

SUMMARY

**Guiding principles for law
and policy reform to address
Technology-facilitated
Gender-based Violence:**
Towards a system of
accountability



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Guiding principles for law and policy reform to address Technology-facilitated Gender-based Violence: Towards a system of accountability



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Introduction

In recent decades we have witnessed the exponential increase in uptake and use of technology affecting the lives of people across the world. While this has presented new opportunities for people to exercise and advocate for their human rights, access public services, and engage in social, political and economic life, it has also presented significant challenges and risks which threaten well-being and safety, and disproportionately, the well-being and safety of women and girls in all their diversity. In order to harness all the opportunities that technology promises to offer, effective systems of accountability, including rights-based law and policy, are critical.

What is technology-facilitated gender-based violence?

Technology-facilitated gender-based violence (TFGBV) encompasses instances of gender-based violence (GBV)¹ that are perpetrated or intensified through the use of technology. TFGBV has been defined by UNFPA as:

an act of violence perpetrated by one or more individuals that is committed, assisted, aggravated and amplified in part or fully by the use of information and communication technologies or digital media, against a person on the basis of their gender².

It is estimated that 38 per cent of women globally have experienced online violence, and 85 per cent of women who use the Internet have witnessed digital violence targeted at other women³. Sociodemographic characteristics such as race, sexuality, gender identity, class, disability and immigration status intersect to place those in minoritized groups at an increased risk of experiencing TFGBV⁴.

Comprehensive, human-rights-based legislative and regulatory frameworks are essential components within a broader system of accountability to ensure effective prevention and response to TFGBV. However, current global approaches remain fragmented and inconsistent.

Women and girls, in all their diversity, continue to experience the profound impacts of TFGBV, which include a range of psychological, economic, physical and sexual harms, as well as femicide. Research indicates an increase in self-censorship, effectively silencing women's voices in online spaces as they are forced to choose between their right to live free of violence and their right to free expression⁵. This has broader societal implications, including a threat to the foundations of democracy, which require safe and equitable access for women to online spaces. Without comprehensive rights-based legislation, complementary policies and adequate financing, interventions to address

1 We use the term "GBV" throughout this report in recognition of the gendered drivers of TFGBV and the experiences of Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, Intersex and Asexual (LGBTQIA+) individuals. All references to women are inclusive of women, girls and LGBTQIA+ individuals in all their diversity, including those from ethnic, racial and religious minorities, those with disabilities, and those with diverse sexual orientations, gender identities and expressions.

2 UNFPA, *Technology-facilitated Gender-based Violence: Making All Spaces Safe* (United Nations publication, 2021).

3 Economist Intelligence Unit, "Measuring the prevalence of online violence against women", 1 March 2021. Available at: <https://onlineviolencewomen.eiu.com/>.

4 See Plan International, *Free to be Online? Girls' and Young Women's Experiences of Online Harassment* (Surrey 2020); and L. Jardim and C.L. Penteado, "Cyber violence against women: An empirical approach", in *Encyclopedia of Criminal Activities and the Deep Web*, M. Khosrow-Pour, ed., (pp. 103–117) (Springer 2021). Available at: https://link.springer.com/chapter/10.1007/978-3-030-83734-1_7

5 Suzie Dunn, "Technology-facilitated gender-based violence – An overview", Supporting a Safer Internet Paper No. 1, 7 December 2020, Centre for International Governance Innovation. Available at: <https://www.cigionline.org/publications/technology-facilitated-gender-based-violence-overview/>

TFGBV will fall short of supporting **survivors/victims**⁶ and an environment of impunity will prevail.

To support strengthened systems of accountability for the rights of women and girls to live free from violence, UNFPA and Derechos Digitales have partnered to develop the *Guiding Principles for Law and Policy Reform to Address Technology-facilitated Gender-based Violence: Towards a System of Accountability* (forthcoming) (hereafter referred to as *Guiding Principles for TFGBV Law and Policy Reform*). This was informed by comparative legal research detailed in the *Discussion Paper: Combating Technology-facilitated Gender-based Violence (TFGBV) through the Lens of International Human Rights Law: Developing guidance on rights-based law reform to address TFGBV*⁷.

An advisory committee⁸ comprising global experts from diverse backgrounds and regions provided support to the research and development of the *Guiding Principles for TFGBV Law and Policy Reform*. This ensured representative and inclusive processes and outcomes, taking account of the diversity of contexts within which women, in all their diversity, are exposed to and experience TFGBV.

6 The term “survivor” is used in this document to reflect a strengths-based approach that respects the agency and resilience of individuals affected by gender-based violence, while acknowledging that the term “victim” may be used in legal contexts where it carries specific procedural or statutory meaning. For the purposes of this document, the term “survivor/victim” will be used.

7 Derechos Digitales, 2024. Discussion Paper: Combating Technology-facilitated Gender-based Violence (TFGBV) through the Lens of International Human Rights Law: Developing guidance on rights-based law reform to address TFGBV.

8 We acknowledge and appreciate the advice of the following experts: Bishaka Datta, Bridget Harris, Denisse Albornoz, Diana Arango, Eliana Quiroz, Eva Blum, Juliet Nanfuka, Lorna Woods, Lucie Doumanain, Lulú V. Barrera, Malavika Rajkumar, Manuel Contreras-Urbina, Merrin Muhammed Ashraf, Mirta Moragas, Muthoni Muriithi, Paola Ricaurte, Paz Peña, Peace Oliver Amugee, Priscilla Ruiz, Shubha Kayastha, Suzie Dunn, Tigist S. Hussien, Tsitsi Matekaire, Sven Pfeiffer and Kalliope Mingeirou.



Guiding principles: CHECKLIST

This summary of the *Guiding Principles for Law and Policy Reform to address TFGBV* serves to highlight key standards to support rights-based decision-making for TFGBV prevention and response. The consolidated checklist below presents a structured summary of actionable principles and standards drawn from the *Guiding Principles for TFGBV Law and Policy Reform*.

By utilizing a set of guiding principles as opposed to a prescriptive “model law”, the *Guiding Principles for Law and Policy Reform to address TFGBV* maintains a broad and adaptable scope as well as ensures that it is addressing the unique experience of women and girls in all their diversity across the world. It is paramount that any TFGBV legal reform is integrated within existing GBV legislative and policy frameworks, acknowledging the continuum of violence across online and offline spaces. It is envisaged as a living document, subject to regular review and updates to reflect advancements in technology and shifts in the global policy landscape.

The framework begins with a set of **cross-cutting approaches**, followed by six **guiding principles**, each accompanied by actionable standards to support their practical implementation. Decision-makers are encouraged to apply these guiding principles and actionable standards when assessing, reviewing, developing or amending laws and policies aimed at addressing TFGBV.

Cross-cutting approaches

- **Survivor-centred approach:** A survivor-centred approach prioritizes the rights, needs and well-being of survivors/victims in all actions and decisions, promoting their safety, dignity and self-determination. It is guided by four core principles: safety, confidentiality, non-discrimination and respect. This approach requires intentionally designing processes around the survivor/victim to empower them, support their recovery and prevent further harm.
- **Gender-transformative approach:** Employ a strategy across law and policy that addresses the root causes of TFGBV, including challenging underlying harmful social and gender norms, power dynamics and structures that perpetuate discrimination.
- **Intersectional approach:** Ensure the law adopts an intersectional approach by specifically addressing the diverse needs and realities of survivors/victims within society and proactively including them in the scope of protection, particularly those of the most marginalized groups, such as LGBTQIA+ individuals, and others who experience compounding forms of discrimination and violence.
- **Human rights-based approach:** Adopt a human rights-based approach (see **Box 1: What is a human rights-based approach?**).

Box 1: What is a human rights-based approach?

As outlined in UNFPA's manual, *Elevating Rights and Choices for All: Guidance Note for Applying a Human Rights Based Approach to Programming*, the application of this approach requires culturally sensitive, gender-responsive programming that integrates legal and non-legal measures to uphold rights comprehensively. Additionally, UNFPA's publication *Rights into Action: UNFPA Implements Human Rights-Based Approach*, along with other recent publications, underscores the importance of addressing systemic and structural barriers through this lens to ensure legislative and policy responses are inclusive, participatory and rooted in the protection of fundamental rights.

Building on these principles, a human rights-based framework in combating TFGBV should ensure:

- **Participation:** Active involvement of women, LGBTQIA+ individuals, and other vulnerable groups in the development of laws and policies.
- **Accountability:** Establish clear mechanisms to hold duty-bearers accountable for violations and ensuring transparency in law enforcement and judicial processes.
- **Equality and non-discrimination:** Address intersecting forms of discrimination to ensure all individuals, regardless of gender, race, class or other factors, have equal access to remedies and protections.
- **Quality:** Ensure that the justice system and services are available, accessible, acceptable and are of sufficient quality.
- **Gender equality and women's empowerment:** Strengthen the capacities of survivors/victims to claim their rights and of duty-bearers to meet their obligations.
- **Rule of law:** Ensure that laws and policies are grounded in legality, necessity and proportionality to balance the protection of rights.

This framework aligns with international recommendations, such as those from the UN Special Rapporteurs and other UN entities, and informs the principles developed in this Guidance.

In practice, this might look like:

- Conducting gender and human rights impact assessments (HRIA) to map risks and propose appropriate mitigation measures. It is critical to continually revise assessments to ensure they keep pace with the evolution of emerging technologies.
- Establishing clear mechanisms to hold duty-bearers accountable to the population for violations and ensure transparency in law enforcement and judicial processes.
- Addressing intersecting forms of discrimination to ensure all individuals, regardless of gender, race, class or other factors, have equitable access to remedies and protections.
- Strengthening the regulatory and social environment to ensure that survivors and service providers are able to claim their rights and of duty-bearers to meet their obligations.
- Ensuring that laws and policies are grounded in legality, necessity and proportionality to balance the protection of rights.

UNFPA, *Elevating Rights and Choices for All: Guidance Note for Applying a Human Rights Based Approach to Programming* (United Nations publication, 2020). Available at: <https://www.unfpa.org/featured-publication/guidance-note-applying-HRBA-programming-unfpa>

UNFPA, *Rights into Action: UNFPA Implements Human Rights-Based Approach*. (United Nations publication, 2010). Available at: https://unfpa.org/sites/default/files/pub-pdf/rights_action.pdf

This includes ensuring that at every stage of the legislative or policy process, there is meaningful engagement through accessible and confidential mechanisms with protections in place for safety and privacy (see **Box 2: Who to engage in TFGBV legislative processes**). This also includes ensuring **transparency and accountability** through the creation and maintenance of a publicly accessible record of processes and contributions in stakeholder

consultations, documenting current, past and future discussions to track progress, measure goal achievement and highlight addressed and unaddressed issues.

Box 2: Who to engage in TFGBV legislative processes

The following non-exhaustive list of stakeholders provides a guide as to who should be consulted in the development of legislation on TFGBV:

- Survivors/victims/complainants, following the “do no harm approach” and in alignment with international recommendations around meaningful co-design
- Non-governmental organizations and research and advocacy organizations that work on violence against women, and with survivors/victims; this includes those with specific experience in violence against particular groups of women, such as indigenous, immigrant or ethnic minority women or those with disabilities
- Non-governmental organizations that work on technology-related issues, including digital rights, freedom of expression, press and association, privacy and data protection, from a legal and technical point of view
- Providers of services supporting survivors/victims/complainants
- Government departments, including all national mechanisms for the advancement of women and the advancement of technology
- International, regional and national experts, including human rights institutions
- Police and other law enforcement personnel whose work involves GBV or cybercrime
- Academia
- Prosecutors whose work involves GBV or cybercrime
- Judges whose work involves GBV or cybercrime
- Lawyers/bar associations and legal aid organizations
- Healthcare professionals
- Forensics personnel
- Social work/counselling providers
- Teachers and other personnel of education systems
- Data protection and privacy specialists
- National statistical offices
- Prison officials
- Religious and community leaders
- Media personnel
- Internet service providers and companies that offer digital services and products.

Guiding principles

- 1 Guiding principle**
Purpose of law and policy must address the contextual experience of TFGBV

- 2 Guiding principle**
Law and policy to address TFGBV must build on and strengthen existing legislative and regulatory frameworks

- 3 Guiding principle**
Ensure evidence-based development of law and policy

- 4 Guiding principle**
Embed survivor-centred principles into law and policy

Substantive principles:

1. Embed survivor/victim consent as a core element
2. Recognize systems of accountability in law and policy
3. Provide for multiple forms of redress and reparation
4. Clarify the standards governing the liability of Internet intermediaries
5. Ensure regulatory independence
6. Ensure sufficient flexibility in law and policy

Procedural principles:

1. Prioritize the survivor's/victim's privacy, safety and consent
2. Ensure mechanisms to facilitate access to justice
3. Ensure evidentiary barriers for survivors/victims are addressed

- 5 Guiding principle**
Ensure sufficient resources, knowledge and institutional capacity to implement and enforce law and policy

- 6 Guiding principle**
Establish mandatory review systems of law and policy to address TFGBV

GUIDING PRINCIPLE 1

Purpose of law and policy must address the contextual experience of TFGBV

- Ensure that a contextual understanding of the experience of women and girls in all their diversity as it relates to TFGBV across a continuum of offline and online violence is both understood by lawmakers and policymakers and integrated into the purpose and provisions of relevant law and policy.
- Map typologies of TFGBV currently addressing TFGBV and determine their effectiveness for women and girls in all their diversity.
- Clearly define TFGBV and ensure that the purpose and intended outcomes of law reform speak to this definition.
- Ensure recognition of TFGBV as a human rights violation (see **Box 3: Defining TFGBV in legislation**).
- Ensure that the purpose or preamble of any law reform or development explicitly recognizes the disproportionate impact on women and girls in all their diversity.
- Apply a gendered perspective to the conceptualization and definition of TFGBV to recognize and address the disproportionate impacts of TFGBV on women and girls.
- Avoid defining TFGBV based on morality standards or using ambiguous wording that could be interpreted through a morality lens, which may result in the weaponization of law and policy against survivors/victims. (see **Box 4: Law that weaponizes “public morals”**).
- Ensure the purpose of the law is inclusive and adopts a gender and intersectional approach in equitable access to and application of the law and policy.

Box 3: Defining TFGBV in legislation

Mexico City’s **Olimpia Law** amends the Law on Women’s Access to a Life Free of Violence to include “digital violence” as a new modality of GBV, which is defined as:

any act performed through the use of printed materials, email, phone messages, social media, internet platforms, email, or any technological means, by which images, audios or real or simulated videos of intimate sexual content of a person are obtained, exposed, distributed, broadcasted, exhibited, reproduced, transmitted, marketed, offered, exchanged and shared, without their consent; that threatens the integrity, dignity, privacy, freedom, and private life of women or causes psychological, economic or sexual harm, in both the private and public spheres, as well as moral damage, both to women and their families.

Box 4: Law that weaponizes “public morals”

The UN Special Rapporteur on freedom of expression and opinion has observed that in several countries, laws that invoke the protection of public morals criminalize content — such as that deemed improper, indecent, obscene, or

immodest — as a means of controlling women’s online behaviour. Such appeals to morality often rest on notions of women’s honour, purity or reputation. Accordingly, morality and obscenity must not serve as rationales for legislative reform or the enactment of new laws addressing TFGBV, particularly where they purport to “protect” women or other marginalized communities.

UN Human Rights Council, *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, Irene Khan (A/HRC/50/29, 2022), paras 24–25.

Derechos Digitales, *Gender Considerations on Cybercrime Laws: When protection becomes an excuse for criminalization* (Association for Progressive Communications, 2023). Available at: https://www.derechosdigitales.org/wp-content/uploads/gender_considerations_on_cybercrime.pdf

GUIDING PRINCIPLE 2

Law and policy to address TFGBV must build on and strengthen existing legislative and regulatory frameworks

- Conduct a comprehensive mapping and analysis of the international, regional and national legislative and policy frameworks governing information and communications technology (ICT) use, GBV (including TFGBV, trafficking and cybercrime), and related evidentiary rules to ensure coherence, gender sensitivity, alignment with international standards and flexibility to address emerging technologies, while avoiding legal ambiguity, conflict or unintended consequences. See **Box 5: The importance of ensuring coherence and consistency between laws and policies.**
- Ensure that any newly proposed legislation, regulation or policy refers to and is integrated with existing laws and policies on GBV while establishing explicit connections to new and emerging relevant regional and international treaties and policies that address TFGBV, both directly and indirectly.
- Create ongoing systems of consultation with relevant and expert stakeholders to ensure effective application and enforcement.
- Identify outdated regulatory measures for revocation that could obstruct the effectiveness of the TFGBV legislation.

Box 5: The importance of ensuring coherence and consistency between laws and policies

In two main statutes that address online sexual harassment, the **Indian Penal Code** and the **Information Technology Act**, conceptualizations of sexual violence as a violation of privacy and autonomy co-exist uneasily with archaic “anti-obscenity” provisions. Research indicates that in cases of online sexual violence, police prefer anti-obscenity provisions, which are reported to be less protective to survivors/victims.



Important! Some countries may lack legal frameworks that address the field of technology – such as data protection laws – which directly relate to TFGBV. Even though these types of laws are protective, and their drafting is encouraged, their absence alone should not impede the drafting of TFGBV legislation.

GUIDING PRINCIPLE 3

Ensure evidence-based development of law and policy

- Support investment to enable ongoing generation of research to determine “what works” to prevent and respond to TFGBV.
- Ensure consultation on an ongoing basis, including through an open call, to collate evidence, research and data relating to TFGBV, including from a range of interdisciplinary sources and from an intersectional lens, to inform law and policy. This may also include investment in integration of TFGBV into existing multisectoral administrative data systems. Where safe and ethical, work with service providers to maintain an understanding of the experiences of TFGBV survivor/victims, including the barriers, challenges and existing gaps in access to justice.
- Support safe and ethical data collection to determine ongoing effectiveness of referral and management of TFGBV survivor/victims through the justice sector⁹.
- Assess the risks of TFGBV arising from digital platform business models and develop legislation grounded in this contextual evidence.
- Ensure all mechanisms of prevention, response and redress are informed by robust, safe and ethical research in the country or region¹⁰.

GUIDING PRINCIPLE 4

Embed survivor-centred principles into law and policy

A survivor-centred approach must be actioned across substantive and procedural principles guiding law and policy reform:

- **Substantive principles** address legislative content and outcomes
- **Procedural principles** cover the processes, methods and mechanisms involved in implementing and enforcing the legislation.

Each of these principles comprise a number of subprinciples, as outlined below:

Substantive principles:

- Subprinciple 1: Embed survivor/victim consent as a core element
- Subprinciple 2: Recognize systems of accountability in law and policy
- Subprinciple 3: Provide for multiple forms of redress and reparation
- Subprinciple 4: Clarify the standards governing the liability of Internet intermediaries
- Subprinciple 5: Ensure regulatory independence
- Subprinciple 6: Ensure sufficient flexibility in law and policy

Procedural principles:

- Subprinciple 1: Prioritize the survivor’s/victim’s privacy, safety and consent
- Subprinciple 2: Ensure mechanisms to facilitate access to justice
- Subprinciple 3: Ensure evidentiary barriers for survivors/victims are addressed

⁹ See for an example of safe and ethical programmes for the collection of administrative data: GBVIMS: Gender-based Violence Information Management System.

¹⁰ See UNFPA, *A Framework for TFGBV Programming* (United Nations publication, 2024). Available at: <https://www.unfpa.org/sites/default/files/pub-pdf/A%20Framework%20for%20TFGBV%20Programming.pdf>.

SUBSTANTIVE PRINCIPLES

Subprinciple 1: Embed survivor/victim consent as a core element

- Ensure that laws defining TFGBV recognize the absence of survivor/victim consent as a central element, particularly in cases including, for example, the non-consensual dissemination of intimate images (see **Box 6: Embodying principles of consent within TFGBV legislation**).
- Strengthen the definition of consent as a free and voluntary expression of will that explicitly accounts for issues relating to capacity and circumstances to eliminate ambiguity.

Box 6: Embodying principles of consent within TFGBV

The Australian **Online Safety Act** defines consent in its characterization of the offence for “non-consensual dissemination of intimate images”, illustrating that consent is not universal and may vary according to the survivor’s/ victim’s characteristics: “consent that is: (a) express; and (b) voluntary; and (c) informed; but does not include: (d) consent given by a child; or (e) consent given by an adult who is in a mental or physical condition (whether temporary or permanent) that: (i) makes the adult incapable of giving consent; or (ii) substantially impairs the capacity of the adult to give consent”.

Subprinciple 2: Recognize systems of accountability in law and policy

- Recognize that law and policy have limited impact unless they are embedded within a broader system of accountability for the safety and security of women and girls.
- Develop multi-stakeholder policies on prevention, education and system reform, engaging governments, civil society, private sector actors and affected communities. This may include supporting the provision of digital literacy, safety and hygiene across the ecosystem of stakeholders working with educational institutions, including students, parents and teachers, in aged-care facilities and in the workplace.
- Include evidence-based preventive measures for TFGBV in accordance with international recommendations to create broader investment in systems of accountability. See **Box 7: Preventative measures in TFGBV legislation**.
- Ensure sustained investment in continued research and evaluation of prevention efforts, including adequate allocation of human and financial resources.
- Support and consider requiring certain technology industry standards that account for safety, security and privacy by design, in order to prevent opportunities for technology to be misused to perpetrate harm.

Box 7: Preventative measures in TFGBV legislation

The **Ethiopian Hate Speech and Disinformation Prevention and Suppression Proclamation Act** sets forth that the “Ethiopian Broadcast Authority shall conduct public awareness and media literacy campaigns to combat disinformation” and “hate speech”. However, the Act does not specify the requirements for developing or enacting such policies, such as timelines

or resource allocation, nor does it make provision for the development of implementation guidelines.

Australia's **Online Safety Act** empowers the Australian online safety regulator, the eSafety Commissioner, to take action on prevention, protection and proactive and systemic change, including safety by design standards and basic online safety expectations for regulated services, including social media services, relevant electronic services and designated Internet services.

Subprinciple 3: Provide for multiple forms of redress and reparation

- Ensure availability of a variety of legal remedies and reparations for TFGBV survivors/victims across criminal, civil, administrative (such as communications authorities, data protection frameworks, national human rights institutions) and constitutional remedies as well as data protection and copyright claims. See **Box 8: Why is it important to offer both civil and criminal avenues for redress?** and **Box 9: Providing survivors/victims with multiple options for redress.**
- Within civil law, it is important to consider the full breadth of remedies, including restraining orders, injunctions, compensation claims, defamation, privacy breaches or data protection complaints, as well as civil action against tech companies for negligence and product liability.

Box 8: Why is it important to offer both civil and criminal avenues for redress?

Criminal justice is often the avenue most commonly pursued by the State to address cases of TFGBV. While criminal action represents a range of advantages, including creating a system of accountability of perpetrators and a sense of justice for survivors/victims, it is limited in its ability to address the full range of needs that a survivor/victim may have following an experience of TFGBV.

Civil remedies are therefore an important complement, and sometimes an alternative, to criminal prosecutions when addressing TFGBV. Some survivors/victims may find civil legal recourse better aligns with their individual needs, with potential benefits such as financial compensation, injunctive relief and legal action against platforms that refuse to remove non-consensual content. However, even in the case of civil remedies, challenges remain. In some jurisdictions, civil claims are delayed until the conclusion of related criminal cases, leaving survivors/victims without timely relief. Additionally, requirements to disclose personal information during proceedings and financial barriers deter many from pursuing civil actions.

Civil and criminal responses to TFGBV serve different purposes and offer distinct outcomes for survivors/victims, allowing them to pursue whichever avenue best suits their needs and circumstances.

In addition to civil and criminal approaches, other legal reparations may be made available to meet survivors'/victims' individual needs, including constitutional remedies, data protection claims and copyright instruments. In all cases, the decision of what avenue to pursue must belong strictly to the survivor/victim with their full consent.

Box 9: Providing survivors/victims with multiple options for redress

Mexico City's **Olimpia Law** amended the Law on Women's Access to a Life Free of Violence in Mexico City to include "digital violence" as a form of GBV, which creates civil obligations and administrative procedures for authorities and institutions to follow. Simultaneously, it amended the Mexico City Criminal Code to create offences for different forms of TFGBV, including online sexual harassment and the non-consensual dissemination of intimate images. This dual approach provides TFGBV survivors/victims with a range of remedies, including a civil pathway through the Law on Women's Access to a Life Free of Violence, which emphasizes protection and reparation, and a criminal pathway through the amended Criminal Code, which focuses on the prosecution of perpetrators.

Subprinciple 4: Clarify the standards governing the liability of Internet intermediaries

- Address the responsibility of intermediaries in legal responses to TFGBV, including those facilitating access to artificial intelligence (AI) tools or platforms enabling the creation or dissemination of synthetic or manipulated content (e.g. deepfakes), by adopting a "smart regulation"¹¹ approach focused on ensuring corporate transparency and accountability, while prioritizing effective remedies for individuals affected. See **Box 10: What are Internet intermediaries?** and **Box 11: Addressing the liability of Internet intermediaries**.
- Impose proactive and reactive obligations on digital businesses, based on the UN Principles on Business and Human Rights¹².
- Regulate Internet intermediaries and platforms to implement content moderation policies that are gender-sensitive and trauma-informed. These policies should be monitored and enforced by trained personnel who are equipped to provide survivor-centred responses, receive ongoing mental health support from the company, and are not subjected to overwork.
- Ensure that standards for Internet intermediaries include mechanisms for timely, effective and survivor-centred reporting, in coordination with, and with the oversight of, external TFGBV service providers.
- Prioritize transparency and accountability measures that emphasize providing relevant information to policymakers, researchers and survivors/victims, while maintaining a survivor-centred approach that doesn't identify an individual or group of survivors without their informed consent.
- Adopt or reform data protection rules, especially with personally identifiable information of survivors/victims of TFGBV, to incorporate concrete measures that align with the following principles: "do no harm" (i.e. benefits must outweigh risks); informed consent for the collection, use and sharing of data, which must be obtained and can be withdrawn; enforcement of privacy and confidentiality; data minimization; purpose specification; limited data

¹¹ "Smart regulation" should focus on transparency, accountability and human rights safeguards rather than rigid frameworks, and must avoid delegating judicial powers to private companies. See *Guiding Principles for Law and Policy Reform to Address Technology-facilitated Gender-based Violence: Towards a System of Accountability* (forthcoming).

¹² United Nations Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (United Nations publication, 2011).

retention; survivor-centred approach; and safety by design¹³.

- Ensure transparency and reporting requirements to support accountability of Internet intermediaries regarding platform design, deployment, moderation processes, data security and privacy, and, where applicable, participation in data economies (including data sales and brokered data)¹⁴.

Box 10: What are Internet intermediaries?

An Internet intermediary is an entity that enables or facilitates online communication or the exchange of information between users. According to the Association for Progressive Communications (APC), intermediaries can be broadly categorized into two types:

- **Conduits:** Technical providers of Internet access or transmission services that do not interfere with the content they transmit
- **Hosts:** Provide content services such as online platforms and storage services, hosting, transmitting or indexing content originated by third parties.

Examples of Internet intermediaries include network operators (such as mobile network operators), Internet service providers (such as email providers), social networks (such as Facebook, X, user-generated platforms), hosting providers, search engines and more.

Association for Progressive Communications (APC), *Frequently Asked Questions on Internet Intermediary Liability*. Available at: <https://www.apc.org/en/pubs/frequently-asked-questions-internet-intermediary-liability>.

Box 11: Addressing the liability of internet intermediaries

The **Australian Online Safety Act** provides that Internet service providers should create standards for a safer online environment that tackles issues such as cyber harassment, cyberbullying and non-consensual intimate imagery. The Act states that Internet service providers are expected to “take reasonable steps to minimise the extent to which the following material is provided on the service:

1. cyber-bullying material targeted at an Australian child;
2. cyber-abuse material targeted at an Australian adult;
3. a non-consensual intimate image of a person;
4. class 1 material;
5. material that promotes abhorrent violent conduct;
6. material that incites abhorrent violent conduct;
7. material that instructs in abhorrent violent conduct;
8. material that depicts abhorrent violent conduct;”

¹³ WMA Declaration of Helsinki; General Data Protection Regulation (GDPR); UNFPA, *Guidance on the Safe and Ethical Use of Technology to Address Gender-based Violence and Harmful Practices: Implementation Summary* (United Nations publication, 2023). Available at: https://www.unfpa.org/sites/default/files/pub-pdf/UNFPA_SafeEthicalGBVTechGuide_Summary_2023.pdf

¹⁴ UNFPA, *A Safe Digital Future*, (United Nations publication, 2024). Available at: <https://www.unfpa.org/publications/safe-digital-future>

It also states that Internet service providers are expected to “ensure that the service has clear and readily identifiable mechanisms that enable end-users to report, and make complaints [...] regarding the same acts listed above”.

- !** **Important!** While digital platforms have often been sites where TFGBV occurs, they also play a crucial role in enabling the exercise of fundamental rights, including freedom of expression and access to information—particularly information about how to protect oneself from violence. When addressing the responsibilities of these platforms, it is essential to strike a careful balance between safeguarding rights and ensuring safety. Key Internet features such as anonymity and strong encryption, which might appear to pose challenges to enforcement of online safety at first glance, are, in fact, vital for protecting an individual right to privacy and security. These tools have been widely recognized by international experts as essential safeguards for privacy, freedom of expression and security, and therefore must not be compromised in the drafting of legal responses.

Subprinciple 5: Ensure regulatory independence

- Consider establishing a specialized independent administrative or regulatory body designed to process TFGBV cases, with powers to, inter alia, order content takedown, receive complaints or reports of TFGBV, impose penalties, issue warnings, investigate, or bring civil cases. See **Box 12: Independent regulatory bodies**.
 - This body may also be mandated to support increased systems of accountability across government stakeholders and support community engagement to prevent TFGBV.
 - Alternatively, invest in comprehensive training programmes for existing institutions, equipping them with the necessary knowledge and skills on GBV and ICT-related matters.

Box 12: Independent regulatory bodies

The **Nepali Information Technology Bill** and the **Australian Online Safety Act** both create and establish specific public bodies that have enforceable legal powers in relation to incidents of TFGBV and other technology-related offences:

- The Nepali legislation stipulates that the Government of Nepal must establish an Information Technology Court to judge the offences it contains. The court “shall consist of one legal expert, one information technology specialist, and one cybersecurity specialist”. The experts to compose the court “shall serve a term of five years and may be reappointed” and “shall retire upon reaching the age of sixty years old”.
- The Australian legislation delegates investigative powers to the eSafety Commissioner regarding all conduct foreseen in the legislation. The investigation of all acts depends on the Commissioner receiving a complaint of their occurrence.

Subprinciple 6: Ensure sufficient flexibility in law and policy

- Ensure that the language of legal and policy provisions relating to TFGBV are sufficiently flexible to adapt to the rapidly evolving landscape of technology and unforeseen risks to ensure future-proofing. See **Box 13: Adaptive language to future-proof law and policy**.
- Mandate regular and periodic reviews of legislation, regulations and policy to maintain adaptability and responsiveness.

Box 13: Adaptive language to future-proof law and policy

Mexico City's **Olimpia Law** amended the General Law on Women's Access to a Life Free of Violence to add Article 20 Quáter, which provides the official definition of digital violence to be:

any act performed through the use of printed materials, email, phone messages, social media, internet platforms, email, or any technological means, by which images, audios or **real or simulated** videos of intimate sexual content of a person are obtained, exposed, distributed, broadcasted, exhibited, reproduced, transmitted, marketed, offered, exchanged and shared, without their consent; that threatens the integrity, dignity, privacy, freedom, and private life of women or causes psychological, economic or sexual harm, in both the private and public spheres, as well as moral damage, both to women and their families.

While these legal reforms were introduced before the proliferation of artificial intelligence, the reference to “real or simulated” in the definition enables broad application to artificially generated deepfake images or videos.

PROCEDURAL PRINCIPLES**Subprinciple 1: Prioritize the survivor's/victim's privacy, safety and consent**

- Embed survivor/victim consent into processes and systems of referral and response to TFGBV at every step of the legal process, including access to pathways for legal reparation without discrimination.
- Ensure that survivors/victims are provided with clear, comprehensive information about each step in the justice process, empowering them to make informed decisions.
- Prioritize survivor/victim privacy during proceedings by establishing safeguards throughout the legal process. This includes allowing the option for anonymity in filings (e.g. the use of pseudonyms), closed hearings, restricting access to personal information, trauma-informed court proceedings (such as permitting a guardian/support person, ensuring trained legal and court staff to support trauma-informed engagement, video testimonies), implementing secure mechanisms for handling sensitive evidence (such as the survivor's/victim's data, images and communications) and facilitating access to support services and psychosocial support.

Subprinciple 2: Ensure mechanisms to facilitate access to justice

- Ensure availability of plain-language, accessible and multilingual information and communications on opportunities to access justice for survivors/victims of TFGBV.
- Reporting channels should include options for both in-person and online/digital channels in a number of different formats.

- Support provision of legal aid or financial support to access criminal and civil redress and reparations for TFGBV cases.
- Ensure legal advisory services and legal clinics support referral to a range of support services, including digital rights and safety organizations, social and health services.

Subprinciple 3: Ensure evidentiary barriers for survivors/victims are addressed

- Reduce the evidentiary burden on survivors/victims to provide digital evidence (such as screenshots, screencasts, exported chats, photographs or contemporaneous notes) in recognition that there are many reasons why a survivor/victim may be unable to collect or preserve such evidence.
- Evidentiary frameworks should accept a wide range of digital evidence, including survivor/victim and witness testimony, digital forensics and corroborating digital traces (such as evidence obtained from fitness trackers, Wi-Fi routers, smart home devices, etc.).
- Establish clear guidelines on the admissibility, probity and chain of custody of digital evidence.
- Ensure law enforcement and justice actors have the capacity and means to collect, preserve, store and analyse digital evidence, including digital forensic evidence, while maintaining the privacy, security and safety of the survivor/victim.

GUIDING PRINCIPLE 5

Ensure sufficient resources, knowledge and institutional capacity to implement and enforce law and policy

- Allocate sufficient financial and human resources and establish transparent budgeting, monitoring and reporting mechanisms to support the effective implementation and enforcement of TFGBV law and policy.
- Develop and provide ongoing professional learning to support increased capacity for all stakeholders engaged in the implementation and enforcement of law and policy, including prosecutors, legal aid providers, judiciary and private sector lawyers (including professional associations). Learning opportunities should aim to increase knowledge, understanding and capacities in relation to:
 - Forms and harms associated with TFGBV
 - Digital literacy, including ways in which old technology as well as new and emerging forms of technology pose risk of harm
 - Collection and interpretation of digital evidence (including digital forensic evidence)
 - Understanding of the law reform provisions to support enforcement.
- Integrate a gender-transformative and intersectional approach throughout curriculum development and delivery, recognizing the gendered nature of TFGBV. See **Box 14: Challenging gender stereotypes in the judiciary**.
- Integrate training content into pre-service and in-service professional accreditation systems to ensure sustainable approaches to increased knowledge.
- Ensure regular revisions to training content and periodic refresher training to ensure stakeholders remain informed of technological development and evolving risks.

- Establish coordination mechanisms across public and private institutions, civil society, front-line responders and academia – such as working groups, communities of practice or taskforces – to support a network of specialists and promote shared responsibility.

Box 14: Challenging gender stereotypes in the judiciary

The **Supreme Court of India** released a handbook in 2024 aiming to “identify, understand and combat” gender stereotypes in court proceedings. The handbook not only offers alternative, gender-just language that justice and legal stakeholders should employ during court proceedings, but also dissects prevalent stereotypes, demonstrating their inaccuracy and their potential to distort legal applications.

GUIDING PRINCIPLE 6

Establish mandatory review systems of law and policy to address TFGBV

- Establish consultative review mechanisms across all stakeholder groups to ensure law and policy keeps pace with emerging forms of TFGBV (see **Box 2: Who to engage in TFGBV legislative processes above**).
- Develop a measurement framework to guide reviews, ensuring accountability and transparency in line with the intended purpose.
- Conduct thorough risk assessments and stakeholder consultations on an ongoing basis to ensure legislation avoids generating adverse or unintended consequences.
- Implement effective gender mainstreaming throughout monitoring and evaluation processes, which may include representatives of survivors/victims or GBV front-line responder feedback, intersectional analysis, gender-responsive budgeting audits and gender-responsive impact evaluations.
- Implement regular, time-bound assessments to collect insights from service providers as well as survivors/victims where appropriate and safe, for example through anonymous reporting portals.
- Publish the results of these assessments to the public to ensure systems of transparency and accountability to encourage inclusion of feedback into any amendments of law and policy.
- Consider the use of regulations which provide more flexibility for revision and updating, while embedding key principles in the head legislation.

