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More dynamic solutions to privacy violations needed

As we moved online during COVID, levels of technology-facilitated gender-based violence sky-rocketed, contributing to what the United Nations has dubbed the ‘shadow pandemic’ of gender-based violence.

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p. 13



p. 16



The last year has given us a lot of time to reflect on our relationship with technology and privacy. In ways never seen before, we lost a lot of our choices on how we want to interact with people.

COVID-19 restrictions limited most of our communication to digital spaces. In our professional lives, we were able to peek into the homes of our colleagues during meetings. In our personal lives, some of our most intimate conversations and interactions had to be conducted online. Everything had the potential to be documented and recorded like never before.

In some ways, this was a real benefit. Events that in the past were restricted to people who could travel to them in person, were now open to the world through video conferencing. Many people could work online, often being able to be closer to loved ones or to live in locations that were more affordable.

But there was also a negative aspect to these changes, particularly when it came to the increase in online abuse. As we moved online, levels of technology-facilitated gender-based violence sky-rocketed, contributing to what the United Nations has dubbed the “shadow pan-

demical” of gender-based violence.

Organizations that provide supports for targets of the non-consensual distribution of intimate images, such as the U.K. Revenge Porn Helpline, saw massive increases in reporting over the last year. Abusive actors were taking advantage of online interactions to document and distribute private and sexual content in harmful ways.

The issue of non-consensually distributed intimate images was further amplified following the publication of an article in the New York Times in December that brought worldwide attention to the ways in which both individuals and digital platforms such as Pornhub play a role in these privacy harms. This increased the call for better response from platforms and law makers to address these issues.

In response to the public outcry to these privacy violations and other online harms, Steven Guilbeault, the minister of Canadian Heritage, has announced that the federal government will be tabling legislation in the coming weeks that will regulate online platforms in order to address some of these harms. The proposed legislation is set to include a regulatory body that would determine takedown obligations for platforms, in-

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cluding 24-hour takedown requirement for certain illegal content. It is unclear whether this proposed legislation will meet the needs of those targeted by online abuse and it has been met with mixed responses.

What is clear is that we need more dynamic solutions to privacy violations than the ones that are currently available. Existing content moderation practices, and criminal or civil law options have not provided adequate supports or remedies for those targeted by abusive privacy violations. There is a need for a more responsive approach that is both accessible and provides timely solutions to targets of online abuse, including the non-consensual distribution of intimate images.

A report released last week written by Cynthia Khoo for the Women’s Legal Education and Action Fund, “Deplatforming Misogyny,” outlines what an intersectional feminist and human rightsbased response to some of these concerns would look like. It makes several important recommendations worth paying attention to.

First, it emphasizes that a regulator that addresses technology-facilitated gender-based violence should not only provide practical and accessible remedies for targets of this abuse, but that it should also engage in research and education that would help us better understand what these issues are and educate the general public about these new forms of harms. Second, it recommends that platform companies be required to develop reporting mechanisms that are easy to use and that they publish transparency reports that document how they have been managing abusive content on their sites. Third, it calls for increased fund-

ing for frontline support workers and community-based organizations that are supporting those people targeted by online abuse.

Most importantly, this report implores that the government engage in ongoing meaningful consultations with those impacted by these types of harms when developing solutions, especially those that have been historically marginalized. Without proper consultation, it is difficult for the government to know whether any proposed solutions will actually meet the needs of those most impacted.

Those engaged in legal reforms in this area should take the lead from this report and focus their efforts on approaches that address relevant human rights issues, including privacy, equality, and freedom of expression, and make an increased effort to engage in substantial dialogue with a diversity of communities that will be most impacted by new legislation.

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The Hill Times More dynamic solutions to privacy violations needed p. 16 Opinion