

EMBODIED HARMS: GENDER, SHAME AND TECHNOLOGY FACILITATED
SEXUAL VIOLENCE IN CYBERSPACE

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ABSTRACT

Criminality in cyberspace has been the subject of much debate since the 1990s, yet, comparatively little attention has been paid to technology facilitated sexual violence and harassment (TFSV). The aim of the paper is to explore the ways in which retraditionalized gender hierarchies and inequalities are manifested in online contexts, and to conceptualize the cause and effects of TFSV as “embodied harms.” We argue that problematic mind/body and online/offline dualisms result in a failure to grasp the unique nature of embodied harms, precluding an adequate understanding and theorization of TFSV in cyberspace.

INTRODUCTION

In mid-2006, a group of teenage boys in the Australian town of Werribee filmed the sexual assault of a teenage girl. The “Werribee DVD,” as it became known in the media, was initially sold in suburban Melbourne schools for \$5 and later on Internet sites for up to \$60 under the name “C***: The Movie,” with excerpts made freely available on YouTube. It shows the boys urinating on the girl, setting her hair on fire, throwing her clothes into a river and forcing her to participate in sex acts. Eight of the youths were charged with assault, manufacturing child pornography and procuring sexual penetration by intimidation in the Melbourne Children’s Court in 2007. At the trial and sentencing of the young men responsible, the victim said she was terrified she would be recognized in public after the distribution of the DVD and that her life had been changed forever (Medew, 2007).¹ This example vividly illustrates the unprecedented power of new technologies in achieving new forms of social shaming – beyond geographic borders, at vast speeds, to diverse audiences, and often with unparalleled impunity.

The use of new technologies for the facilitation of sexual violence and harassment is a growing phenomenon. While there is a large body of literature on various forms of criminality in cyberspace, such as cyberbullying, cyber-deception, cyber-pornography and cyber-violence (including hate speech, cyberstalking and inciting physical violence), comparatively little attention has been paid to what we call “technology facilitated sexual violence and harassment” (TFSV). We use this term to describe collectively the range of criminal, civil and otherwise harmful sexually aggressive behaviors perpetrated against women with the aid or use of new technologies. As such, we categorize TFSV according to five different forms: (1) the unauthorised distribution and appropriation of sexual images (including some instances of sexting); (2) the distribution of sexual assault images; (3) online sexual harassment; (4) gender-based hate speech; and (5) virtual rape.²

It is important to note that gender-based TFSV against males, including online harassment and cyberbullying, “trolling,” “flaming” and the sharing of images without consent, is an equally significant and growing problem. Our paper, however, specifically focuses on TFSV against women. Although there are few empirical prevalence studies internationally and the precise nature and extent of TFSV remains unclear, research suggests that women are disproportionately the targets of harassment and hate-speech in cyberspace (Barak, 2005; Citron, 2010; Finn & Banach, 2000; Herring et al., 2002; Morahan-Martin, 2000). For example, in a survey of over 9,000 German Internet users aged 10 to 50 years, women were significantly more likely than men to have been victims of online sexual harassment, cyberstalking and insulting comments (Staude-Müller et al., 2012). One NGO, Working to Halt Online Abuse (WHOA), reported that in 2011, 74% of victims who made a complaint to the organization were women, although the proportion of harassers according to gender was far less significant (e.g., 40% estimated male harassers and 34% female).

The harms associated with TFSV can be considered on a continuum of violence against women, which ranges from “choice to pressure to coercion to force” (Kelly, 1987, p. 54). Violence can be defined as physical, emotional, symbolic and structural. As such, we argue that analyzing TFSV as a collective phenomenon helps to make sense of the perpetration and impact of these harms within a spectrum of violence, even though some instances are clearly serious criminal offenses (e.g., rape) or unlawful civil harms in some jurisdictions (e.g., sexual harassment), while others are neither unlawful nor criminal, depending on jurisdiction (e.g., most forms of gender-based hate speech or virtual rape).

The aim of this paper is not to fixate on a normative framework for either civil or criminal liability, but rather to explore the conceptualization of the *embodied harm* perpetuated by various forms of technosocial violence – as a qualitatively “new” and gendered phenomenon. The paper is divided into three main sections. The first section

provides an overview of sociological and feminist thinking on technology and gender. We explore debates about whether technology represents a new democratic frontier of transcendence, free from the constraints of gender strictures of everyday life, or whether technology provides another mechanism for the consolidation of traditional gender roles and norms. In the second section of the paper, we explore what makes online criminality qualitatively different from offline criminality, with a focus on the key concept of “embodied harm.”

In the final section, we examine both the motives for, and consequences of, online sexual victimization, drawing on phenomenological theories of intersubjectivity, embodiment and masculinity to explore how injury and shame are *perpetrated, experienced, performed* and *defined*. We argue that there is a need to understand the harms of TFSV as unique: first, to examine the complex ways in which disinhibition, anonymity, complicity, impunity operate to diffuse responsibility, blame victims and deindividualize the problem; and second, to deconstruct the problematic dualism between the body and the mind and the tendency in law, policy and scholarly contexts to obfuscate the extent to which social and intrapsychical harm is in fact embodied, real and tangible. We end the paper by considering Nancy Fraser’s (2008) concept of “misrecognition” (social status subordination) as a useful framework for understanding the unique psycho-social harms of TFSV and the denial of “technological citizenship” (Frankenfeld, 1992).

GENDER, SPACE AND TECHNOLOGY

The use of new technologies, such as smart phones, social networking sites, personal blogs, video-posting websites and virtual worlds, is a ubiquitous feature of contemporary life, particularly for young adults. Few would deny that technology has dramatically changed the face of communication, enabling greater connectivity, status building (Belsey, 2005) and

new forms of social interactions and networking. The use of these new technologies is rapidly expanding, with young people and adults aged 14 to 34 years representing the greatest proportion of this consumer market (ACMA, 2011). Understanding the potential short-term and long-term consequences of new technologies (Berson & Berson, 2005), and indeed the significance of technology in contemporary life, is the focus of much current research and commentary. In the analysis below, we adopt a social constructivist approach that views technology as being shaped by human action and interaction (Hughes, 1986; Pinch & Bijker, 1984), but moreover, that views human action as being mutually shaped by technology, also known as the “Social Shaping of Technology” (SST) (see e.g., MacKenzie & Wajcman, 1985).

The Internet has been described as a “frontier of new democracy” – a normative public sphere in the Habermasian sense, where ordinary people can express their beliefs, attitudes, desires and needs without external or internal restraint. According to this view, the Internet safeguards freedom of assembly, freedom of speech and freedom of association. Sociologist Manuel Castells (1997) argues that the inclusive, open-ended, flexible and diverse forms of communication and culture online are reflective of the broader patterns of individualization, globalization and “informational capitalism” that constitute the Network Society. Others, such as Anthony Giddens (1992) and Ulrich Beck and Elizabeth Beck-Gernsheim (2002), have identified the social patterns of individualization and globalization as themselves representing the breakdown of traditional structural constraints, including gender. As such, men and women are released from “traditional forms and ascribed roles” (Beck, 1992, p. 105) and their relationships are increasingly democratic or “pure” (Giddens, 1992). Cultures of “real virtuality” (Castells, 1997) or communication and interaction in online spaces may be seen as typifying this apparent freedom and “detraditionalization” of the gendered structures that have previously underscored face-to-

face interactions (Beck & Beck-Gernsheim, 2002). Indeed, some sociologists suggest that Information Communication Technologies (ICTs) represent a space for the construction of identities outside of traditional institutions of social control, such as family, school or work (Oksman & Turtainen, 2004), as well as the prescriptive gender roles and stereotypes that are “automatically at work” in face-to-face communications (Cooper et al., 2000).

Assumptions surrounding both the broader social patterns of individualization and the democratization of the Internet have a tendency to obscure the continued impact of unequal gender relations in cyberspace. Castells’ (1997) own analysis, while optimistic about the potential for the Network Society to escape from old constraints and reconstruct new values, also problematizes the simultaneous “powerful trends towards increasing inequality, social polarization and social exclusion” (p. 10). Likewise, Scott Lash (1994) and Lisa Adkins (1999) both argue that sexual and social relations are “retraditionalized” rather than detraditionalized as Giddens (1992) and Beck and Beck-Gernsheim (2002) have suggested. In other words, modernity and tradition are not in opposition, but rather traditions are repackaged as “central to a new constitution and configuration of gender” (Adkins, 1999, p. 136).

The shift or stagnation of traditional gender roles has also preoccupied feminist scholars of technology. Since the 1980s, these scholars have examined the gendered nature of technology as a physical artefact and a social process, focusing on equity of access and the “gender gap” in technology in both the workplace and the home (see e.g., Bimber, 2000; Cockburn, 1985; Harding, 1986; Ono & Zavodny, 2003; Schumacher & Morahan-Martin, 2001; Wajcman, 1991; Youngs, 2005). Cynthia Cockburn (1992) argues that “technology itself cannot be fully understood without reference to gender” (p. 32). This extensive gender and technology scholarship has provided critique of cultural stereotypes depicting women as technologically incompetent, invisible and unwelcome, and some have argued that

technology itself is inherently “masculine” or “gendered” (Faulkner, 2001; Herring, 1996; Wajcman, 2004). For example, Wendy Faulkner (2001) argues that there are at least seven ways in which technology is gendered: (1) designers of technology are predominantly men; (2) the workplace reflects and reinforces the interconnection between masculinity and technical skill; (3) technological artefacts are often materially and symbolically “male” or “female”; (4) popular and cultural images of technology are strongly associated with “hegemonic masculinity”; (5) technical knowledge is often gendered; (6) technical practice is often gendered; and (7) gender identity is often premised on technology.

Diverging from this body of scholarship, and in line with the aforementioned propositions about gender and modernity made by various sociologists, some postmodernist feminists view technology alternatively as a potential source of empowerment for women. New technologies dismantle traditional constructions of gender and sexuality which become increasingly irrelevant, and/or multiple, diverse and shifting. This is well-captured by Donna Haraway’s (1987) notion of the metaphoric cyborg, a “cybernetic organism,” a being with both human and machine-like qualities that is both a fictional creation and a real-world organism. Haraway (1987) argues that the cyborg for women is a vehicle for transcending traditional, essentialist and naturalized gender roles; a “crucial tool” for recrafting women’s bodies (p. 90). In other words, communication technologies are instruments of social meaning whereby women’s lives are thoroughly restructured and configured through and among social relations. In this way, technologies provide “fresh sources of power” (Haraway, 1987, p. 21). In a similar vein, Sadie Plant (1997) argues that the boundary between human and machine has become blurred in cyberspace. Plant (1997) and other “cyberfeminists” argue that technology signals new opportunities for women to assume fluid and multiple identities that are not constrained by physicality and corporeality in the “real” world. As such, these spaces help to unsettle traditional binaries between man/woman,

object/subject and technology/nature that for so long have oppressed women (Haraway, 1987; Sandoval, 2000), even enabling genderless identities and human relations (Braidotti, 1996).

ICTs may indeed be celebrated as creating spaces for the construction of increasingly “flexible” or “fluid” identities that in turn suspend or subvert traditional gender hierarchies and power relations, yet at the same time, they may also create opportunities for the reconstruction and widespread dissemination of more traditional gender norms. This view of technology as sometimes liberating and other times harmful is advocated by a growing number of feminist scholars of technology. Judy Wajcman (2010), for example, argues: “technology... is neither inherently patriarchal nor unambiguously liberating” (p. 148). She goes on to state that technology is both a source and cause of gender inequality, noting that “the possibility and the fluidity of gender discourse in the virtual world is constrained by the visceral, lived gender relations of the material world” (Wajcman, 2010, p. 148). Indeed, it would be hard not to recognize the centrality of gender in the technosocial world; a construction that is not necessarily fixed, but fluid, malleable and changing – sometimes liberating, other times oppressive. As Adkins (1999) also argues, traditional private/public dichotomies may no longer hold, yet individualization “may not be emptying out gender, but creating new lines of gender demarcation and domination, for instance, those of community, of networks, ties and bonds, of new knowledges and forms of communication” (p. 136).

While it is important to acknowledge that women are often creators and beneficiaries of technological innovation and we certainly do not wish to demonize the Internet nor reinforce the notion that women are uniformly passive victims of technology (Wajcman, 2000), our aim here is to point to some of the troubling effects of technological interaction, exclusion and “violence,” and the denial of technological citizenship (see Frankenfeld, 1992). More importantly, our aim is to begin thinking about the effects of online forms of

sexual violence and harassment, and the way in which they are conceptualized as such in legal, scholarly and policy contexts. This presents a unique challenge: on the one hand, new technologies, as cyberfeminists have pointed out, provide a way to transcend the constraints of the physical body, but yet on the other hand, the problematic dualism between a mutually exclusive physical body and mind can thwart an understanding of the impact of these harms (Grosz, 1994). We thus argue that the effect is a continual reinforcement of a mind/body dualism. The next section explores some of these manifestations and complexities.

THE FLESH AND THE VIRTUAL: CONCEPTUALIZING THE HARM OF TFSV

In the same way that new technologies are being used to reinforce old and new gender inequalities, these same technologies are also increasingly used for the perpetration of both old and new forms of criminality and harmful behaviors. The criminological literature on “cybercrime,” for example, distinguishes conceptually between traditional crimes which have simply embraced technology (“technology-assisted”) and the identification of new forms of criminal offending that have only become possible with advances in ICTs. Some researchers have concluded that there is nothing ultimately “new” about these crimes. For example, Peter Grabosky (2001) argues that although some manifestations of virtual criminality are new, “a great deal of crime committed with or against computers differs only in terms of the medium” (p. 243). He goes on to state that virtual crime is essentially a “recognizable crime committed in a completely different way” (Grabosky, 2001, p. 243).

Many criminologists, however, argue that although the virtual world has enabled traditional crimes to be committed in new ways, it would be problematic to overlook the substantive and qualitative distinctions between offline and online criminality (Burden & Palmer, 2003; Capeller, 2001; Furnell, 2002; Pease, 2001; Synder, 2001; Yar, 2005). Majid Yar (2005), for example, has argued that ICTs, at the very least, act as a “force multiplier,”

enabling potentially huge negative impacts on multiple victims from comparatively minimal resources or effort on the part of the offender. In an application of “Routine Activity Theory” to cybercrime, Yar (2005) argues that there are three elements of the cyberspace environment that make possible a greater “force” or impact of illicit activities, and thus are distinctive from traditional crime. <s>5 These are: the collapse of spatial-temporal barriers (offenders can easily and more quickly target victims across a vast geographical, transnational reach); multiple connectivity (a single offender can reach thousands of targets); and the anonymity and plasticity of online identities, making deception easier, and detection and regulation a major challenge (Yar, 2005). In other words, there are literally millions of potential targets/victims in cyberspace, numerous incentives for motivated offenders (both in terms of anonymity and the enormous potential reward for little expended effort), and largely an absence of capable guardianship.

While cyber criminality has attracted much attention within criminological studies (Cornelius & Hermann, 2011; Grabosky, 2001; Jewkes & Yar, 2010; Wall, 2001; 2007; Williams, 2006; Yar, 2005), there remains a scarcity of empirical and theoretical work exploring technology facilitated sexual violence and harassment that women in particular experience. Some work has been done on online sexual harassment and solicitation (Barak, 2005; Citron, 2009; Finn & Banach, 2000; Morahan-Martin, 2000; Ybarra & Mitchell, 2008); sexting and the appropriation of sexual images without consent (Humbach, 2010; Parker, 2009); gender-based hate speech (Citron, 2010; Guichard, 2009; Lee & Leets, 2002; Nussbaum, 2010); and virtual rape – where a person’s avatar (or digital representation of themselves) is subjected to simulated sexual violence by other avatars, most recently in the three-dimensional virtual world of Second Life (Boyd, 2009; Dibbell, 1998).

However, to date, there are very few scholars that examine the array of new technologies and the facilitation of sexual violence and harassment against women. Nor are

there any studies that document the prevalence of these harms collectively. This is surprising in light of various high profile cases that have emerged in recent years, particularly in relation to sexting and virtual rape, and the significant legislative and policy challenges that technology facilitated sexual violence and harassment present.

As a result of the gender blindness within studies of virtual or cyber criminality, the conceptualization of technologically mediated or facilitated “harm” against women remains significantly underdeveloped. Indeed, the status of so-called “virtual” reality is itself subject to extensive debate (see Brown, 2006; Youngs, 2005). Margaret Morse, for example, calls virtual environments: “liminal spaces, sacred places of social and personal transformation... neither imaginary nor real, animate but neither living nor dead, a subjective realm of externalized imagination where events happen in effect but not actually” (cited in Jarenski, 2007, p. 136). Michael Benedikt (1992) similarly calls cyberspace a “globally networked, computer-sustained, computer-accessed, and computer-generated, multidimensional, artificial, or ‘virtual’ reality... [where] seen or heard objects are neither physical nor, necessarily representations of physical objects but are, rather in form, character and action, made up of data, of pure information” (p. 122). As such, some scholars suggest that virtual harms are not comparable to “real-world” harms (MacKinnon, 1997; Williams, 2006). Indeed, sexual violence, as a harm, is “deeply tied to [physical] flesh” (Huff et al., 2003, p. 14).

Conversely, Youngs (2005) argues that “we now need to think in sociospatial as much as geospatial terms,” where *sociospatial* refers to the “technologically mediated spaces we can access, work and play in, build relationships and communities in, pursue learning, etc” (p. 20). The rapid expansion of the use of the Internet and other communication technologies have resulted in a significant shift, where social interactions are not just mediated by technology but increasingly dependent on it (Youngs, 2005). As such, our

communications and social interactions in sociospatial or technosocial worlds (Brown, 2006) may come to be equally important, or more important, than the geospatial context (Youngs, 2005).

Conventional legal conceptualizations of criminality face real challenges in this new technosocial world. As Sheila Brown (2006) notes: “the criminal code enshrines the notion of the protection of the body from malicious harm and violation... embodied individuals have been required in order to establish guilt, in order to punish...” (p. 231). The pressing issue is whether harm has to be enacted on the body of a subject in order to be thought of as harm? Or as Brown (2006) puts it: “how embodied does ‘real’ victimisation have to be?” (p. 232). Harms in the so-called “virtual” world can have real effects, both bodily and psychical, and are not tangential, but increasingly central, to how individuals experience and live their everyday lives. Thus, the harms experienced by women in the sociospatial world may have at least as much impact on a person as traditional harms occurring against the physical body. According to Brown (2006): “...endlessly circulating, shifting, pixels affect *real lives*... *real humiliations* and human pains are generated; and real relations of (patriarchal) power and exploitation are reproduced and reinforced” (p. 233, emphasis original).

This is not necessarily to suggest that there should be a directly translatable law against so-called “real-life” sexual violence across to its virtual equivalents (e.g. virtual rape). Rather, we would argue that harms against women occurring in the technosocial world need to be taken seriously as distinct harms, though their nature, extent and prevalence requires further theorizing and investigation in order to formulate workable and appropriate legal or otherwise remedies. Such harms must also be thought of in terms of their potentiality. In other words, we do not mean to suggest the universalization of women’s experience of TFSV. Rather, our understanding of “embodied harm” is informed by feminist theories of the embodied subject: the real, sensory, physical, psychical, exterior and interior

lived experiences. Harm may also be individualized or collectivized, as we claim later in the paper.

It is also important to note that when harms in technosocial spaces are directly related to physical violence, the law can and has taken action. This is evident in cases where rape images have been distributed (such as the “Werribee DVD” case referred to earlier in the paper) and the use of technologies to arrange a physical rape (see e.g., Correll, 2010; Cox, 2012). Though to be clear, the harm that is punished in these cases is the crime that occurred against the physical body of the victim and there is no conceptualization or acknowledgement that any other or additional harm occurred. In fact, there are very few examples of virtual/sexual harms that take place in the technosocial world that are currently taken seriously as criminal harms. An exception to this is the sexual solicitation and exploitation of children, or the bullying and harassment of children online. For instance, both Australian and US law currently ban the production, possession and distribution of simulated child pornography or “sexual exploitation material” depicting a child or child-like character as analogous to sexual exploitation of an actual child (Warren & Palmer, 2010). It is likewise an offense to solicit or attempt to procure a child or young person for sex, including via online and communication technologies. More recently in 2011, in response to public concerns over bullying in workplaces, schools and online, the State of Victoria in Australia reformed its stalking provisions to enable a criminal response to repeated bullying behaviors, an offense that carries a maximum penalty of 10 years’ imprisonment.

By contrast, “sexting” provides a useful example of the recent application, and simultaneous inadequacy, of the criminal law to respond to issues raised by the distribution and appropriation of unauthorized sexual images. While sexting (or more commonly, taking a “selfie” or “nOodz”) refers to the sending of sexual picture messages via mobile phones, such sexually explicit images are also widely distributed via online video chat (such as

Skype), picture and video sharing sites (such as YouTube, Flickr and Instagram) and social networking sites (such as Facebook), often without the consent of the original image creator. In recent times, the attention paid to sexting and other forms of non-consensual distribution of explicit material has been directed towards concerns over girls' and young women's participation in sexting which is taken to simultaneously signal their sexual victimization and participation in the production of child pornography. Internationally, for example, underage sexting has been addressed through existing child pornography offenses with experts increasingly concerned that this is rarely an appropriate way to respond to the issue (see e.g., Humbach, 2010; Parker, 2009), particularly if the individuals involved are added to a sex offender registry.

The case of sexting and other examples of the unauthorized or non-consensual distribution of sexual images further highlight the problem created when legal, policy and institutional responses have not kept pace with the development of new technologies, and where "old" responses to "new" behaviors may themselves result in further harm to the individuals involved (such as teenage victims of distributed sext images being punished alongside the person/s who shared their original image). In addition to this "institutionalized harm," it is important to consider the harm to the victim. The further distribution of the original image is itself a direct violation of an individual's sexual autonomy, with the effect of humiliating, intimidating or otherwise harassing the victim (see Powell, 2009; 2010a; 2010b). This has implications whether the victim is a girl, teenager or adult woman. Yet the harm experienced by adult women is not currently recognized as a legitimate criminal or civil harm. Thus, current legal frameworks that position the harm of sexting as one of child sexual exploitation or child pornography arguably leave an enormous gap in terms of responding to the violation of sexual autonomy that the unauthorized distribution of a sexual image represents to adult and young women alike.

In summary, the problem of TFSV is often framed as an age-specific issue of vulnerability, linked to a moral panic over youth sexuality, namely, that young people should be protected from online sexual predators and cyberbullies, and indeed from themselves. However, such conceptualizations fail to account for the newly emerging patterns of technology facilitated sexual violence and harassment and tend to divert attention from the *gendered* nature of these harms.

FRAMING THE REAL HARMS OF THE VIRTUAL WORLD

In 2009, a Royal Australian Navy sailor filmed himself raping a fellow trainee on his mobile phone. The sailor proceeded to share the video with three male peers at the base, and was later found guilty of two counts of rape. The distribution of sexual assault images, as this example demonstrates, shows how advances in technology enable the continuation of harm against sexual assault victims – well beyond the original crime. It also reveals the extent to which multiple offenders are complicit in a wide range of sexually aggressive behaviors over and above the “physical” act, including filming, watching and distributing. In a different, but related, example, two Australian Defence Force Academy cadets were charged in 2011 with “using a carriage service to cause offence” and “committing an act of indecency,” when one of them covertly filmed consensual sex with a woman and the other set up live footage in another room filled with several other male cadets. The “Defence Skype Scandal,” as it later became known, resulted in an independent public inquiry and was the focus of much political, media and public attention. A report by the Australian Human Rights Commission (2012) revealed that this was not an isolated incident, and other women in the Australian Defence Force likewise reported having had various sex acts recorded without their consent. While there was public criticism about the way the incident was handled (including subjecting the victim to disciplinary matters based on separate, unrelated allegations of

misconduct), what this example shows is the inadequacy of existing legal frameworks to address TFSV in a way that adequately captures the multiple harms against victims.

Although covert filming of sex acts without consent is by no means a new phenomenon, new communication technologies, such as mobile phones, social networking sites and software applications, enable the distribution of sexual images and footage to be shared across vast geographical spaces. As such, technology creates a unique medium for social shaming. This need not imply that the harm of one incident is equal to that of the other, but rather the original harm of violation, harassment or hate-speech is exacerbated by the unbounded nature of what can potentially be perpetual public shame and humiliation. TFSV thus raises serious questions about not only how to respond adequately to these harms, but also how to frame and understand them.

It is our contention that the naming of the gendered character of these harms and taking seriously the role of the technosocial “lived experience” – namely that “harm” can no longer be thought of only as related exclusively to the physical or biological body – are crucial first steps to theorizing TFSV. We now turn to further analysis of the nature of these harms through the key concept of resentment in an effort to understand how harm, injury and shame might be perpetrated, experienced, performed and finally, defined.

Ressentiment and the Body

Although many view the virtual world as a release from the gendered constraints of the physical offline world, it would be erroneous to conclude that the corporeal being is entirely absent in cyberspace. Indeed, TFSV might be understood as *gendered harms explicitly or implicitly fixated on the objectification of the “feminine body.”* In other words, the female body, both real and imagined, is inscribed, marked and “colonized” (Grosz, 1994, p. ix) in the technosocial world. Martha Nussbaum (2010) argues that this objectification “always

involves conferring on the object a spoiled, or stigmatized, identity, a compromised status” (p. 68). She adds:

To objectify is to treat as a mere thing, a tool of the purposes of the objectifier, an entity whose subjective feelings need not be taken into account, or whose feelings, like her autonomy, may be wilfully violated, Given that the objectified is a human being, objectification confers a spoiled, or stigmatized, identity, and is thus a species of shaming. (Nussbaum, 2010, p. 73)

Nussbaum (2010) claims that misogynist Internet objectification is deeply connected to “shame punishment” and uses Friedrich Nietzsche’s concept of resentment and contemporary norms of masculinity to explain the malice underlying Internet gossip sites. Much of the gender-based hate speech on the Internet, she argues, is done instrumentally to satisfy the needs of the objectifier. This objectification is frequently contingent on the reduction and debasement of the “object” to bodily parts and physical appearance. Resentment, Nussbaum explains (2010), “is a reactive emotion inspired by the feeling of weakness... the goal of resentment is to bring those people down and get power over them” (p. 76). Technology embodies and magnifies power itself; the power to “circulate information [or text] at little to no cost, to every corner of the globe” (Nussbaum, 2010, p. 79). Anonymity and complicity provides the requisite protection for this somewhat irrepressible power, with hegemonic forms of masculinity being “strongly associated with technical prowess and power” (Wajcman, 2010, p. 145). Although bodies may be the “centers of perspective, insight, reflection, desire, agency” (Grosz, 1994, p. xi), the feminine body, constructed as aberrant sexual difference, becomes the conduit for gratification and objectification in both geospatial and sociospatial worlds. This runs contrary to Haraway’s

(1997) optimism that cyborgs could help us to transcend the real-world's rigidity of physical embodiment. What happens, for example, when the cyborg is violated?

Gender-based hate speech on the Internet is a useful example to emphasize the centrality of the figure of the female body in TFSV, as well as the complexities associated with framing these harms. Danielle Citron (2010) argues that hate speech on the Internet is more than isolated or random incidents of cyberbullying. Instead, Citron states, anonymous mobs systematically and disproportionately target women as the object of their hate, particularly lesbian and/or "women of color." The harm of online abuse, on the surface, may appear "disembodied," but in actual fact, the effects can be both psychological and physical.

Several other pertinent examples demonstrate the scope of the problem, including: the use of Facebook groups to promote rape-supportive attitudes; the use of online discussion forums to rate how "rape-able" female students are; the doctoring of photographs to create sexually explicit and degrading images; threats of sexual violence (including publicly posting the names and addresses of women who "deserve to be raped"); and the posting of sexually-based comments about female students. For example, a US website called AutoAdmit (also known as Xoxohth) hosts unmoderated discussion boards where degrading comments about named female law students are regularly posted. Despite a series of ongoing lawsuits against anonymous defendants in one case, the site continues to host offensive and degrading gender-hate speech. An excerpt from a recent post (from June 22, 2012) titled "My gorgeous Russian girl" is illustrative here: "she is from murmansk, born in 1989, writing her finals next week, redhead, perfect body. and she does not swear or smoke... i bet if i gave her some sedatives i could f*** her like 12 times in 1 night [*sic*]." In another posting, titled "How much do titties make up for face?" (from June 21, 2012), there are links to a photograph of some women on a bus. One of the women in the photograph is named and

the “posters” in this particular thread engage in evaluations of the named woman’s body weight, appearance and the size of her breasts.

Some TFSV acts constitute serious crimes (e.g., threats of violence) or can be “remedied” under tort or anti-discrimination legislation (e.g., “defamation”, “sex discrimination” or “sexual harassment”). However, some acts fall through the legislative cracks. Although some jurisdictions have anti-vilification legislation on the grounds of race, religion, sexuality and “gender identity,” few jurisdictions specifically make sex or gender-based vilification (e.g. public hate speech on the grounds of sex that is likely to offend) unlawful. The challenges posed by user anonymity and cross-jurisdictional borders, make detection and punishment increasingly elusive. Legal frameworks, as such, are simply ill-equipped to deal with the sorts of harms perpetrated by these behaviors. But moreover, the question of harm, virtual, embodied or both, is not adequately captured by traditional criminal and civil justice responses.

It is also crucial to view the harms of TFSV in both collectivist and individualistic terms. For example, the group mentality of these various behaviors can consolidate and radicalize sexist, racist and homophobic views, and even incite physical violence in the offline world. Group dynamics also work to diffuse moral or legal responsibility for group members, displace accountability, provide greater anonymity and dehumanize and blame victims in ways never before imagined. Recent research indicates that both the absence of eye contact and *unidentifiability* (non-disclosure of potentially identifying personal information) in many online interactions play a major role in facilitating aggressive online behaviors (Lapidot-Lefler & Barak, 2012).

The relationship between masculinity (or masculinities) and technology has also been under-researched (Lohan & Faulkner, 2004, p. 319), yet if both gender and technology are socially constructed and socially shaped, then it is crucial to examine the construction of

masculinities in the gendered contours of the technosocial world. For example, in an extension of theories on the role of male peer support in facilitating violence against women, DeKeseredy and Olssen (2011) argue that new technologies allow men not only to engage in online victimization of women but to create and join networks based on a collective subculture of male dominance, sexism and “pro-abuse” attitudes towards women in which women are presented as “objects to be conquered and consumed” (p. 40). The pro-abuse groups mentioned by DeKeseredy and Olssen (2011) mirror the “pro-rape” groups and content that have featured on social networking sites such as Facebook and on the aforementioned AutoAdmit discussion board. Such groups arguably facilitate the construction of particular masculine identities based on collective participation in the objectification of women, sexism, misogyny and permissive attitudes towards non-consensual sex. There is a need to further extend concepts such as male peer support to the collective forms of masculinity and male identities being constructed in the technosocial based on opposition to, rejection of, and violence towards, women in cyberspace.

Furthermore, the group nature of online forms of gender-hate speech and the shared spaces in which women’s humiliation can be achieved, observed and enjoyed, may have harmful effects on victims. In other words, psychological harm *is* also physical and social harm, embodied and “real.” This conception of harm as lived and social can help us to understand the centrality of the body in the perpetration of online abuse, despite assumptions to the contrary regarding the absence or suspension of the physical body in cyberspace.

“Virtual rape” provides a useful example for thinking through the problematic dualism of mind/body, and the effects that online sexual victimization may have. For example, the object of a Japanese anime-style game, “RapeLay,” is for the player to stalk and rape a fictional mother and her two daughters. Originally this game did not breach Japanese laws and even when a later ban was imposed, as with other banned content on the

web, downloads are almost impossible to regulate. With the absence of the physical element of penetration needed in criminal law, most critics have argued that there is no “real” rape in such cases, and no identifiable, singular “victim” as such. However, many acknowledge that while online victimization does not automatically result in emotional stress, there are real harms, physical and emotional, resulting from online victimization and/or representations of virtual violence (see e.g., Staude-Müller et al., 2012). Moreover, as we explore below, harm may also be inflicted on a social group and on individuals who form part of that group.

Misrecognition

The difficulties or impossibilities of law to provide remedies to acts of sexual harassment, sex discrimination, sexual assault, gender-based vilification and domestic violence, and to significantly overcome structural, systematic and pervasive forms of sexism, has been the subject of much feminist debate over the decades. Some feminists, for example, have argued that law and culture have often failed to fully understand the harm that this gender-based violence potentially enacts. While much progress has been made in terms of recognizing the psychological and social harm of sexual violence and harassment both inside and outside of law, this has not resulted in substantive shifts in cultural and legal conceptualizations of harm.

Feminist criminologists have had a long tradition of interpreting harm and injury within a subjective and phenomenological definition. Accordingly, harm is whatever is defined harmful by the subject herself. Feminist criminology has drawn attention to the ways in which harm may be reproduced and institutionalized within state and legal practices. Moreover, this body of literature has acknowledged the continuum between unlawful, non-criminal harms (such as sexual harassment and other forms of sex discrimination) and the social arrangements of power that make invisible or else perpetuate these harms. However,

victims continue to struggle in defining harms done to them. For example, a national study by the Australian Human Rights Commission (2008) found that around one in three Australian women reported experiencing sexual harassment in their lifetime, and that a further one in five (22%) did not use the term “sexual harassment” but reported having experienced behaviors that may in fact amount to sexual harassment.

These difficulties in naming and defining sexual violence in the offline world are arguably more convoluted in the online context, due to their novelty. To date, much criminological literature on cybercrime maintains a false dichotomy between the “real” and “virtual” or “cyber” worlds, and represents an assumed ready translation of existing criminological theory from the former to the latter. Instead, following Brown (2006), we suggest that criminology needs to further engage with a theorization of the social world as including human/technical hybrids; a “technosociality” as Brown calls it, in which there is a blurring of lines between the material and the immaterial, the subject and object. Critical feminist-informed criminologies have, we believe, a lot to contribute here to new theorizations that inspire new and challenging analyses of crime, law and control, across “technosocial” experiences.

One way of conceptualizing the collective and social harm of some forms of TFSV is through Nancy Fraser’s (2008) notion of “misrecognition,” as part of her three-dimensional model of justice as recognition, redistribution and representation. According to Fraser (1997):

... misrecognition is an institutionalized social relation, not a psychological state. In essence, a status injury, it is analytically distinct from, and conceptually irreducible to, the injustice of maldistribution, although it *may* be accompanied by the latter. (p. 280, emphasis original)

Misrecognition is a form of social subordination – the prevention of full civic participation of individual group members (Fraser, 2008). This aligns with Judith Butler's (1997) discussion of injurious speech, as not only demeaning and offending, but as constructing "a certain possibility for social existence":

... linguistic injury appears to be the effect not only of the words by which one is addressed, but the mode of the address itself; a mode – a disposition or conventional bearing – that interpellates and constitutes a subject. (p. 2)

Such injustices of misrecognition or interpellation more adequately capture the dimension of social harm evident in TFSV than concepts of individual embodied or indeed emotional harms alone. Moreover the concept of misrecognition, being based on collective experiences of status inequality (such as on the basis of sex, but also gender, sexuality, race and so on) acknowledges both the individual and shared nature of the harms of TFSV. Stalking is a useful case in point. Offline stalking against one individual victim, for example, is covered in many jurisdictions as a criminal offense. However, cyber-stalking may be qualitatively different, particularly when harassers use social networking sites to target multiple victims who individually are not protected by stalking provisions since the behaviors may not be repeatedly directed at them as individuals, but are repeatedly directed towards them as a member of a group (e.g., as women). In this way, the individual-rights claim model is inherently limited for responding to these varied forms of TFSV.

Importantly, Fraser (2008) argues that a key implication of globalization is that places (or indeed spaces) in which injustices occur are no longer bounded by the nation-state. This is particularly true of online spaces, where the aggressor, victim(s) and the hardware/software of the website itself may all be located in different geographical jurisdictions, meaning that many online spaces are effectively ungoverned (or rather

ineffectively governed) by law. This in turn has a direct impact on the possibility of the individual and/or collective to make claims of injustice: Who could make the claim? To whom would such claims be made? Which laws or other remedies would be administered and how? Importantly, Fraser's (2008) third dimension of justice is political representation, namely that one must be acknowledged as a citizen/subject of justice in order to make claims and to have those claims acted upon. This raises the question about whether our global, digital "self" can count as a citizen/subject of justice?

Fraser (2008) further advocates for a global or transnational feminist movement, in which gender inequality is reframed as involving multiple sites – both local and global – that must be seen as interrelated and indeed, mutually reinforcing. A global feminist framing of TFSV then must take account of the gendered nature, technosociality and status inequality or "misrecognition" that epitomizes these harms, but without falling into the trap of universalization and homogenization. This presents a key challenge for critical feminist scholars in this area.

CONCLUSION

Technology facilitated sexual violence and harassment is a significant problem of global proportions but is not well-understood. More empirical research is needed on the nature, scope and impact of TFSV. In particular, a thorough investigation is required of the lived experiences of victims, perpetrators and bystanders of their engagement with, and perceptions of, emerging technologies and the harms of TFSV. Empirical research will provide the foundations from which policy and legislative initiatives for prevention, punishment and remedy might be developed. Currently, the law is ill-equipped to deal with these new harms due to the *ad hoc* and fragmented nature of criminal and civil law; the failure of law to keep pace with technological change; the individualistic nature of criminal,

tort and anti-discrimination legislation and remedies; the exclusion of TFSV in cybercrime legislation; and the failure of law to address the systemic nature of gender violence and inequality. However, resorting to a normative framework of law may not provide a satisfactory solution to the problem of TFSV. The first step, at least, is to overcome a general lack of understanding surrounding how new technologies operate, how they are gendered, how they are used, and what their impacts are – against the backdrop of insurmountable challenges of transnational legal regulation within an ever-changing and increasingly complex “technological polity” (Frankenfeld, 1992, p. 459).

Current conceptualizations of harm within legal, policy and other contexts fail (as they have done in the past) to adequately frame or name the intrapsychical and embodied harms of TFSV. Due to the complexity that ICTs present for regulation and law enforcement (e.g., often operating cross-jurisdictionally), there is a need to consider what roles prevention and other policy frameworks might play to address these issues beyond legislation alone. Part of the problem, we have maintained, is that there is a false dichotomy between “real” and “virtual” harms, which is increasingly problematic given the ways in which the technosocial world has become deeply embedded in both contemporary subjectivity and social interaction. Ultimately, legislative and cultural change can be achieved through greater attention and detail to the unique harms and effects experienced by victims of technology facilitated sexual violence and harassment. This is why it is crucial to view these not as old crimes, but as new harms that require innovative responses across the micro (individual), meso (organizational) and macro (societal) levels.

NOTES

1. The DVD also shows the boys harassing a homeless man, throwing eggs at taxi drivers, participating in fights at local parties, as well as media footage of incidents they claim to have been involved in.
2. Some online pornography could arguably be included as a sixth form of technology facilitated sexual violence; however, there are significant debates as to whether pornography itself constitutes violence against women; whether it is only pornography that is produced under pressured and coerced circumstances that constitutes such violence, or whether all pornography that depicts violence, rape, intimidation or degradation of women constitutes a form of violence regardless of the choice and agency of the actors themselves. We align ourselves with a standpoint feminism which precludes the definition of all pornography as constituting violence against women, as this is not reflective of many women's experiences of agency, choice and sexual pleasure as both producers and consumers of pornography, nor the diverse forms and representations evident in pornography beyond the mainstream. However, we do take the position that imagery of rape and violence in some pornographic content can be included under our category: "the distribution of sexual assault images."
3. Jürgen Habermas (1974) defines the public sphere as "the realm of our social life in which something approaching public opinion can be formed..." He goes on to state that "[c]itizens behave as a public body when they confer in an unrestricted fashion – that is, with the guarantee of freedom of assembly and association and the freedom to express and publish their opinions – about matters of general interest..." (p. 49).
4. Cyberfeminism has been defined by Liesbet van Zoonen (2002) in the following terms: "Cyberfeminism is a term for a variety of academic and artistic practices that centre around and in the Internet, and other new technologies...[and] the *possibilities* that the

new technologies offer to escape from bodily gender definitions and construct new gender identities” (p. 260, emphasis added). Susan Hawthorne and Renate Klein (1999) adopt a more power-centered approach in their definition of cyberfeminism as “a philosophy which acknowledges, firstly, that there are differences in power between women and men specifically in the digital discourse: and secondly, that CyberFeminists want to change that situation” (p. 2).

5. Routine Activity Theory holds that criminality is not solely driven by psychological, social and socio-economic dispositional factors, but rather crime requires a situational context, in conjunction with predisposing inclinations (see Yar, 2005).
6. The exception to this is the judicial guidance notes in the UK, where a more severe penalty can be given in cases where an offender filmed and/or distributed images of an offense. This was in response to the trend of “happy slapping,” or the filming and distribution of images of minor assaults and offenses on unsuspecting victims. There have been a number of serious offenses associated with the practice internationally, including homicides and sexual assaults (see Chan et al., 2012; Powell, 2010a).

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