

Australian Human Rights Commission
Human Rights and Technology Project team
Via email: tech@humanrights.gov.au
Date: 10 March 2020

Submission in response to the discussion paper **'Human Rights and Technology'**

Australian Women Against Violence Alliance (AWAVA) is one of the six National Women's Alliances funded by the Australian Government to bring together women's organisations and individuals across Australia to share information, identify issues and contribute to solutions. Our focus is on responding to and preventing violence against women and their children. Our role is to ensure that women's voices and particularly marginalised women's voices are heard by Government, and to amplify the work of its member organisations and Friends and Supporters. Our members include organisations from every State and Territory in Australia, representing domestic and family violence services, sexual assault services, services for women in the sex industry and women's legal services, as well as organisations representing Aboriginal and Torres Strait Islander women, young women, women educators and other groups. AWAVA's auspicing body is the Women's Services Network (WESNET).

We thank you for the opportunity to make a submission in response to the discussion paper 'Human Rights and Technology'. In this submission we articulate our support for the views of the Commission on the importance of taking a human-rights approach to technology with freedom from technology-facilitated violence, harassment and exploitation at its core.

Technology-facilitated abuse in its all manifestations is driven by an intention to harass, stalk, groom, monitor, conduct surveillance on, location-track, threaten, humiliate, impersonate and/or isolate a person. In gender-based violence against women, it can be understood as another tool used by perpetrators to hold power and control over a victim/survivor. Sexual and gender-based violence against women is a gross violation of human rights in all its manifestations.

We are pleased to see references to technology-facilitated abuse in the discussion paper. We are also supportive of the views that freedom from technology-facilitated violence, harassment and exploitation must be a core component of the human-rights approach to technology. Any policy and legislative developments in this area must ensure that sufficient attention and protections are offered to prevent and respond to technology-facilitated abuse. Alongside it must also take an intersectional gender lens understanding how the drivers of technology-facilitated abuse are strongly linked with those of violence against women, ableism, racism, transphobia and homophobia. In the event that the proposed National Strategy on New and Emerging Technologies goes ahead, we believe it needs to include strong references to these principles and understandings.

With regard to artificial intelligence, the risks and benefits of its application are clear from the paper. We also note the recognition of gender and racial bias occurring through the application of AI. In the context of domestic and family violence (DFV) and sexual assault, our position with regard to the use of AI is that in situations where extensive training would have been required for a human decision maker on the nature and dynamics of DFV, AI should *not* be applied. Consider an example of family violence provisions under the Migration Regulations.

Currently under the Migration regulations people who (typically) are holders of Partner visas and experience breakdown in their relationships due to family violence are able to proceed with their pathway to permanent residency through family violence provisions. Such provisions are designed to ensure that victims/survivors of domestic and family violence have access to safety, support and justice. In practice, many challenges remain with the assessment of family violence allegations as well as the genuineness of relationships. For example, there have been cases where marital rape was not recognised as sexual violence.¹ AWAVA and other organisations Australia-wide have called for mandatory training for decision makers on these issues (among many other recommendations).² In such complex cases we do not recommend engaging AI in decision making. Decision making should rest with trained specialists. We are concerned that despite this complexity, the Department of Home Affairs is considering outsourcing visa decisions, including by using AI. We recommend that the proposed National Strategy on New and Emerging Technologies takes this into account and advises against the use of AI for such complex cases.

We thank you for the opportunity to provide input to this consultation. If you would like to discuss the contents of the submission further, please contact [REDACTED], AWAVA Program Manager, using the details below.

[REDACTED]
Program Manager | Australian Women Against Violence Alliance

www.awava.org.au | [REDACTED] | ph: [REDACTED]

¹ AWAVA (2017) Submission to the Department of Immigration and Border Protection on Visa Simplification. Available: https://awava.org.au/2017/10/12/submissions/submission-department-immigration-border-protection-visa-simplification?doing_wp_cron=1583116751.1472740173339843750000

² National Advocacy Group on Women on Temporary Visas Experiencing Violence (2019) Blueprint for Reform: Removing Barriers to Safety for Victims/Survivors of Domestic and Family Violence who are on Temporary Visas. Available: https://awava.org.au/2019/10/02/research-and-reports/blueprint-for-reform?doing_wp_cron=1583116620.2734138965606689453125