

# The Potential of Centralized and Statutorily Empowered Bodies to Advance a Survivor-Centered Approach to Technology-Facilitated Violence Against Women

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## Abstract

As the means and harms of technology-facilitated violence have become more evident, some governments have taken steps to create or empower centralized bodies with statutory mandates as part of an effort to combat it. This chapter argues that these bodies have the potential to meaningfully further a survivor-centered approach to combatting technology-facilitated violence against women – one that places their experiences, rights, wishes, and needs at its core. It further argues that governments should consider integrating them into a broader holistic response to this conduct.


An overview is provided of the operations of New Zealand’s Netsafe, the eSafety Commissioner in Australia, Nova Scotia’s Cyberscan Unit, and the Canadian Centre for Child Protection in Manitoba. These types of centralized bodies have demonstrated an ability to advance survivor-centered approaches to technology-facilitated violence against women through direct involvement in resolving instances of violence, education, and research. However, these bodies are not a panacea. This chapter outlines critiques of their operations and the challenges they face in maximizing their effectiveness.

Notwithstanding these challenges and critiques, governments should consider creating such bodies or empowering existing bodies with a statutory mandate as one aspect of a broader response to combatting

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technology-facilitated violence against women. Some proposed best practices to maximize their effectiveness are identified.

*Keywords:* Technology-facilitated violence; survivor-centered responses; gender-based violence; cyberviolence; government responses to technology-facilitated violence; government agencies; image-based abuse

## **Introduction**

Gender-based violence is not a new phenomenon. However, with the proliferation of digital technology have come additional ways in which such violence can be committed. As the means and harms of technology-facilitated violence have become more evident, some governments have taken steps to create or empower centralized bodies with statutory mandates as part of an effort to combat it. This chapter argues that these bodies have the potential to meaningfully further a survivor-centered approach to combatting technology-facilitated violence against women and that governments should consider integrating them into a broader holistic response to this conduct.

This chapter begins by providing my working definition of technology-facilitated violence against women and argues that meaningfully responding to its significant harms requires a holistic and survivor-centered approach – one that places the experiences, rights, wishes, and needs of survivors at its core. Drawing on existing feminist literature and internationally adopted standards on “survivor-centered” approaches to domestic and sexual violence, several foundational elements of a “survivor-centered” approach to technology-facilitated violence against women are elucidated: intersectionality, choice, dignity and respect, prevention, and research.

The chapter then turns to examining the emerging trend of governments creating or funding centralized bodies with statutory mandates to address technology-facilitated violence. An overview is provided of the operations of New Zealand’s Netsafe, the eSafety Commissioner in Australia, Nova Scotia’s Cyberscan Unit, and the Canadian Centre for Child Protection in Manitoba. These types of centralized bodies have demonstrated an ability to advance survivor-centered approaches to technology-facilitated violence against women through education, research, and direct involvement in resolving instances of violence. However, these bodies are not a panacea. Drawing from their experiences, I outline critiques of their operations and the challenges they face in maximizing their effectiveness.

Notwithstanding these challenges and critiques, I conclude by arguing that governments should consider creating such bodies or empowering existing bodies with a statutory mandate as one aspect of a broader response to combatting technology-facilitated violence against women. Some proposed best practices to maximize their effectiveness are identified.

## **The Need for a Survivor-Centered Approach to Technology-Facilitated Violence Against Women**

This chapter uses “technology-facilitated violence against women” to describe a broad range of conduct targeting women, defined as individuals who self-identify

as such.<sup>1</sup> This conduct includes cyber harassment or stalking, monitoring or surveillance, image-based abuse (creating, distributing, or threatening to distribute intimate images without consent), impersonation, doxing (publishing private or identifying information online without consent), and deep fakes (digital falsification of images, video, and audio to simulate participation in pornography) (Chesney & Citron, 2019; Wong, 2019; Woodlock, 2017). This type of conduct disproportionately targets and impacts women, among other marginalized groups (Bailey, 2013; Bailey & Mathen, 2019; Powell & Henry, 2019), with women of color, women with precarious status, women with disabilities, women whose first language is not English, and Indigenous women being particularly vulnerable (e.g., Woodlock, 2015). This chapter refers to an individual who commits technology-facilitated violence as a “perpetrator” and to the target of that violence as a “survivor,” although various other terms are used in the literature, including “responsible person,” “victim,” and “victim-survivor.”

Technology-facilitated violence can lead to real harms to real women (Powell & Henry, 2017, p. 62),<sup>2</sup> including well-documented harms to their privacy, security, autonomy, and equality interests (e.g., Marganski & Melander, 2018; Powell & Henry, 2017). However, law and society have tended to trivialize technology-facilitated violence as a form of gender-based violence and blame women for bringing this abuse on themselves (e.g., Citron, 2014). This response is arguably linked not just to how we have historically responded to violence against women, but to the belief that harms caused by “online” conduct are less serious than those caused by “offline” conduct (Powell & Henry, 2017, p. 66; Citron, 2014, p. 102; see also Gosse, this volume). This has led to responses that minimize the former and that tend to place responsibility for mitigating or avoiding those harms on survivors.

The serious harms caused by technology-facilitated violence against women, as a form of gender-based violence rooted in misogyny, call for an effective survivor-centered approach to combatting it. “Survivor-centered” has been defined as meaning “that the survivor, not the advocate, guides the intervention, in both what needs are to be met and how to go about meeting them” (Allen, Larsen, Trotter, & Sullivan, 2013). The concept of survivor-centered approaches (sometimes referred to as “victim-centered” or “survivor-centric” responses) has been explored in feminist approaches to domestic violence and sexual violence (e.g., Goodman & Epstein, 2008; Nova Scotia Provincial Sexual Violence Prevention Committee, 2019; UN Women Virtual Knowledge Centre to End Violence Against Women and Girls, 2011; Spangler & Brandl, 2007). It has also been advocated in the context of post-conflict mechanisms of transitional justice, such as truth commissions and prosecutions (e.g., Soueid, Willhoite, & Sovcik, 2017).

In conceptualizing a survivor-centered approach to domestic violence, Goodman and Epstein (2008) emphasize the imperative to honor the differences in domestic violence survivors’ particular needs by creating opportunities for them to be heard and to play an active role in shaping the assistance they receive (the principle of “voice”); to recognize the importance of their relationships and community ties (the principle of “community”); and, in expanding resources available to them, to focus on those whose socioeconomic status limits their opportunities to be safe (the principle of “economic empowerment”) (pp. 90 and 135). Survivors and their

needs differ based on many factors, including mental and physical well-being; religious, ethnic, and cultural background; immigration status; sexual orientation; embeddedness in social networks; and socio-economic status (Goodman & Epstein, 2008). Important to a survivor-centered approach is ensuring the survivor is able to control the decisions that affect her life (Goodman & Epstein, 2008).

The United Nations has also encouraged a survivor-centered approach to violence against women, meaning that all those engaged in related programming should “prioritize the rights, needs, and wishes of the survivor” (UN Women Virtual Knowledge Centre to End Violence Against Women and Girls, 2011, para 1; see also UN High Commissioner for Refugees, 2016; UN Security Council, 2019). Training materials produced by the UN High Commissioner for Refugees (2016) describe “a survivor-centered approach” as “recogniz[ing] the fact that each person is unique, reacts differently to [sexual and gender-based violence] and has different needs” and as “promot[ing] respect for the survivors’ rights by placing them at the centre of the support system” (Module 2, p. 16). In the context of health-care provision, survivors’ rights enumerated by the UN Women Virtual Knowledge Centre to End Violence Against Women and Girls (2011) are the rights to:

- be treated with dignity and respect instead of being exposed to victim-blaming attitudes;
- choose the course of action in dealing with the violence instead of being powerless;
- privacy and confidentiality instead of exposure;
- non-discrimination instead of discrimination based on gender, age, race/ethnicity, ability, sexual orientation, HIV status, or any other characteristic; and
- receive comprehensive information to help her make her own decision instead of being told what to do.

These principles have also been invoked in the context of providing guidance on the development of survivor-centered sexual violence policies and responses in the context of post-secondary institutions (Nova Scotia Provincial Sexual Violence Prevention Committee, 2019).

In the context of transitional justice, Soueid et al. (2017) have described some of the most important components of a survivor-centered approach: gender-sensitive mechanisms that empower women in the society; incorporating cultural sensitivities that allow ethnic, racial, and religious minorities to meaningfully participate; providing social, medical, psychological, and other rehabilitative services; and ensuring access to effective legal representation.

Drawing from this context-specific existing feminist literature and guidance, this chapter proposes that there are several foundational aspects of a holistic survivor-centered approach to technology-based violence against women.

First, a survivor-centered approach is intersectional. Women are not a monolithic group. Women who also identify as racialized, Indigenous, trans,

disabled, and/or immigrant (among other identities) will often experience technology-facilitated violence and its harms in diverse ways. The same holds true for women who live in predominantly English-speaking societies, but who do not speak English, as well as women who live in remote communities (see Woodlock & Harris, this volume). Women who exist at these and other intersections may also face different barriers to accessing information about technology-facilitated violence (see Woodlock & Harris, this volume). Recognizing the diversity of women and the extent to which their needs and experiences are likely to diverge based on social location is necessary to an effective survivor-centered approach.

Second, this approach permits and empowers survivors to choose their own course of action in addressing their individual experience of violence. This requires that multiple courses of action be available to survivors to address technology-facilitated violence in the manner in which they deem most appropriate. By way of example, a woman experiencing violence perpetrated by a former partner may want this conduct to stop, but may not want the perpetrator to be criminalized. Having a broad range of options available to a survivor is not only appropriate in light of the unique insight she may have into how the perpetrator might react and what is best for her safety, but it also provides an appropriate way to try to return control of the situation to the survivor. Related to this is the need to ensure survivors are actually informed about these various courses of action so that they may choose the one that is best suited to their own needs and wishes.

Third, a survivor-centered approach seeks to ensure that survivors are treated with dignity and respect, rather than blamed for the violence they have experienced. This principle should underlie the development and delivery of both services and information related to technology-facilitated violence against women. [Goodman and Epstein \(2008\)](#) have highlighted the need to better educate communities about ways to assist survivors of domestic violence and to “reach out to community leaders in religious institutions, health care agencies, educational institutions, workplaces, and other community settings to transform these places into supportive environments” for survivors (pp. 121 and 123).

Fourth, a survivor-centered approach incorporates prevention as a key goal. Reducing instances of technology-facilitated violence, and therefore reducing the number of survivors who need to rely on services and supports to address this conduct, should be prioritized. The burden of prevention should not be placed on survivors; rather, it should be a collective responsibility that encourages a cultural shift in attitudes toward technology-facilitated violence specifically and gender-based violence more generally, including through public education and the education of those who perpetrate this violence or may do so in the future.

Fifth, the implementation of a survivor-centered approach is informed by research, evidence, and the perspectives of survivors. Research is crucial to understanding the nature and impacts of recent and emerging forms of technology-facilitated violence against women. Understanding the experiences of survivors who are subjected to this conduct as well as their specific needs must inform the preventative, informational, and remedial aspects of a survivor-centered approach.

## **The Potential of Centralized and Statutorily Empowered Bodies to Advance a Survivor-Centered Approach**

In recent years, several national and sub-national governments have taken steps to create centralized agencies or entrust a designated organization with a statutory mandate to address various aspects of technology-facilitated violence. This section provides an overview of several of these entities and the ways in which they have demonstrated their potential to further a survivor-centered response to technology-facilitated violence. However, this potential is not limitless. They are susceptible to a number of challenges and critiques, which are also explored.

### *The Proliferation of Centralized and Statutorily Empowered Bodies*

In New Zealand, the idea to bestow upon an organization a statutory mandate related to technology-facilitated violence was raised in an August 2012 report of its Law Commission, recommending the government adopt a suite of reforms to address harmful digital communications. Among the recommended reforms was to designate an “approved agency” to receive and attempt to resolve complaints related to harmful online communications (Law Commission, 2012, p. 110). The impetus for this designation, which the Law Commission (2012) recommended pairing with an independent tribunal, was to enhance access to justice and respond to submissions of key stakeholders that “New Zealand users need access to a complaints body that is accessible and that has some teeth to negotiate with global entities” (Law Commission, 2012, pp. 100, 104, and 134). The Law Commission (2012) recognized that “[m]any complaints will be much better handled by less formal means: by techniques of mediation, negotiation and persuasion” (p. 128). It also identified education, research, and policy oversight as needed general functions for an “approved agency” (Law Commission, 2012, p. 130). The Law Commission (2012) recommended that Netsafe, an independent non-profit organization founded in 1998, be designated the “approved agency,” as it was already partly funded by government, performed many of these tasks, and had an established relationship with offshore operations such as Google and Facebook (Law Commission, 2012, p. 130; see also Pacheco & Melhuish, this volume).

In late 2013, the New Zealand government introduced what would eventually become the [Harmful Digital Communications Act, 2015](#) (HDCA). The legislation’s purposes are to deter, prevent, and mitigate harm caused to individuals by digital communications, and to provide survivors with a quick and efficient means of redress (HDCA, 2015, s. 3). In June 2016, the government appointed Netsafe as the “approved agency” under the HDCA (Government of New Zealand, 2016). Netsafe’s legislative mandate includes receiving and assessing complaints about harm caused to individuals by digital communications; investigating complaints; using advice, negotiation, mediation, and persuasion (as appropriate) to resolve complaints; establishing and maintaining relationships with domestic and foreign service providers, online content hosts, and agencies (as appropriate) to achieve the HDCA’s purposes; and providing education and advice on policies

for online safety and conduct on the internet (HDCA, 2015, s. 8(1) (a)–(c), (e)). While New Zealand did not implement the Law Commission’s recommendation for an independent tribunal, the HDCA does require that a complaint about a harmful digital communication first be made to Netsafe before an individual applies to the District Court for certain enumerated civil remedies such as a takedown order (HDCA, 2015, ss. 12(1), 18, and 19). Netsafe itself has no authority to order the takedown of harmful communications.

Shortly after the HDCA was introduced, the Australian government issued a consultation paper on enhancing online safety for children as part of a September 2013 election commitment to establish a “Children’s e-Safety Commissioner” (Government of Australia, 2014, p. 5). This proposal was part of a larger commitment to enhance the online safety of children, with a view to ensuring that content and cyber-bullying concerns were handled faster; that children could quickly access assistance with online safety concerns; that criminal laws relating to cyberbullying were appropriate and effective; and that there was clear and expert leadership in online safety (Government of Australia, 2014). Pointing to the New Zealand example, the Australian government recognized “the need for an accessible and centralized point of contact to deal with online safety” (Government of Australia, 2014, p. 5).

Australia considered following New Zealand’s model of designating a non-governmental organization to act as the Commissioner. However, it ultimately established the Office of the Children’s eSafety Commissioner under the *Enhancing Online Safety for Children Act 2015* in July 2015 as an independent statutory office within the Australian Communications and Media Authority (Office of the eSafety Commissioner [Commissioner], 2015). Notwithstanding the Commissioner’s child-focused mandate, in 2016, it launched eSafetyWomen “to help empower and encourage women to take control of the technology in their lives” in response to an “increase in the use of technology to control, stalk and abuse Australian women” (Office of the eSafety Commissioner, 2016). The Commissioner’s governing legislation was amended in 2017 to re-establish its title as the *Enhancing Online Safety Act 2015* (EOS Act), to rename the Office, and to reflect that the Office’s mandate extends beyond the ambit of children (Reichert, 2017).

Today, the Office of the eSafety Commissioner is “the only government agency in the world solely dedicated to the online safety of its citizens” (Office of the eSafety Commissioner, 2019, p. 3). The Commissioner’s legislative functions include collecting, analyzing, interpreting, and disseminating information relating to online safety for Australians; supporting, encouraging, conducting, accrediting, and evaluating educational, promotional, and community awareness programs relevant to online safety for Australians; supporting, encouraging, conducting, and evaluating research about online safety for Australians; publishing reports and papers relating to online safety for Australians; administering a complaints system for cyberbullying against children; and administering a complaints and objections system for the nonconsensual sharing of intimate images (EOS Act, ss. 15(1) (e), (f), (h), (i), 18, and 19A).

Around the same time that New Zealand and Australia took action, at the sub-national level, two Canadian provinces created legislative mandates for agencies to address some forms of technology-facilitated violence, including violence that disproportionately impacts women.

On April 25, 2013, Nova Scotia's provincial government introduced legislation intended "to better protect victims and hold cyberbullies accountable for their harmful behaviour" (Nova Scotia, n.d., p. 1). The *Cyber-Safety Act* was introduced in the wake of the suicide death of 17-year-old Nova Scotian Rehtaeh Parsons on April 7, 2013, after she was subjected to acts of sexual violence, image-based abuse, and cyber-harassment (CBC News, 2013). The legislation created CyberScan, a unit within the Public Safety Division of the provincial Department of Justice. The unit consisted of a director and investigators whose authority included receiving and investigating complaints about cyberbullying from anyone in the province, attempting to resolve the complaint by agreement or informal action, writing a warning letter to the perpetrator, and filing protection orders (Nova Scotia House of Assembly, 2013, p. 1483; *Cyber-Safety Act*, 2013, s. 26A–26G). The legislation received Royal Assent just over two weeks later on May 10, 2013.

However, on December 10, 2015, the *Cyber-Safety Act* was struck down in its entirety as an unconstitutional incursion on freedom of expression (the definition of "cyberbullying" was ruled to be too broad) and liberty interests (because failure to comply with a protection order under the Act could lead to imprisonment) (Crouch v. Snell, 2015). In 2017, this legislation was replaced by the *Intimate Images and Cyber-Protection Act* (IICPA), a purpose of which is to "provide assistance to Nova Scotians in responding to non-consensual sharing of intimate images and cyber-bullying" (IICPA, 2017, s. 2(c)). Under the IICPA (2017), CyberScan's narrowed mandate includes providing public information and education regarding harmful online conduct; providing support and assistance to survivors of nonconsensual distribution of intimate images and cyber-bullying, including with respect to the criminal justice system and civil proceedings under the legislation; and providing voluntary dispute-resolution services, including advice, negotiation, mediation, and restorative justice approaches concerning harmful online conduct (IICPA, 2017, ss. 12(1) (a), (c)–(f); Nova Scotia, 2018).

Finally, on June 9, 2015, Manitoba's provincial government introduced *The Intimate Image Protection Act* (IIPA). Regarding the factors motivating the legislation, the Minister of Justice cited the death of Parsons and several other young women in similar circumstances, as well as the desire of survivors for help in getting intimate images removed without always having to go to court (Legislative Assembly of Manitoba, 2015). In January 2016, the Canadian Centre for Child Protection (C3P) was designated as the "authorized agency" to provide certain services and supports under the legislation to individuals whose intimate images have been or may be shared without their consent (*Intimate Image Protection Act Regulation*, s. 2). The C3P is "a national charity dedicated to the personal safety of all children" and its purposes relate primarily to reducing the sexual abuse and exploitation of children (Canadian Centre for Child Protection [C3P], 2019). To that end, it administers a tip line for reporting child sexual abuse and exploitation of children online, as well as various intervention, prevention, and education services to the Canadian public (C3P, 2019).



## **Advancing a Survivor-Centered Approach to Technology-Facilitated Violence Against Women**

In and of itself, establishing or recognizing a centralized and statutorily empowered body to address technology-facilitated violence has certain survivor-centered benefits. It signals that the government takes this conduct seriously and condemns it, which can contribute to preventing this conduct and messaging that survivors ought to be treated with dignity and respect, rather than being blamed for it. It can also provide a single entry point for survivors to seek redress, thereby facilitating access to justice and available remedial options, empowering them to pursue the remedy they judge to be best suited to their circumstances. Furthermore, legislative empowerment creates a more permanent authority to address this conduct than a mere funding commitment to a non-government entity, meaning that a change in government is less likely to impact the availability of services and supports to survivors.

Broadly categorized, there are at least three additional ways in which centralized bodies with statutory mandates have demonstrated their potential to further a survivor-centered response to technology-facilitated violence against women: direct service-provision to resolve instances of violence; delivering education and information on technology-facilitated violence; and conducting research on the forms and harms of technology-facilitated violence against women.

### ***Direct Involvement in Resolving Instances of Technology-Facilitated Violence***

Particularly in relation to the nonconsensual distribution of intimate images, existing statutorily empowered bodies have been able to provide services related directly to assisting survivors in addressing instances of technology-facilitated violence.

Legislative amendments in 2018 empowered Australia's eSafety Commissioner to address image-based abuse, defined as nonconsensual sharing of intimate images or threatening to share intimate images without consent ([Office of the eSafety Commissioner, 2019](#)). It has implemented a "world-first government-led reporting service for victims of image-based abuse" through which it received 950 reports in 2018–2019, leading to the removal of material from over 1,700 locations online during that period ([Office of the eSafety Commissioner, 2019](#)). This represented a 90% success rate for removal, notwithstanding most material being hosted overseas ([Office of the eSafety Commissioner, 2019](#)). A civil penalties scheme, which allows the Commissioner's office to issue warnings, infringement notices, removal notices, or fines to those who post or threaten to post the content, as well as the host site, provides significant leverage in targeting and remedying this abuse on behalf of survivors ([Office of the eSafety Commissioner, 2019](#)). The Office has previously attributed its success in part to its close working relationship with social media partners and online platforms to ensure quick removal of material ([Office of the eSafety Commissioner, 2018a](#)).

The Commissioner is also mandated to administer a cyberbullying reporting regime for Australian children under 18 years of age, which endows her with powers to take remedial steps similar to those she possesses to address image-based abuse. Although the Commissioner does not have the same enforcement powers to address cyberbullying against adults, she does offer support to assist in attempting to resolve concerns ([Office of the eSafety Commissioner, n.d.](#)).

In New Zealand, Netsafe provides a free and confidential online service, as well as a helpline, for reporting harmful content, online abuse and bullying, and illegal content ([Netsafe, n.d.](#)). Where a report relates to the organization's mandate under the HDCA, Netsafe is empowered to assist in resolving the report, which may include liaising with website hosts, internet service providers, and other content hosts (whether in New Zealand or abroad) to request that impugned content be taken down or moderated ([Netsafe, 2019c](#); [HDCA, 2015](#), s. 25(1)). In resolving reports related to harmful digital content, Netsafe does not advocate for or favor anyone involved in the incident ([Netsafe, 2019a](#)). Rather, it assesses whether the report falls within the scope of the HDCA and the extent of the serious emotional distress, then develops a resolution plan to remove or reduce the alleged harm, which may include giving advice and using persuasion, negotiation, and mediation to resolve the issue ([Netsafe, 2019a](#)).

In Manitoba, the C3P is authorized under the [IIPA \(2015\)](#) to assist any person targeted by the nonconsensual distribution or threatened distribution of intimate images by receiving requests for assistance; provide information or assistance to enable a person to have their intimate images returned, destroyed, deleted, or removed from the internet or any other place where they may be viewed by others; provide information or assistance that may facilitate the resolution of a dispute between a person depicted in an intimate image and a person who may be in possession of the image or who may have distributed the image; and provide information about the legal remedies and protections available [including a civil action created by the IIPA ([C3P, 2016](#))] where there has been a nonconsensual distribution of an intimate image or where there is a concern that an intimate image is about to be distributed without consent ([IIPA, 2015](#), ss. 3–4; [Intimate Image Protection Regulation, 2016](#), ss. 2–3).

If the identity of a person in possession of an intimate image is known and the C3P has reason to believe the person has distributed or will distribute the image without consent, it may send a written notice to the person that states the person depicted in the image does not consent to its distribution that includes a summary of the legal consequences that may result from its nonconsensual distribution ([IIPA, 2015](#), s. 8). It appears, however, that the C3P may interpret this mandate to be limited to “[a]ssist[ing] with language to reach out to the individual who shared (or may share) the intimate image” ([C3P, 2016](#), January 18). It will also “[p]rovide instructions on getting content removed from online sites or social media” ([C3P, 2016](#)). The C3P may also assist a person who made a request for assistance to make a request to police ([IIPA, 2015](#), s. 9). The C3P reported in 2018 that since 2016, 1,300 people in Manitoba had used its online resources to seek help on this issue and 50 people (nearly half of them adults) had sought help directly from its staff ([Kubinec, 2018](#)).

In Nova Scotia, individuals who have experienced cyberbullying (which includes harassment, threats, impersonation, and revealing personal facts or confidential information using electronic communication) or nonconsensual distribution of intimate images can contact CyberScan for assistance in resolving a dispute (Cyberscan, n.d.). Staff may contact the person who distributed the intimate images or engaged in cyberbullying to try to resolve the matter informally using restorative practices or other approaches (Cyberscan, n.d.).

To various extents, these mandates to directly engage in dispute resolution further a survivor-centered approach to technology-facilitated violence. They contribute to increasing survivors' choices to meaningfully address at least some forms of technology-facilitated violence without needing to resort to potentially costly, complex, and emotionally draining civil or criminal legal processes. Moreover, some conduct that causes harm may fall below thresholds for civil or criminal prosecution. Extra-legal remedial measures such as mediation and negotiation can also ensure that harmful digital content or conduct is addressed in a more expeditious manner than would be the case in the legal system. This type of approach has the potential to promote treating survivors with dignity and respect in addressing the violence they have encountered.

### ***Education and Information Distribution***

Centralized and statutorily empowered bodies also have a demonstrated ability to advance a survivor-centered approach by providing education and distributing information related to technology-facilitated violence to survivors, frontline workers, the broader public, and law enforcement.

To at least some extent, each of the centralized agencies examined in this chapter educates and provides information to survivors on the options available to them if they experience forms of technology-facilitated violence. By way of example, CyberScan has produced a guide on the provincial *Intimate Images and Cyber-Protection Act*, including the definitions of cyberbullying and non-consensual distribution of intimate images, what assistance CyberScan can provide, and how to obtain a cyber-protection order under the legislation to address this conduct (Cyberscan, n.d.). It is important that survivors be educated about their potential avenues of recourse when they experience this conduct and in some cases, there is also a need to inform survivors that the conduct they have experienced is, in fact, abusive and in many cases illegal (e.g., Woodlock, 2017). Netsafe also provides guidance on what constitutes image-based abuse, its illegality, and what to do if someone experiences it (Netsafe, 2018).

Although the fault for committing technology-facilitated violence always lies with the perpetrator, educating women about how best to protect themselves against technology-facilitated abuse is also important to enhancing women's safety and is responsive to their expressed needs. In the context of intimate partner violence, one study found that survivors identified their own lack of understanding of technology as compared to that of their partners as a factor that made them more vulnerable to abuse (Douglas, Harris, & Dragiewicz, 2019). In another

study, survivors reported wanting to learn about technology and expressed a desire for better tools and trainings to increase their awareness and education regarding technology (Freed et al., 2017).

To this end, in 2016, the Office of the eSafety Commissioner launched eSafetyWomen as part of the Australian government's "Women's Safety Package to Stop the Violence" (Office of the eSafety Commissioner, 2018b, para 6). The program "empower[s] Australian women to manage technology risks and abuse" (Office of the eSafety Commissioner, 2019, p. 215). Through the program, the Office has developed how-to videos to provide guidance on privacy and security features of popular platforms and devices, as well as a personal technology check-up and virtual tours of technologies commonly found in homes, in cars, and on mobile devices (Office of the eSafety Commissioner, 2019). A range of guides have been released in 12 community languages, responding to research that demonstrated women from culturally and linguistically diverse communities face barriers in seeking support (Office of the eSafety Commissioner, 2019; see also Louie, this volume). Netsafe has similarly developed guidance on how to "stay safe online," though this is not specifically targeted to women (Netsafe, 2020).

Centralized bodies have also demonstrated a potential to educate and provide information to frontline service providers, who have expressed a desire for more and better technology-focused training (Freed et al., 2017). In their study, Freed et al. (2017) concluded that there is "a deep and urgent need for better information and training when it comes to technology and abuse – both for clients and professionals" (p. 18). In an example of filling this need, Australia's Office of the eSafety Commissioner delivered face-to-face training through eSafety Women on how technology-facilitated violence manifests and what action can be taken to more than 3,400 frontline workers in 2018–2019, while more than 1,900 frontline workers became registered users of the Office's online training (Office of the eSafety Commissioner, 2019).

Education of the broader public is also an important aspect of operations of these centralized bodies. In the context of image-based abuse, Flynn and Henry (2019) have emphasized the importance of educational campaigns to raise awareness of the causes, harms, and impacts of this conduct; to promote proactive and safe bystander interventions to challenge problematic behaviors and attitudes; and to address cultures of nonconsensual dissemination of intimate images and victim-blaming that excuse perpetrator behavior and prevent survivors from seeking help.

These centralized bodies have demonstrated their capacity to engage in this type of productive public education. In New Zealand, the Ministry of Education has an agreement with Netsafe to provide online safety services to schools (Netsafe, 2019a). Australia's Office of the eSafety Commissioner also provides online safety education for youth (Office of the eSafety Commissioner, 2019). In addition, it considers its specific responsibilities to include supporting, encouraging, and conducting educational, promotional, training, and community awareness programs that are relevant to online safety for people at risk of family or domestic violence (Office of the eSafety Commissioner, 2019). As part of its own efforts to address image-based abuse, the C3P has collaborated with the

Winnipeg Police Service on a campaign to inform youth that help is available if their intimate image is being shared (C3P, 2019). It has also run a public awareness campaign “on the consequences of sharing someone else’s nudes without their consent” which “reached hundreds of thousands of Canadians through bus stop ads, in-mall videos, as well as a pre-show video on 16 Landmark Cinema movie screens across Manitoba” (C3P, 2019, p. 52).

Finally, at least one of the aforementioned centralized agencies engages with law enforcement to provide tailored training on issues related to technology-facilitated violence against women. The Office of the eSafety Commissioner offers evidence-based, targeted advice to law enforcement on issues including cyber abuse, image-based abuse, and other technology-facilitated abuse (Office of the eSafety Commissioner, n.d.; Office of the eSafety Commissioner, 2019). The importance of training law enforcement relates both to effective enforcement of existing laws as well as ensuring survivors see the justice system as a forum in which they can seek redress. Ultimately, perceptions of law enforcement attitudes impact survivors’ willingness to report abuse, as “they fear being blamed for having taken or shared an intimate photo” or perhaps for sharing their cell phone password with the perpetrator of the violence (Powell & Henry, 2017, p. 203).

To the extent that centralized and statutorily empowered bodies engage in these types of education and information-distribution initiatives, they have a demonstrated potential to advance a survivor-centered approach to technology-facilitated violence against women. These efforts can arm survivors with information about what constitutes technology-facilitated violence, how to safeguard themselves against it, and how to address it when it occurs. This can empower survivors with more choices about how to confront this conduct, while also giving them certain tools they have indicated they would like to assist in preventing this sort of abuse while recognizing that responsibility for this conduct always lies with the perpetrator. Education of frontline service providers further contributes to ensuring survivors are aware of the choices available to them and are supported in accessing them with dignity and respect. In the case of the eSafety Commissioner, providing guides in multiple languages is an important measure to render information more accessible to a broader range of survivors, embodying an intersectional approach that recognizes survivors at certain social locations may experience linguistic barriers to accessing information. Public education plays an important role in encouraging a culture shift that condemns, rather than trivializes or normalizes, technology-facilitated violence, thereby contributing to preventing this conduct and ensuring survivors are treated with dignity and respect in its wake. Finally, educating and partnering with law enforcement can help ensure survivors are treated with dignity and respect when they determine that engaging with the criminal justice system is the right choice for them.

### ***Conducting Research on Issues Related to Technology-Facilitated Violence***

Centralized agencies have also demonstrated they can play an important role in advancing a survivor-centered approach through conducting and commissioning

research related to technology-facilitated violence against women. This can inform a broader understanding of its prevalence and impact, as well as specific educational and remedial responses.

Australia's eSafety Commissioner "produce[s] world-leading research into online safety issues" which "provide valuable insights for key stakeholders working in this space, while also boosting the evidence base that informs [its] service and program delivery and targeted communities" (Office of the eSafety Commissioner, 2019, p. 195). In 2017–2018, the Office released numerous research reports, including a national survey summary report on image-based abuse and a qualitative research summary report on image-based abuse (Office of the eSafety Commissioner, 2019, p. 133). In September 2019, it published new research aimed at understanding the beliefs, attitudes, and motivations of adults who commit image-based abuse. This research suggests that image-based abuse is normalized and that few perpetrators are aware their behavior is illegal, while recommending possible strategies aimed at helping to improve the visibility of image-based abuse (Mortreux, Kellard, Henry, & Flynn, 2019). Qualitative research published in October 2019 on online safety for Aboriginal and Torres Strait Islander women living in urban areas identified social and system barriers to seeking support for technology-facilitated abuse, as well as service provider recommendations for addressing those barriers (Office of the eSafety Commissioner, 2019). Similar research has been conducted about the experiences of women from culturally and linguistically diverse backgrounds with technology-facilitated violence (Office of the eSafety Commissioner, 2019).

Netsafe also produces and funds this type of research. In 2019 it released a report called "Image-based sexual abuse: A snapshot of New Zealand adults' experiences" (Netsafe, 2019b). Among other things, the organization has funded a research project exploring public attitudes toward image-based abuse and documentary shorts telling stories about cyber-bullying, internet safety, and image-based abuse (Netsafe, 2019a). Netsafe representatives Edgar Pacheco and Neil Melhuish have also contributed Chapter 6 to this volume focused on recent findings relating to adult perpetration of technology-facilitated violence.

A well-developed body of research and evidence in which to ground services and initiatives is essential to a survivor-centered approach. Research on the experiences and perspectives of diverse communities can ensure that the development of services is intersectional and responsive to the needs of survivors at a range of social locations. It can also inform effective approaches to prevention. For example, the above-mentioned research on perpetrators can inform improved education efforts aimed at preventing individuals from becoming perpetrators.

### *Critiques and Challenges*

Notwithstanding centralized agencies' demonstrated potential to advance a survivor-centered response to technology-facilitated violence against women, this potential is not limitless. They are both susceptible to legitimate critiques and must be prepared to confront certain inherent challenges.

Centralized agencies are not a panacea, nor can they be expected to be ubiquitous in their activities and services. The independent review of Australia's EOS Act noted the need for the eSafety Commissioner to work across sectors, including with non-governmental organizations, to collaborate on education initiatives, as well as to avoid overlap and duplication of efforts (Briggs, 2018). The existence of a centralized agency does not negate the vital role that community-based frontline service providers, for example, play in addressing technology-facilitated violence and providing ongoing support to survivors. This role is particularly important for members of racialized or Indigenous communities, who have been frequently victimized by the state (e.g., Bobo & Thompson, 2006; Fast & Collin-Vézina, 2010) and may be skeptical of state-based responses. In this regard, centralized agencies should be seen as a complementary component of a broader survivor-centered approach to effectively addressing technology-facilitated violence against women.

The effectiveness of these bodies in combatting this problem is also linked to the extent to which their mandate expressly includes technology-facilitated violence against women and their funding to do so. For example, it is not a coincidence that the depth and breadth of work done by the eSafety Commissioner (whose statutory mandate and funding is expressly linked in many ways to violence against women) in this field far outstrips that done by C3P (whose statutory mandate is much narrower and whose primary corporate objectives relate to child protection).

Concerning inherent challenges, tensions between the proposed mandate of a centralized agency and freedom of expression were raised in the lead-up to adopting enabling legislation in Australia (Government of Australia, 2014) and New Zealand (Law Commission, 2012). Nova Scotia's statute was struck down for unconstitutionally infringing rights to free speech (*Crouch v. Snell*, 2015). This highlights the extent to which legislators and agencies exercising legislative authority in this area must be conscious of acting in ways that respect applicable speech protections while effectively addressing instances of technology-facilitated violence.

The critiques and challenges considered here are not exhaustive. Further research and analysis about both the benefits and limitations of these bodies (particularly from the perspectives of the survivors whom they are supposed to serve) is warranted. However, the work of the bodies discussed in this chapter offers promising evidence of their potential to advance, even if imperfectly, a survivor-centered approach.

### ***Best Practices for Centralized and Statutorily Empowered Bodies***

Centralized and statutorily empowered bodies merit careful consideration by governments as one aspect of a broader survivor-centered approach to technology-facilitated violence against women. The experiences of these bodies suggest a number of best practices to consider in creating or empowering such a body.

- *An express mandate to address technology-facilitated violence against women:* At least initially, many of the bodies discussed in this chapter were designed for and had as their primary focus combatting the abuse of children online. An explicit mandate to address the abuse of women and the ways in which the body is empowered to address it (e.g., through education, research, and intervention in resolving disputes) will help ensure the body's focus remains on this work.
- *Survivor-centered by design:* While this chapter identifies and evaluates these bodies against indicia of a survivor-centered approach to technology-facilitated violence against women, none appear to have been designed with this explicitly in mind. Integrating a survivor-centered approach in the design of such bodies and/or their mandates will help ensure their effectiveness in contributing to this project is maximized. For example, in its submissions on Australia's current review of online safety laws, the Australian Women Against Violence Alliance recommends that an intersectional gender lens be embedded in policy and legislation aimed at responding to online abuse (Andrew, 2020, p. 4). Governments can also ensure women with experience in the field of gender-based technology-facilitated violence are involved in designing the body and/or its mandate.
- *Adequate funding relative to agency mandate:* In multiple contexts, the need has been expressed to adequately fund centralized agencies to properly carry out the statutory mandates given to them (Briggs, 2018; Law Commission, 2012; Legislative Assembly of Manitoba, 2015). Ensuring that agencies are properly funded is relevant to ensuring they are able to advance a survivor-centered approach.
- *Regular review of statutory mandate and operations:* Provision is made in most of these bodies' enabling statutes for a review a certain period of time after it has come into effect (EOS Act, s. 107; IIPA, 2015, s. 17; IICPA, 2017, s. 14). Conducting a review of the statutory scheme, as well as ensuring formal or informal review of the agency's operations informed by survivors' experiences with it, provides a mechanism to measure the extent to which an agency is advancing a survivor-centered approach. The statutory review conducted under the EOS Act has led the government to propose an expanded role for the Commissioner.
- *Ensuring relationships with external organizations:* As stated above, centralized and statutorily empowered bodies are not a panacea. Where such bodies exist, it is important that they maintain relationships and collaborate with, among others, expert frontline service organizations for the benefit of survivors. An instructive example is the eSafety Commissioner's collaboration with WESNET (Australia's peak women's advocacy body working on behalf of women and children who have experienced or are experiencing domestic or family violence) on training materials rolled out at the time of the launch of eSafety Women (Office of the eSafety Commissioner, 2016).



Maintaining and leveraging relationships with technology and social media organizations is also essential to advancing survivors' interests. For example, the [Office of the eSafety Commissioner](#) has cited its productive working relationship with these companies as a key reason for its ability to get harmful material quickly removed from certain platforms ([Office of the eSafety Commissioner, 2018a](#)). At the same time, corporate mandates must be kept in check so as not to overshadow input from grassroots women's organizations or to effectively usurp the body's own authority.

These best practices are not exhaustive, but are intended to provide some foundational guidance for governments to consider in potentially designing or empowering a body with a statutory mandate to address technology-facilitated violence against women.

## **Conclusion**

Technology-facilitated violence against women is a form of gender-based violence that causes significant and varied harms. These harms necessitate a survivor-centered approach to this conduct whose foundational aspects include intersectionality, choice, dignity and respect, prevention, and research.

Centralized bodies with legislative mandates in several jurisdictions around the world have shown a promising potential to advance this approach to the benefit of survivors, women, and society more broadly, through direct engagement in resolving incidents of violence, education, and research. While not a cure-all for this scourge of gender-based violence, their demonstrated benefits suggest that they merit careful consideration by governments as part of a holistic approach to effectively combat technology-facilitated violence against women.

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## **Notes**

1. Many women exist at the intersection of multiple identities, including trans women, women of color, and immigrant women. This chapter acknowledges that these intersecting identities impact the extent to which women may be targeted by this conduct and the severity of the harms it causes.
2. While [Powell and Henry \(2017, 2019\)](#) write specifically of "technology-facilitated sexual violence," the same observation applies to conduct falling within the scope

of “technology-facilitated violence against women,” as that term is used in this chapter.

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