor to society in political, economic, social and cultural fields. Misogyny is "hard baked" into societal norms and influences how people behave online as much as it influences how people

behave in real life. In both cases, perpetrators are often motivated by power and the desire to dominate (Moloney & Love, 2017).

Attitudes towards and judgements about people are therefore directed by this heteronormative understanding of biological sex, gender associations and sexual orientation. Online hate is directed at those who transgress the dictates of patriarchy to reinforce the status quo. It controls peoples' behavior by creating discomfort, anxiety, and fear.

The way that sex, gender and sexual orientation intersect with other identities multiplies the effects of online hate for many people, including women who identify as Indigenous, Black, and living with disabilities, among others. These women are “doubly targeted”, at high risk of many forms of discrimination and hate behaviour online and in real life. It is important to look at the systemic experiences of online hate for communities as a whole, beyond the individuals who are affected. There is a cumulative effect for women and girls, as a group, victimized online, just as there are very deep roots connecting online hate directed at women to racism, anti-Semitism, and white supremacy.

We recommend that the committee consider how power is exerted, through racism as well as through sexism. Critical race feminism helps explain how multiple forms of oppressions such as racism, sexism, and transphobia intersect with each other. This intersection means that different groups experience online hate differently. The point of reference is not only specific individualized violence and how this affects group experiences online, but how structures of power continue to be used within public space, to exert dominance and maintain control.

Sexual violence is connected to regional and national histories of colonization in Canada, where sexual violence is a tool of repression, possession, control and erasure - of Indigenous women, of Black women, of women of colour, and of working-class women (McClintock, 1995). As just one example of online harm, the threat of rape online, sometimes dismissed as a “joke”, degrades, dehumanizes, and objectifies women and girls.

Societal Context

The World Health Organization has identified that up to 50% of women experience some form of physical or sexual abuse in their lifetime. Women also experience more

severe psychological consequences of this violence, such as depression, anxiety, and PTSD.

Online misogyny must be considered in relation to the harm caused to women as a whole within this context of increased sensitivity. The types of violence, the immediate effects and the ongoing feelings of fear and anxiety are exacerbated by the virulence of its expression. Online misogynists attack not only a person's sex, gender and sexuality but also other identity factors such as person's skin colour and ability. This has a painful "othering" and silencing effect for women and girls who are victimized.

This silencing of diverse voices resulting from violence is not only concerning in terms of increased censorship or chilling effects on individual women and girls, it also affects women-serving organizations and community groups such as Canadian Women's Foundation and our partners. We are constantly subject to online attacks that delegitimize us and devalue our efforts toward human rights and equality. When large national organizations experience this level of online hate, there are mechanisms to protect and help them deal with it, as well as a certain institutional weight that can come to bear on the perpetrators if they can be identified. When this happens to individual workers and advocates, they have little protection and are more likely to leave the space than face the abuse (Ging & Siapera, 2018).

Nonetheless, institutional capacity does not diminish the fear of attacks, nor concern over privacy and safety that staff, volunteers, clients, and partners experience. In an effort to protect stakeholders, many women's organizations have had to remove online information about their board and staff members, as well as information such as their street addresses. For many organizations, publishing this information online has too often led to hate-motivated behaviors such as stalking, doxing, flaming and trolling. While organizations have kept key information private to reduce the attacks, not posting it makes it harder for women to access services and impedes organizational accountability and transparency.

Many women and institutions serving women, already dealing with ongoing real-life violence, are driven offline and out of public spaces, by the violence and hate they encounter online. They are unable to participate in public debates, effectively being silenced and controlled. This constitutes a barrier to them exercising their full rights and freedoms enshrined in the Canadian Charter of Rights and Freedoms - in particular, sections 15 and 28. These rights must be protected by mechanisms put in place by the federal government.

Online hate is a troubling form of violence that poses serious difficulties to the administration of victim services, violence prevention and education, and to reporting crimes and accessing justice. Community members who face high rates of marginalization are particularly harmed by this dynamic.

Policy Context

The policy context for online hate in Canada demands specific action on the part of the federal government, because of the way Canadians have adopted digital technology. 86 percent of Canadians own a smartphone as of 2018, up six percentage points from 2017, and three quarters (75 percent) own a notebook, laptop or netbook (CTA 3rd annual report 2018). Also, according to comScore, Canadians spend more hours online (36.7 per month) than anyone else in the world. As such, online hate may be a more significant issue in Canada than in any other country, and Canadians more than any other populace may need and expect governmental protections.

In January, a poll of 1,519 Canadians by Léger Marketing for the Association for Canadian Studies found that 60 per cent of Canadians had seen “hateful or racist speech on the internet.”

The government of Canada needs to take action and must apply a gender-based analysis plus (GBA+), especially in light of increased implementation of this framework in many aspects of government work, including in its budgetary and legislative solutions.

Reducing digital hate is especially important within the context of the federal government’s strategy to end gender-based violence and to fund and measure strategies to end this serious systemic barrier to equity. However, online misogyny is not addressed in the action plan. This is a significant oversight. It should be introduced with a comprehensive strategy that acknowledges not only the harms it creates, but also long-term effects. Overall, government action and policy should address digital spaces and the emerging technologies that Canadians are so eager to use.

In order to adopt global and international standards on violence against women and girls, the government must address the concerns raised by the UN Special Rapporteur on Violence against Women, Dubravka Šimonović, about online violence directed towards women and girls. She identified the urgent need to apply human rights standards, particularly women’s rights, to all forms of online violence against women.

The Special Rapporteur also encouraged all states to apply a gender perspective. In the case of Canada, this means applying a GBA+ analysis.

At the G7 meetings in Charlevoix in July 2018, the Leaders committed to ten key actions that would “prevent and counter sexual and gender-based abuse, harassment and the threat of violence in digital contexts”. The first commitment encapsulates in part what the committee is currently considering should be put into place. G7 Leaders committed to “promote legal regimes, national anti-violence strategies, educational approaches and existing mechanisms, as appropriate, that keep pace with technological development”. Taken together, this comprehensive approach would address many of the existing gaps in how to address online hate directed towards women and girls.

The CEDAW Report released in November 2016 highlighted that the repeal of Section 13 of the Human Rights Act had opened up gaps in protections that put women at greater risk. It recommended that the federal government review legislation to ensure there is adequate civil remedy to victims of online misogyny, including reinstating Section 13.

The Canadian Women’s Foundation has actively participated in the processes that led to the concrete policy recommendations laid out above. In partnership with national and regional civil society organizations across the country, considerable efforts have been made to bring this analysis to the fore and urge all levels of government to consider the gendered nature of violence, and in particular, the harms it causes for women and girls online and offline.

Online hate speech increases cultural misogyny and racism

Exposure to hateful attitudes towards women, attitudes that support traditional gender roles, and that promote inferior social, political, and economic roles for women influence violence against women. This exposure escalates the risk that consumers of such content will adopt similar attitudes and then act on them. This is because research shows that men and boys with “violence-supportive beliefs and values” are more likely to engage in coercive and violent behaviour toward women (Flood & Pease, 2009, p. 126).

Hatred towards women has been shown to increase physical acts of violence against women, just as inciting racial hate leads to an increase in racially-motivated violence. The intersection of these things makes it especially dangerous for Indigenous women, Black women, women of colour, and identifiably Muslim women or women presumed

to be Muslim. Islamophobia is an example of discrimination that is growing in Canada. It makes Muslim women unsafe in public and online spaces. The Foundation would like to highlight and underline the significant fear, anxiety and repression that these types of attacks have on women exercising their rights and freedoms.

Online hate is significant compared to other types of hateful messages about women, because of the multiplier effect online. Not only are messages, images, statements and ideas permanently held in online spaces, even when they are deleted in some digital spaces, they exist in others and can repeatedly expose women to harms.

Harms to Women as a Targeted Group

For women who are already living with violence, seeing online hate that is advocating assault against women and replete with demeaning and abusive language and images, the harm is not trivial. Hate messages could incite an abusive partner to new acts of violence, or threats of violence that increase fear and heighten tension in the home. For survivors of family violence who are rebuilding their lives, the effects of violence continue long after they have left an abusive relationship. These include experiencing post-traumatic stress, panic attacks, chronic pain, difficulty making decisions, and mental health and substance use concerns. It has been shown that increased exposure to online attacks can enhance fear, sometimes resulting in curtailing survivors' activities outside their homes up to and including becoming too fearful to attend work, school or crucial appointments.

Many service providers, researchers, and policy makers identify numerous ways that violence against women is so normalized that it is unusual for survivors to seek help. This is critical when we consider that current legislative remedies push survivors to look for solutions in the Criminal Code as the way to address online hate. It is the experience of the Canadian Women's Foundation and its partners that criminal law processes rarely help victims of misogynistic violence. Too often the threshold for proving a criminal offence is so high as to present a very serious barrier to pursuing a case. In addition, criminal law proceedings require considerable resources, capacity, knowledge and willingness on the part of the victim to disclose and pursue a claim. It is often not in their best interests to do so, as pursuing claims has a detrimental effect on their personal lives and careers. Women who have tried to seek court rulings for doxing, flaming, stalking, revenge porn or other forms of technology-assisted misogyny have often ended up facing increased threats and danger, not resolution and safety. "Gamergate" provides a particular example of online hate that clearly evokes

the dangers women face when they seek change or reparations in a public sphere. It shows how women can be controlled and disciplined for expressing their opinions to the extent that at least one woman in this case feared for her safety and had to physically move to a new house, change work schedules, and avoid public events.

In several parts of Canada at this time, First Nations communities, post-secondary education institutions, regional authorities and even individual service centres are exploring measures to mend harms and change behavior rather than pursue convictions. Some of this work is firmly based in diverse Indigenous practices. It has emerged in the recognition that criminal law does not always serve women well. Human rights mechanisms can provide more forward-looking reform and should be considered in cases of online harms to women in all their diversities.

Comprehensive and Wide-ranging Solutions

The Canadian Women's Foundation would like to highlight for the committee four remedies to address the harms of online hate directed towards women.

- 1) **Provide a human rights remedy**, similar to the revoked Section 13, that will promote and protect equity in society. The legislative remedy needs to provide ways to name abuses that do not always fall directly within Criminal Code definitions and that would otherwise continue to cause harm to women who have experienced violence. Human rights remedies are an essential component in the government tool box when it comes to protecting targeted marginalized groups. Human rights remedies for online hate aimed at gender equity must be grounded in the equality rights set out in sections 15, 25, 27, and 28 of the Canadian Charter of Rights and Freedoms.

- 2) **Invest resources to encourage social transformation.** Online hate is a public ill that should be considered like drunk driving, a problem that all citizens are impacted by and have a role to address. We must shift the burden away from requiring individual victims to report to police and move toward viewing online hate as a collective responsibility. This will require equity-based educational initiatives that include but go beyond a focus on digital citizenship education or knowledge of related laws. We must actively develop citizens' capacity, including those of young people, to insist that online spaces should be free from hate speech. A shared societal approach that involves collaboration of all

stakeholders, including and especially women’s groups, will support the efforts of parents, community-based organizations, and educational organizations.

- 3) **Instigate robust regulation measures** for online service providers. Existing measures must be improved and expanded upon to mandate greater transparency and accountability, as well as to increase responsibility of corporations to maintain public space that is free from online hate in its many forms. This could be similar to propositions in the UK White Paper on Online Harms, providing a framework that will prioritize safety. While statutory guidelines are helpful, they often result in providing only minimal levels of regulation. Regulation measures must work in tandem with other measures to address online harm with a multi-pronged approach.

- 4) **Continue to undertake evidence-based knowledge creation and mobilization** on the impact of online hate on women in particular, and how it relates to different equity-seeking groups. This knowledge creation should aim to establish, for example, the extent and also the impact of online hate on women and young people, of online hate, taking an intersectional approach. It is especially important that any data collection is disaggregated by gender, and includes targeted information on those at special risk, such as LGBTQ2S+ survivors, Indigenous women, Black women, disabled women, and young women.

This paper is respectfully submitted to the committee with the hopes that it adds to the important considerations concerning online hate.

This paper was prepared by Anuradha Dugal, in collaboration with Andrea Gunraj, of the Canadian Women’s Foundation. It includes information provided by Canadian Women’s Foundation to Crown Counsel Erica Whitford within the Community Impact Statement provided in the case of R. v. James Sears & Leroy St. Germaine. It was also with consultation from the Women’s Legal Education Action Fund.

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