



Analysing Access to Justice for the Distribution of Non-Consensual Intimate Image (NCII) Online in Nigeria

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Introduction

While there is no specific legislation dealing with online gender-based violence in Nigeria, this report aims to analyse routes for victims in terms of access to justice for privacy-related online gender-based violence, in particular, the 'Non-Consensual Intimate Image' (NCII) sharing abuse (commonly referred to as 'revenge porn'), within Nigeria's justice system.

Neither men nor women in cyberspace have the guarantee that their privacy or other rights are a hundred percent protected. However, cyber incidents and their implications can have differentiated impacts on the basis of gender¹. For instance, non-consensual creation, dissemination, distribution, or exchange online of photographs, videos, or audio clips of a sexual or intimate nature is a form of deeply gendered and deeply harmful online abuse and violence which disproportionately affects women and girls.

In 2020, the UN labelled 'gender-based violence' the shadow pandemic². Not that in a deeply patriarchal context like Nigeria's, gender-based violence has not always been a crisis. However, as online and offline worlds merged in unprecedented ways during the COVID-19 pandemic due to isolation measures and restrictions to movement, abuse and harassment of women greatly increased in both offline

and online spaces, with perpetrators now able to extend abusive behaviour through digital tools and communication channels sometimes while remaining anonymous, at a distance and with abusive actions and behaviours difficult to track or stop online. At the same time, access to support systems, social services and justice became even more severely limited.

The report examines the Nigerian policy landscape in relation to NCII, judicial responses and the experiences of women and girls who are disproportionately affected by this crime in terms of barriers they face with access to justice. The report finally makes recommendations for strengthening the protection of and support for women and girls against online gender-based violence broadly, and especially privacy-related violations of their rights in the digital sphere more specifically.

1 https://www.apc.org/sites/default/files/Gender_Matters_Report_Web_A4.pdf

2 <https://data.unwomen.org/publications/vaw-rga>



Definitions

The Association for Progressive Communications (APC) defines online gender-based violence as “acts of gender-based violence that are committed, abetted or aggravated, in part or fully, by the use of information and communication technologies (ICTs), such as mobile phones, the internet, social media platforms, and email.”³

Council of Europe’s Cybercrime Convention Committee (T-CY) Working Group on cyberbullying and other forms of violence, in its mapping study on cyber-violence, defined cyberviolence as “the use of computer systems to cause, facilitate, or threaten violence against individuals, that results in (or is likely to result in) physical, sexual, psychological or economic harm or suffering and may include the exploitation of the individual’s circumstance, characteristics or vulnerabilities.”⁴

Violence against women in online environments can take several forms, including but not limited to harassment, trolling, stalking, doxxing, NCII abuse, threats of sexual assault, physical assault or murder, among others. Perpetrators can be partners or ex-partners, schoolmates, colleagues, or even anonymous persons. Younger women and women whose work often involve heavy public expressions such as journalists, politicians, artists, human rights defenders and other women public figures are some of those often more vulnerable to online gender-based violence.

For the purpose of this study, we refer to online violence which involves the ‘use of personal information online to harm a person’ as privacy-related online violence. These forms of violence include unauthorised access to accounts or devices, identity theft, doxxing (revealing or publishing private information about

3 https://www.apc.org/sites/default/files/APCSubmission_UNSR_VAW_GBV_0_0.pdf

4 <https://rm.coe.int/t-cy-2017-10-cbg-study-provisional/16808c4914>

a person online), surveillance (often by means of spy apps or stalkerware) and non-consensual intimate image (NCII) sharing abuse among others.

According to the Alliance for Affordable Internet; a global coalition of governments, private organisations and civil society actors working towards the goal of universal internet access; 'meaningful access' or connection to the internet happens when a person has "affordable access to an internet connection of sufficient quality to be meaningful and they are able to use that connection in a supportive social environment that allows them to apply their full agency in how the internet affects their life."⁵

Violence online threatens a supportive social environment which is a crucial pillar of meaningful connectivity, limiting equal access to the internet and threatening rights and freedoms in the digital sphere. Beyond affordability, content which is relevant to one's contexts and needs, relevant digital skills and the ability to interact online in a safe and secure manner, free of surveillance and the violation of one's rights to free expression and privacy, is a critical aspect of connectivity that is relevant and empowering. Online gender-based violence engenders inequality online as it eventually determines who can meaningfully and safely access and use the internet.

The 'Actuality' of Online Violence

One of the main challenges with access to justice for victims of online-gender-based violence is that OGBV is often misunderstood and not yet generally taken seriously as a 'real' form of violence. Women and girls who experience online abuse face devastating consequences with severe implications for their physical, economic and psychological well-being as well as their dignity and reputation. Online gender-based violence often also leads to depression, and in extreme cases self-harm and suicide. Yet victims' experiences are often not taken as seriously by family, peers or other support systems. Sometimes, the response of families is to further restrict the use of digital technologies for women and girls who are experiencing grievous violations of their rights online.

Violence occurring on and through digital platforms are a legitimate and critical manifestation of violence with devastating consequences offline, indicative of the continuum of the existing discrimination and inequalities that women and girls already face in their daily lives. It is hard to separate violence online from its impacts offline, which puts women and girls who already experience violence from partners, ex-partners, colleagues, schoolmates or even complete strangers at even greater risk. While research does in fact suggest that women are more concerned with privacy and security online, they are also more likely to resort to modifying personal online behaviour and self-censoring as a response to threat or harm, while

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men consistently resort to technical and more effective means such as the use of encryption, password managers or multi-factor authentication⁶.

In Nigeria, there has been some training on cybercrime and electronic evidence⁷ delivered to some judges and members of the Nigerian police force supported by the Council of Europe and DFID respectively, with a focus on fraud and economic costs of cybercrimes without mention of online gender-based violence. The 2015 Cybercrime Law does not specifically criminalise cyber violence against women, gender-based slurs, or misogyny online. Still, the law addresses certain important aspects of cyber violence by mentioning 'cyberstalking' and 'pornographic messages.'

Key Issues

When it comes to specifically navigating routes of justice for privacy-related online violence against women and girls in Nigeria, there are a few immediately apparent and acute challenges. In the first place, the culture of impunity in relation to gender-based violence aided by deep-rooted socio-cultural norms often defining 'acceptable' behaviours, generally make victims apprehensive about speaking out about even some of the most harmful manifestations of gender-based violence online, such as NCII sharing abuse. There are also challenges related to determining what is 'actionable violence' (and what is not), measured by intent to harm, content, imminence of harm (credibility), extent of the harm and context⁸. Then the use of anonymous accounts to perpetuate violence also impedes investigation and prosecution. Again, when content has gone 'viral' online, it can be quite difficult

6 <https://www.forbes.com/sites/kevinmurnane/2016/04/11/how-men-and-women-differ-in-their-approach-to-online-privacy-and-security/>

7 <https://www.coe.int/en/web/cybercrime/-/glacy-basic-judicial-training-in-nigeria>

8 <https://duediligenceproject.org/wp-content/uploads/2019/05/Paper-on-Due-Diligence-and-Accountability-for-Online-Violence-against-Women-make-this-active-link.pdf>

to remove such content despite it being detrimental, resulting in extended and deep-rooted damage to the victim.

Studies on access to justice for survivors of online gender-based violence (OGBV) have found that even where there are laws to deal with cases of gender-based violence online, they can be inadequate or ineffective, especially when applied and interpreted within a culture of impunity around violence against women⁹. While Nigeria is yet to have a Data Protection Act/Law which could have been useful to address cases of privacy-related online violence against women, there are other laws that are relevant to online-gender based violence more broadly, such as the Cybercrime Act 2015 and the Violence Against Persons Prohibition Act.

This report reviews the current landscape to determine whether or not the 'right to privacy' in Nigeria is well-suited to protect women and girls from privacy-related online abuses, which will keep emerging with technology. Furthermore, we elaborate on privacy-related cases of online gender-based violence in Nigeria to see how our legal processes may be favourable or detrimental to women and girls, and what types of social or legal barriers they face. Apart from the inability to report OGBV to the relevant authorities in the first instance due to a lack of clear reporting mechanisms, the fear of being censured, ridiculed and subjection to further violence {in the event that the aggressor intensifies in response to being reported}, often constitute some of the preliminary barriers women and girls face. Anecdotal records and surveys of victims of OGBV in Nigeria

suggest that between patriarchal norms, cultural leanings and law enforcement's 'understanding' of the 'concept of consent,' women and girls typically may face significant obstacles in terms of access to justice.

Victims also many times do not even file a complaint because they do not know what laws protect them, what are the necessary requirements to file a complaint, or for fear of experiencing a 're-victimization' during the complaint process. All of these indicate that with seeking justice for online gender-based violence, similar obstacles faced by victims of offline gender-based violence are often represented. However, there are also novel problems related to the treatment of cases that occur in digital environments and the differentiated impact of this type of violence makes it important to examine whether the current legal framework in Nigeria is sufficient to provide protection for victims.

The State of Online Gender-Based Violence in Nigeria

By official government admission, there exists a digital gender divide¹⁰ in Nigeria as more men are economically and socially empowered to access the internet. In 2022, of Facebook's Nigeria ad audience, 41.2% was female while 58.8% was male. Similarly, YouTube's figures reveal 44.7% female and 55.3% male. The same trend follows for Instagram (44.3% female, 55.7% male) and LinkedIn (33.3% female, 66.7% male) while only Snapchat had a higher female audience¹¹. It is safe to, therefore, conclude that women are the minority gender on social internet infrastructures and platforms in Nigeria.

Despite significant external social factors and internal psychological barriers preventing women and girls from often speaking up about or reporting violence and abuse, Nigeria's Demographic and Health Survey 2018 reported that 33% of women aged 15-49 in Nigeria have experienced physical or sexual violence¹². During the COVID-19 pandemic lockdown,

Nigerian women ranked top 4 for the highest exposure to gender-based violence worldwide, as the percentage increased to 48% amounting to almost 1 out of 2 women experiencing gender-based violence in Nigeria during the lockdown¹³.

It is against this backdrop the conversation on online gender-based violence in Nigeria is being discussed. In Nigeria's cyberspace where women are the minority, they continue to face the familiar gender-based violence they experience offline, online. Women in Nigeria face brazen violence and harm to their safety, freedom, reputation, finances and credibility without real consequences to perpetrators online and even offline.

The non-consensual creation, manipulation, dissemination, distribution, or exchange online of photographs, videos, or audio clips of a sexual or intimate nature typically used to blackmail victims for monetary, sexual or other gains (also

10 NCC (2022), "NEWS RELEASE: NCC commits to bridging digital gender divide" <https://www.vanguardngr.com/2022/09/were-committed-to-bridging-digital-gender-divide-ncc/> (accessed 2 November 2022)

11 DataReportal (2022), "Digital 2022: Nigeria" <https://datareportal.com/reports/digital-2022-nigeria>

12 National Population Commission, (2018), "Nigeria Demographic and Health Survey 2018" <https://www.dhsprogram.com/pubs/pdf/FR359/FR359.pdf>

13 UN Women (2021), "Measuring the shadow pandemic: Violence against women during COVID-19" <https://data.unwomen.org/publications/vaw-rga>



known as 'revenge porn'¹⁴); a form of privacy-related online sexual violence is one of the most common and frequent forms of violence against women in Nigeria. Thiel & Einstein (2020), define non-consensual intimate imagery as 'sexual content distributed without the consent of the people depicted'¹⁵. The United Kingdom Ministry of Justice goes further to include that such intimate images shared without consent should have been sent with the purpose and intention of causing embarrassment or distress¹⁶.

The contexts from which non-consensual intimate image distribution may arise are varied in Nigeria. From existing examples, there are instances where images or videos may have been created with consent but may be distributed as a result of a breach

of trust, or breach of privacy (e.g. hacking or doxxing). In other scenarios, both the creation and dissemination of intimate images are done without consent (e.g. rape or upskirting).

On 24 October 2022, in Oyo state, Nigeria, a 17-year-old minor (name withheld by police) visited two of her male friends aged 18; Joshua and Peter. Somewhere along the line, Joshua demanded sex from her and she declined. Sensing that her decline was not being taken well, she asked Peter to prevail on his friend and calm him down but in response to that, both friends took turns to gang rape her while simultaneously recording the act. After this unfortunate incident, Joshua then transmitted the video file to another friend, Oluwanjoba who then reached out to the victim also demanding

14 The term 'revenge porn' has been criticised as being inherently victim-blaming as it suggests that the victim is doing something wrong. The term will therefore not be used in this research except when quoting a source

15 Thiel, D., Einstein, L. (2020) "Online Consent Moderation" Available at: <https://cyber.fsi.stanford.edu/io/news/ncii-legislation-limitations#:~:text=What%20is%20non%2Dconsensual%20intimate,consent%20of%20the%20people%20depicted>. (Accessed January 26 2023). Stanford Internet Observatory

16 Ministry of Justice, UK, "Revenge Porn" <https://www.gov.uk/government/publications/revenge-porn>

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sex with him in exchange for not uploading the footage on social media¹⁷.

Although the above scenario pertains to a minor, there have been similar violations against older women in Nigeria. An example is the veteran Nigerian musician, Salawa Abeni, who took to Instagram¹⁸ in April 2020 to reveal that she was being blackmailed by someone who had her nude photo. Abeni, aged 60 years, resorted to leaking the pictures herself. Another 41-year-old Nigerian music super-star, Tiwa Savage, made breaking news in October 2021 by revealing that she was being blackmailed for a sex tape. Videos of intimate moments with an ex-partner surfaced online shortly afterwards¹⁹.

Victims of NCII sharing or the threats of it may sometimes resort to self-help by choosing to share their own intimate images to take the power away from their blackmailer or may live in constant fear and trepidation and stay offline. Neither option is beneficial to women and girls

who already make up the minority on the internet in contexts of prevalent misogynistic and sexist cultures online and offline. This form of violence often leads to widespread and intense shaming, severe psychological suffering and harm, social isolation, economic loss, self-censorship and in extreme cases, self-harm.

17 Olaniyi (2022), "Oyo police arrest teenagers for gang-raping, filming 17-year-old girl" PUNCH. Available at <https://punchng.com/oyo-police-arrest-teenagers-for-gang-raping-filming-17-year-old-girl/> (accessed 3 November 2022)

18 Instagram, Officialsalawaabeni https://www.instagram.com/p/B-b1PRop_d4/?utm_source=ig_embed&ig_rid=d37d7f3a-45cc-43d6-96d6-8b370146ce5b

19 <https://www.premiumtimesng.com/news/488902-im-being-blackmailed-with-my-sex-tape-tiwa-savage.html>

Legislative Responses to Non-Consensual Intimate Image Sharing and Dissemination

Nigeria is a signatory to and has ratified the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2003)²⁰. Also known as The Maputo Protocol, its articles provide that State Parties shall adopt and implement appropriate measures to ensure the protection of every woman's right to respect for her dignity and the protection of women from all forms of violence, particularly sexual and verbal violence. In addition to this, the country ratified without reservation, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) as far back as 1985 and even signed and ratified the Optional Protocol to the Convention in 2004. The provisions of this Convention address violations of the principles of equality of rights and respect for human dignity as it concerns women. Unfortunately, neither the Maputo Protocol nor the Convention have been domesticated with local law and so cannot be legally enforced.

1. Code of Practice for Interactive Computer Service Platforms/Internet Intermediaries (online platforms), 2022²¹

One of the biggest problems to address in terms of providing effective remedies to victims lies in the complete erasure of intimate image/video files shared non-consensually from the internet, once they have been posted. In some sense, this is what the majority of victims desire - to cure the effects of the violation of their privacy and to recover their reputation and dignity in a realistic and tangible way. However, this is a difficult kind of remedy to provide because, by nature, the online social space thrives on content amplification and

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Accessible at <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>

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NITDA (2022) <https://nitda.gov.ng/wp-content/uploads/2022/10/APPROVED-NITDA-CODE-OF-PRACTICE-FOR-INTERACTIVE-COMPUTER-SERVICE-PLATFORMS-INTERNET-INTERMEDIARIES-2022-002.pdf>



sharing. So even if an injunction is gotten against the original poster of the file, there are most likely hundreds or thousands of third parties who have reshared it to their pages. It is, therefore, almost impossible to envision such a remedy without the active involvement of internet intermediaries, on whose platform these files are circulated.

In June 2022, the National Information Technology Development Agency (NITDA) released a draft regulation for internet intermediaries for the safeguard of the security and interests of Nigerians and non-Nigerians in the digital ecosystem. A few months later, the Draft Code had been updated on the Agency's website as 'Approved'. Despite criticisms²² raised for certain provisions of the regulation, there are salient provisions which would serve as an apparent legislative response to the issue of non-consensual intimate image creation, sharing and dissemination.

Part 1 (Clause 4) of the Code states "All

Interactive Computer Service Platforms/ Internet Intermediaries shall act expeditiously to remove, disable or block access to non-consensual content that exposes a person's private areas, full or partial nudity, sexual act, deepfake, or revenge porn, where such content is targeted to harass, disrepute, or intimidate a user or non-user. A Platform must acknowledge the receipt of the complaint and take down the content within 48 hours"

Platforms are also mandated to "disclose the identity of the creator of information on its Platform when directed to do so by a Court order. Provided that an order of this nature shall apply for the purpose of preventing, detecting, investigating, or prosecuting an offence concerning...an offence relating... to rape, child abuse, or sexually explicit material." This provision, albeit subsidiary legislation, is the first direct legislative measure in Nigeria to overtly impose responsibility on internet intermediaries to act as

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Oturu & Dosunmu (2022), Available at <https://www.aelex.com/exploring-the-nitda-code-of-practice-and-its-potential-impact-on-social-media-and-online-platforms/> (accessed 3 November 2022)

frontline responders to issues of non-consensual intimate image sharing. Because NCII distribution is usually propagated on internet intermediaries and platforms such as social media platforms, conversations on internet intermediaries as key stakeholders in the curbing of these violations should be prioritised.

1.1 Limitations and Opportunities

Human Rights Concerns: Although the Code recognises NCII and imposes responsibility on Internet Intermediaries, a major concern is unfortunately its overall implications on the Freedom of Expression. Nestled within other provisions are phrases, obligations and principles that have raised the concerns of human rights advocates. See the full Civil Society Memo to NITDA on the Code²³.

Absence of Provision for Digital Security: The provision relating to NCII distribution in the Draft Code is largely reactive, as it only stipulates liability after the fact. One of the goals of legislative interventions should be prevention, and intermediary liability regulation ought to stipulate the responsibility of platforms to put standard digital safety and security protocols and safeguards in place to protect the privacy of users. For instance, a number of internet intermediaries and platforms have mini 'storage' features available to users. Features like 'draft folders', for instance, may be crudely defined as storage features and must be secure enough to

hold whatever private information is being stored.

Enforcement: In terms of enforcement, this regulation does not offer a strong remedy to victims of non-consensual share of intimate images. Since it is a Code of Practice; a Standard of subsidiary nature, there are no elaborate or comprehensive methods to pursue justice or enforcement. The provisions, strictly speaking, offer neither civil or criminal remedies to the victim. At best, a violation of the Regulation may cause the internet intermediary to be liable to disciplinary measures under the civil service rules and/or prosecution and conviction for violation of the NITDA Act.

2. Cybercrimes Act, 2015

The Cybercrimes Act²⁴ which was enacted in response to the burgeoning criminal activities in Nigerian cyberspace has a few provisions that address the non-consensual sharing of intimate images or videos.

Section 23(2) states that "Any person who knowingly makes or sends other pornographic images to another computer by way of unsolicited distribution shall be guilty of an offence and upon conviction shall be sentenced to one year imprisonment or a fine of two hundred and fifty thousand naira or both"

Section 24 also states that "Any person

²³ Accessible here: <https://paradigmhq.org/wp-content/uploads/2022/06/NITDA-Code-Response-Memo.pdf>

²⁴ Cybercrimes (Prohibition, Prevention, Etc) Act https://www.cert.gov.ng/ngcert/resources/CyberCrime_Prohibition_Prevention_etc_Act_2015.pdf

who knowingly or intentionally sends a message or other matter by means of computer systems or network that is grossly offensive, pornographic or of an indecent, obscene or menacing character or causes any such message or matter to be so sent or he knows to be false for the purpose of causing annoyance, inconvenience danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety to another or causes such a message to be sent: commits an offence under this Act and shall be liable on conviction to a fine of not more than N7,000,000.00 or imprisonment for a term of not more than 3 years or to both such fine and imprisonment.”

2.1 Limitations and Opportunities

- Ambiguous and Indirect:** The applicable provisions quoted above are ambiguous and open to multiple interpretations as a result of their broad constructions. For instance, the provision in Section 23(2) is constructed so narrowly that it may be interpreted to apply only to the reception of pornographic material and not necessarily the non-consensual exploitation of a person’s private pictures or videos. It is not a clear provision that applies to help victims of NCII sharing because the onus of consent rests on whether the receiver solicited the images, and not whether
- the subject of the image approved its distribution. Additionally, Section 24 which is touted as the provision that criminalises NCII distribution is not worded clearly nor does it directly address the complexities of this kind of violation. Legal commentators²⁵ typically have to deduce the mischief sought to be corrected and the spirit of the law in order to deem Section 24 as a subject-matter relevant provision.
- Inherently Problematic:** Civil society in Nigeria has challenged Section 24 before judicial authorities as being problematic and contrary to the right to freedom of expression. This is because the provision has been selectively used to oppress and abuse journalists, the press and other political dissidents²⁶. The ECOWAS court has, in fact, ordered the Nigerian government to amend this provision²⁷.
- Political Will:** As it is with many criminal offences, the swiftness and effectiveness of seeking redress or judicial remedies often rest on the will of the key stakeholders. In this situation, Nigerian law enforcement officials are key stakeholders in determining whether or not victims can take advantage of the provision of the Cybercrimes Act for redress. There, therefore, exists an opportunity for law enforcement to create schemes or pathways that reduce the bureaucracy

25 LinkedIn, Adewola Aseolu “The Proliferation Of Revenge Porn And The Position Of The Nigerian Laws” https://www.linkedin.com/pulse/proliferation-revenge-porn-position-nigerian-laws-adewola-asaolu/?trk=articles_directory

26 Paradigm Initiative, Legal Battle Over Cybercrimes Act Moves to the Supreme Court, <https://paradigmhq.org/legal-battle-over-cybercrimes-act-moves-to-the-supreme-court/>

27 The Record, “ECOWAS Court orders Nigeria to amend Cybercrime Law” (Available at: <https://therecord.media/ecowas-court-orders-nigeria-to-amend-cybercrime-law/#:~:text=The%20section%2024%20Nigeria's%202015,punish%20journalists%20and%20political%20dissidents.>)

and prioritise the prosecution of perpetrators of NCII distribution using Section 24 of the Cybercrime Act. However, there are limiting factors to the pursuance of such a scheme, in terms of existing problems with the Nigerian justice system such as delays and a backlog of cases which result in an extremely slow judicial process.

3. The Violence Against Persons Prohibition (VAPP) Act 2015²⁸

This Act generally addresses all manner of violence against persons. While there are no specific provisions that directly criminalise NCII distribution, there are broad provisions that may be used by a victim to seek redress.

Section 14, "A person who causes emotional, verbal and psychological abuse on another commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000 or both"

Section 17, "A person who stalks another commits an offence and is liable upon

conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N500,000 or both"

Where stalking is defined as "following, pursuing, or accosting any person in a manner which induces fear or anxiety."

Section 18, "Any person who intimidates another commits an offence is liable upon conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000 or both"

Where intimidation is defined as, "uttering or conveying a threat or causing any person to receive a threat which induces fear, anxiety or discomfort"

The Act also defined harassment as, "repeatedly sending, delivering or causing the delivery of information such as letters, telegrams, packages, facsimiles, electronic mail, text messages or other objects to any person"

It is clear that these provisions are encompassing enough to address online-gender based violence including NCII distribution even though they do not specifically address cyberspace.

28 Violence Against Persons Act (Available at <https://fida.org.ng/wp-content/uploads/2020/09/Violence-Against-Persons-Prohibition-Act-2015-1.pdf>) (Accessed 9 November 2022)

3.1 Limitations and Opportunities

- **Widespread Adoption:** Because the Act requires each state in Nigeria to adopt it, there are limitations to its application in states in which the law is yet to be adopted. At the writing of this report, only 25 states out of 36 had adopted the VAPP Act.
- **OGB Specific Provision:** As stated above, the Act addresses the general crime of violence and while this can be interpreted and adapted for cyberspace, there are peculiarities of the internet that may not be captured in the Act. For instance, content typically travels farther within a shorter amount of time online, and with NCII sharing abuse, effects and possible damage are typically more long-term because files shared may never be fully erased or taken out of circulation. Hence, remedies for victims and punishments for perpetrators of online violence need to factor in such peculiarity into policymaking. There is an opportunity for an amendment or a separate online violence/harms law to cater to these specificities.
- **Remedies and Punishments:** The VAPP Act has a comprehensive scope of remedies. Under the Act, Victims have the right to receive medical, psychological, legal and social

assistance through governmental or non-governmental agencies, right to rehabilitation and right to be informed of legal, health and social services available to them. Importantly, victims have the right to not be expelled, disengaged, suspended or punished as a result of their compliance with the Act. However, as comprehensive as these remedies are, they are not sufficient. Most of the offences carry a jail term of 1-2 years and/or fine between N100,000 {\$225} - N5000,000 {\$1,125}. As highlighted above, online gender-based violence has a farther-reaching impact and longer-lasting effect on victims and therefore, the crime should attract more impactful punishments as a deterrent. Furthermore, remedies for victims should be more creative and match the gravity of the violation.

4. Nigeria Data Protection Regulation (NDPR) (2019)²⁹

The NDPR seeks to tackle issues of privacy and protection of Personal Data by regulating the processing of the same. The Regulation defines a Data Controller broadly as “a person who either alone, jointly with other persons or in common with other persons or a statutory body determines the purposes

for and the manner in which Personal Data is processed or is to be processed” and Data Administrator as, “a person or an organization that processes data” (emphasis ours). Furthermore, ‘personal data’ is defined as “ any information relating to an identified or identifiable natural person... such as... anything from a name, address, a photo...”

The Regulation then goes ahead to impose responsibilities on Data Controllers and Administrators in the handling of personal data; these provisions when interpreted may be made to apply to the processing of intimate images.

Some relevant provisions include:

Article 2.2 provides a definition for what shall be regarded as ‘lawful processing’

- the data subject must have given consent to the processing of such data or the processing is necessary for the performance of a contract, or compliance with the law, protection of vital interests or public interest.

Article 2.3.2 emphasises that the Data Controller is under obligation to ensure that the consent of a Data Subject has been obtained without fraud, coercion or undue influence.

Article 2.9 is progressive in its affirmation of the right to privacy of the data subject. It says, “Notwithstanding anything to the contrary in this Regulation, the privacy right of a Data Subject shall be interpreted for the purpose of advancing and never for the purpose of restricting the safeguards Data Subject is entitled to under any data protection instrument made in furtherance of fundamental rights and the Nigerian laws.”



Noteworthy is also Article 3.1.7 which elaborates on what a Data Controller must provide to the Data Subject prior to collecting personal data.

Article 3.1.9 then states that the Data Subject has the right to request the Controller to delete personal data without delay in certain circumstances such as when said Data Subject is withdrawing their consent. This provision, in application to NCII distribution, is progressive because it potentially covers even situations where the victim initially gave consent to the capturing or even sharing of the image but decides that such consent needs to be withdrawn. In such a scenario, the 'data controller' would be obligated to halt processing such data, delete the data from public domain platforms on which the data has been posted and take all reasonable steps to inform other Controllers and third parties processing the Personal Data of the Data Subject's request. (see Article 3.1.10).

4.1 Limitations and Opportunities

- **Testing the Law:** There are hardly any other opinions available in the public research domain that suggest that the provisions of the NDPR can be applied to NCII distribution. This also reflects in the fact that there is no known case where the victim has tested this Regulation as an effective path towards justice and seeking remedy.
- **The Practicality of Provisions Applying to Individuals:** Although the Regulation defines 'Data Controller'

and 'Data Administrator' to include individuals, it is evident in some sections and provisions that the practicality of holding an individual responsible may not have been contemplated.

1. **Penalty and Fines for Default:** For instance, Article 2.10.b states that "any person... found to be in breach of the data privacy rights of any data subject shall be liable to... in the case of a Data Controller dealing with less than 10,000 Data Subjects, payment of the fine of 1% of the Annual Gross Revenue of the preceding year or payment of the sum of 2 million Naira, whichever is greater." For a typical case of NCII distribution in Nigeria, it would be difficult to conduct the fiscal comparison as there would be no 'annual gross revenue' to compare against. It is assumed that if a victim pursued this route, the regulator would simply impose the latter fine.
2. **Data Protection Officer:** Article 4.1.2. States that "Every Data Controller shall designate a Data Protection Officer for the purpose of ensuring adherence to this Regulation..." This, obviously, is impractical to expect from data controllers as contemplated under this sub-heading.

5. Child's Rights Act 2003³⁰

The Child's Rights Act (CRA) defines any sexual intercourse, abuse or sexual

For many years, it took rigorous activism and advocacy to get States to domesticate the law as a result of the culture of child marriage. Recently, it was reported that 34 states out of 36 states have now domesticated the law.

exploitation of a child as unlawful even where consent has been obtained from the child. Hence, all sexual exploitation of children is deemed non-consensual and unlawful and the evidence of 'consent' cannot legitimise the act.

The Act also clearly makes it a crime to use a child for the production of pornography or any pornographic performance.

In the event that a child is the subject of an NCII distribution incident, the CRA would be relevant legislation in protecting the interests and rights of the child.

and advocacy to get States to domesticate the law as a result of the culture of child marriage³¹. Recently, it was reported that 34 states out of 36 states have now domesticated the law. However, Human Rights Watch reports that despite the domestication of the law, child marriage, which involves the sexual exploitation of minors, still remains rampant in the country. All of this is relevant in the conversation on NCII distribution because the same principles, values and cultural ideologies that affect the protection of minors from sexual abuse and exploitation would likely come to play in the protection against digital sexual exploitation of minors.

5.1 Limitations and Opportunities

The Reality of Defining 'Child' in Nigeria:

The CRA defines a minor as one who has not attained the age of majority and it sets the age of majority at 18 years. However, by the nature of this law, each state is authorised to domesticate the Act in order to make it enforceable within its territory. For many years, it took rigorous activism

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SabiLaw, "11 States That Do Not Protect Children in Nigeria" <https://sabilaw.org/11-states-that-do-not-protect-children-in-nigeria/>

Judicial Response to Non-Consensual Intimate Image Distribution

There are few reported court cases in Nigeria on non-consensual intimate image distribution.

Attorney General of the Federation v. Ayan Olubunmi³²

In 2017, Monica Asari informed her then-lover, Ayan Olubunmi, that she was no longer interested in a relationship with him. Upon that information, he threatened to post her nude pictures on social media. After pleading with him not to carry out his threats, he demanded a sum of N200,000 to rescind his decision. When she could not pay him, he went ahead to post the pictures. Ms. Asari then made a complaint to the police upon which a criminal charge under Section 24 of the Cybercrimes Act was brought against the accused.

In delivering his judgement, Judge Taiwo Taiwo described the crime as disgraceful, despicable and barbaric. He then sentenced Ayan Olubunmi to 2 years

imprisonment with a fine of N500,000 (\$1,125 USD). The judge made it clear that he had been lenient with the convict because Section 24 actually stipulates a N7,000,000 fine (about \$14,000 USD)

The Judge made a recommendation to the legislature concerning the non-consensual distribution of intimate images. He noted that Section 24 issues a seven million naira fine but provides no compensation for the victim. He recommended that lawmakers make an amendment to cater to the victim.

He then went ahead to warn the general public thus, "under no circumstance must Monica Asare or any of her families and relatives be harassed by anyone. I, therefore, charge the police to arrest anyone found to harass Monica or any of her relatives or families and friends"³³

Amuchienwa v. Ohakim³⁴

In 2020, a woman named Chinyere

³² FHC/AD/17c/2017

³³ Akinkuolie (2018) "Man jailed for posting nude pictures of ex-lover" <https://www.thehopenewspaper.com/man-jailed-for-posting-nude-pictures-of-ex-lover/>

³⁴ (Unreported) Sahara Reporters (2021), "Revenge Porn: Former Mistress Of Ex-Imo Governor, Ohakim Arraigned In Abuja Court, Granted Bail" <https://saharareporters.com/2021/07/22/revenge-porn-former-mistress-ex-imo-governor-ohakim-arraigned-abuja-court-granted-bail>

Amuchienwa made a petition to the Inspector General of Police accusing a politician and former governor of Imo State, Ikedi Ohakim of a number of offences including harassment and threatening to release her nude photos. On the strength of that petition, Ohakim was charged to court by the police and the offence was charged under Section 24 of the Cybercrime Act.

During the course of the case, the Police applied to withdraw the charges against the ex-governor but around the same time, the Attorney-General of the Federation and the Minister of Justice applied to take over the case. After the takeover, the office of the Attorney-General of the Federation sent a letter to the Court to withdraw the charges. The court granted the application to discontinue the charges and so struck out the cases. The implication of the court striking out the case is almost as though the case never happened; Amuchienwa can no longer continue or reinstate the case.

But that was not the end. After the case was struck out, the police turned around and arrested and detained Ms. Amuchienwa for "furnishing police authorities with false information" in her petition against the ex-governor. At the writing of the report, Ms. Amuchienwa is now facing criminal charges and although was granted bail, she is not allowed to travel without the court's permission. Her brief is now being handled by a seasoned Nigerian human rights lawyer, Femi Falana, SAN.

The above case is the closest available to a judicial 'response' to an accusation of non-consensual intimate image distribution.

According to women's rights defender and

founder of StandToEndRape, Oluwaseun Osowobi, "We provide access to justice but this doesn't end in the court of law... Working with the Nigerian justice system is complicated and delicate. The processes are slow, cumbersome, and corrupt in most cases. A trial could last up to three years, making the survivor uninterested in pursuing such cases."

Social Barriers

Social barriers constitute a huge constraint to victims seeking redress for violation of their right to privacy and the non-consensual sharing of their intimate images. There are psychosocial realities based on prevalent and deep-rooted socio-cultural norms within the Nigerian society which strengthen the proliferation of non-consensual intimate image distribution.

These barriers are complex and include, social stigmatization, repugnant gender stereotypes, victim blaming, a pre-existing culture of impunity in relation to violence against women and girls, male peer group influence and support, rape-supportive culture, economical disenfranchisement of women, the equation of masculinity with superiority and equation of femininity with passivity and inferiority, a sense of entitlement towards women's bodies, as well as extreme moralistic views and expectations towards female sexuality.

In the 2011 case³⁵ of a young female student of Abia State University being gang-raped by 5 male students, despite the one-hour-long videotape evidence revealing that the victim kept asking to be

killed as a result of the pain, the Assistant Commissioner of Police still insisted that there were no signs that victim resisted the assault. The victim and her mother were then coerced into renouncing the rape and faced severe social stigmatization³⁶.

Survivors of sexual-related violence in Nigeria are almost never 'forgiven' for it, though they are the victims. Apart from their lack of access to justice from law enforcement or the courts, society makes it harder for them to go on and lead normal lives. They face prolonged ridicule, a loss of reputation, dignity and opportunities, as well as social isolation. Anyone who associates with them (say, by marriage), also risks facing the same harm. Perpetrators of NCII distribution know this and use this to control and blackmail their targets.

For instance, in 2019³⁷, Chris Omostola released a consensually-recorded sex tape of himself and his lover. However, the release was done non-consensually as she reports that he only released it because she decided to quit the relationship. According to him, "now that your pictures and videos are out there, no man would want to look your way again."

These socio-cultural barriers coupled with the half-hearted approach of policymakers and the insufficiency of judicial intervention, embolden perpetrators and dissuade victims from seeking redress.

Snapshot Into Other Jurisdictions

Because of how prevalent and widespread the privacy violations through non-consensual image distribution are, many jurisdictions have responded with laws and interventions to aid access to justice for victims of this violation.

In South Africa, the Films and Publication (Amendment) Act, 2019³⁸, there is an express provision against the non-consensual distribution of intimate images.

Section 18F(1) states, "No person may expose, through any medium, including the internet and social media, a private sexual photograph or film if the disclosure is made without the consent of the individual or individuals who appear in the photograph or film; and with the intention of causing that individual harm.

(3) The prohibition referred to in subsection (1) shall apply notwithstanding that the individual who appears in the photograph or film might have consented to the original creation of such photograph or film (5) For the purposes of this section a photograph or film is 'sexual such photograph or film— (a) it shows all or part of an individual's exposed female breasts, anus, genitals or pubic area; (b) it shows something that a reasonable person would consider to be sexual because of its nature; or (c) its content, taken as a whole, is such that a reasonable person would consider it to be sexual.'

36 Sahara Reporter (2011) "Abia Univeristy Gang Rape Scandal: Abia Government Lies Exposed, Crime Scene Identified" <https://saharareporters.com/2011/09/23/abia-university-gang-rape-scandal-abia-government-lies-exposed-crime-scene-identified-%E2%80%A8>

37 Punch (2019) "Tamara and I had more than 10 sex tapes, Pastor Omatsola claims" <https://punchng.com/tamara-and-i-had-more-than-10-sex-tapes-pastor-omatsola-claims/>

38 Films and Publication (Amendment) Act, 2019 https://www.gov.za/sites/default/files/gcis_document/201910/42743gon1292.pdf

A person found guilty is liable to pay a fine between R150,000 and R300,000 or even face jail time up to four years.

It is commendable that the Act recognizes the internet and social media and does not leave the interpretation of whether its provisions apply to cyberspace, up for debate. Additionally, it explicitly protects women as it mentions 'female breasts, anus, genitals or pubic area.'

In Canada, Section 162 of the Criminal Code³⁹ states that 'Everyone who knowingly publishes, distributes, transmits, sells, makes available or advertises an intimate image of a person knowing that the person depicted in the image did not give their consent to that conduct, or being reckless as to whether or not that person gave their consent to that conduct, is guilty (a) of an indictable offence and liable to imprisonment for a term of not more than five years; or (b) of an offence punishable on summary conviction.' The Act goes on to define what intimate image means.

The United States of America on the other hand does not have a federal law criminalising non-consensual pornography.

However, 48 States including the District of Columbia and 2 Territories⁴⁰ have created legislation for protecting victims of non-consensual intimate image distribution.

In England and Wales, Section 33 of the Criminal Justice and Courts Act 2015⁴¹, expressly states that "It is an offence for a person to disclose a private sexual photograph or film if the disclosure is made— (a) without the consent of an individual who appears in the photograph or film, and (b) with the intention of causing that individual distress."

The United Kingdom is currently considering an Online Safety Bill which will generally vest a duty of care on providers of online user-to-user services with links to the United Kingdom. The bill lists non-consensual pornography as criminalised in the Criminal Justice and Courts Act as a priority offence. Human Rights experts have however published reservations and recommendations on different aspects of the Bill. (See recommendations from Article 19⁴², Center for Strategic & International Studies⁴³, The Times⁴⁴ and the Guardian⁴⁵) Perhaps noteworthy among the criticisms was the provision that mandated larger

39 Criminal Code <https://laws-lois.justice.gc.ca/eng/acts/c-46/page-23.html#h-118363>

40 CyberCivilRights <https://cybercivilrights.org/existing-laws/>

41 Criminal Justice and Courts Act, 2015 <https://www.legislation.gov.uk/ukpga/2015/2/section/33/enacted>

42 Article 19 (2022) "<https://www.article19.org/resources/uk-online-safety-bill-serious-threat-to-human-rights-online/>" (Available at <https://www.article19.org/resources/uk-online-safety-bill-serious-threat-to-human-rights-online/>) Accessed 11 November 2022.

43 Center for Strategic & International Studies, <https://www.csis.org/analysis/united-kingdoms-online-safety-bill-ex-poses-disinformation-divide>

44 Drury & Hayes (2021), "The online harms bill misses the point" https://www.thetimes.co.uk/article/the-online-harms-bill-misses-the-point-8ndp305c5?gclid=Cj0KCQiAgribBhDkARIsAASA5bshrwsmmD4MN3kyvOfTpLDT3Y1vhzGVz42KHlxHao77GT-5KQ7c6EcaAqJOEALw_wcB

45 Hern & Milmo (2021), The Guardian, "Flawed online safety bill is disaster for free speech, claim Tories" <https://www.theguardian.com/technology/2022/jul/13/online-safety-bill-tories-free-speech-david-davis>



The United Kingdom is currently considering an Online Safety Bill which will generally vest a duty of care on providers of online user-to-user services with links to the United Kingdom. The bill lists non-consensual pornography as criminalised in the Criminal Justice and Courts Act as a priority offence.

platforms to address certain categories of “legal but harmful” content which would be determined by the Secretary of State for Digital, Culture, Media and Sport (DCMS), in consultation with Ofcom and Parliament through secondary legislation. The ambiguity of this provision was potentially injurious to other rights such as the freedom of expression and the government

listened to the concerns raised by right activists by vouching that “any incentives for social media firms to over-remove people’s legal online content will be taken out of the Online Safety Bill... [and that] the Bill will no longer define specific types of legal content that companies must address⁴⁶” (see an overview of other changes to the Bill)

⁴⁶ Tech Crunch, 2022, UK confirms removal of Online Safety Bill's 'legal but harmful' clause Accessible at https://techcrunch.com/2022/11/29/uk-online-safety-bill-legal-but-harmful-edit/?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xLmNvbS8&guce_referrer_sig=AQAAAI0x9-BvQqpPoKaERXkTsZEyYis_idciG0qNLk6P0nrmZuLCff9YNd1_rvwxlDDcsltd1Ehh8_3YnGejLJ1cXpP3VSnaEByxq6wdqcL7qcmLAWRmxe15zEJESSsFP3lgeXnnUjg3Eq3N2yYUjVF1X35J0KcnS_dUR-27Ay9PL_L



Copyright-Based Approach To Remedy?

As earlier indicated, one of the major loopholes in available paths to justice is the dearth of actual remedies/compensation to victims. The criminalisation of non-consensual distribution of intimate images typically results in a long-drawn court battle with the victim acting as a key witness and (in rare cases), criminal fines being meted against the convict. There are no real remedies, damages or compensation for the victim.

Some scholars have proposed that perhaps, the conversations about seeking justice for victims would be more effective if focus was given to utilising the laws of intellectual property in such cases. In its most simple form, copyright vests and protects the creator of a work from third-party unauthorised exploitation. That is, copyright recognizes that authors of works must have exclusive rights to use the work however they choose - for economic or moral purposes, and should also have the right to control the use of such work. Photographs and videos fall under protected work in the Nigerian Copyright Act⁴⁷. In the case of photographs, an author is deemed as the person who took the photograph while for a 'cinematograph film',

is someone by whom the arrangements for the making of the film were made, unless the parties to the making of the film provide otherwise by contract between themselves.

Hence, for the non-consensual distribution of intimate images that were taken by the victim, it follows to reason that a case in copyright can be brought against the violator and damages can be sought for personal harm. This might be an incentive for victims to brave the social and legal barriers and pursue a case as the potential end result of such a case could offer tangible remedies. The obvious loopholes to this might be the cost of litigation as well as evidence of authorship.

Furthermore, this solution is restricted only to cases as described in the above paragraph. Women who are victims of upskirting or even photoshopping and image manipulation may be restricted to criminal laws or Section 37 of the 1999 Constitution which provides for the fundamental right to privacy.

However, victims whose images fall under this category may be able to take

advantage of the copyright laws of Nigeria, although the Nigerian copyright laws are also nowhere near being effective in offering real compensation to victims yet.

The Role of Internet Intermediaries

Perhaps internet intermediaries have some of the most significant roles in terms of offering real and tangible justice to victims of NCII distribution. For many victims, the biggest problems evolve away from the initial sharing of the image, to the virilization of such content and the deluge of shaming, abuse and loss of reputation that follows from the spread of their intimate images online. For many of them, the abuse is multiplied on the internet and often long-term.

Therefore, internet intermediaries such as social media platforms, telecommunications providers, network hosts and search engines actually constitute the front-line defenders of the right to privacy and protection of victims. These Intermediaries have the technical capacity to reduce and mitigate the damage done, whether by disabling accounts or reducing visibility by de-indexing the file. On the one hand, internet intermediaries may argue that they serve as non-interloping third parties. Recent government-intermediary relations however demonstrate that this position of complete neutrality is no longer feasible. Internet intermediaries are important and play an active role in

building or maintaining a rights-respecting cyberspace and protecting the most vulnerable of its users. Under the current Nigerian Copyright regime, there are no safe harbour provisions for intermediaries however, the recently proposed Copyrights Bill is reported⁴⁸ to contain safe harbour provisions which stipulate circumstances where an intermediary can be deemed to have immunity from liability emerging from user-generated or third-party content.

Hence, all internet intermediaries must review their platform policies and adequately communicate strict intolerance for the non-consensual sharing or distribution of intimate images. The responsibility of users must be emphasised and clearly communicated, as well as the consequences of violation. The creation of these policies needs to be carried out with proper insights and human rights impact assessment to ensure that the same pitfalls observed in existing policies and laws are not replicated; where one right is potentially violated in the protection of another.

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Presentation by AnadELaw to NJI Accessible at <https://nji.gov.ng/wp-content/uploads/2019/03/Intermediary-Liability-of-Companies-in-the-Internet-NJI-Refresher-Course-March-11-2019.pdf>

Recommendations

1. Engagement with Internet

Intermediaries: As identified by this paper, internet intermediaries are major stakeholders in the protection of women and girls online from the non-consensual distribution of their intimate images, and efforts at legislative or other forms of intervention need to take this into cognisance. Internet intermediaries and digital platforms must also improve their existing policies and invest more in moderation to ensure protection of and support for women and girls, such that they are no longer disproportionately targeted with violence online with little to no consequence to the perpetrators.

2. Enforcement of Existing

Laws: Existing laws, though not comprehensive enough, may offer, in the interim, some level of justice to victims through enforcement and if gaps in such legislation are addressed through regulations, guidelines and/or amendments. The utilisation and enforcement of existing laws will strengthen the jurisprudence of the subject matter and offer victims and advocates more resources to advance access to justice. However, to the degree that there continues to be inconsistent implementation due to weak institutions and poor law enforcement responses, even new laws

will still fail to adequately protect victims and support them to access justice.

3. Incentivize Reportage: This report identifies that a lack of a clear reporting mechanism, as well as cultural and psychosocial factors, constitute a major barrier to reporting for victims. We need training for our law enforcement officers so they can respond appropriately and avoid 're-victimization' of survivors, working in a survivor-centred way when these crimes take place and making the reporting process easier and smoother, and access to justice less cumbersome.

4. Public Education: There is a dire need for public enlightenment on the subject matter; of laws and provisions for justice and of the criminality of online gender-based violence broadly, and privacy-related online violence more specifically. All stakeholders including, government, civil society and the press need to work together to deliver an intentional communication plan with the aim to influence actors into prioritising support and protection of women and girls, and ensuring that online violence and abuse against women and girls is no longer normalised.

- 5. Amendment of Relevant Laws:** As discussed, policies and legislations with inherent problems such as Section 24 of the Cybercrime Act and the Draft Code for Internet Intermediaries, or laws that need to be updated to fit current realities. Other laws with the potential to address the issues and which must receive attention from relevant legislative bodies and regulators include the Violence Against Persons (Prohibition) Act and the Copyright Act. Amendments or updates to laws for the purpose of online safety and security must be carried out through an open, consultative and transparent process involving all relevant stakeholders and through a rights-based approach centring on the safety and security of users, and not merely the security of states and systems only.
- 6. Punishments & Remedies:** While this recommendation still falls under (5) above, it is important to distinctively highlight that a major amendment must be to ensure that the punishments or legal consequences faced by offenders and the remedies or redress available to the victims are proportionate, both to serve as a deterrent and to be considered as being in consonant with the extent of damage intended and caused to victims of NCII sharing abuse. Consequences must be proportionate with the severity of an offence and the remedies must be robust and impactful enough to offer much-desired remedies, including such remedies like the 'de-indexing' of content shared in NCII sharing abuse.

There is a dire need for public enlightenment on the subject matter; of laws and provisions for justice and of the criminality of online gender-based violence broadly, and privacy-related online violence more specifically.

Conclusion

The purpose of this report has been to analyse access to justice for the distribution of non-consensual intimate image {NCII} sharing online, as a manifestation of online gender-based violence in Nigeria.

Online violence against women and girls in Nigeria has been described as a continuum of offline realities, with patriarchal norms and discrimination against the vulnerable preventing many women and girls from actively taking part in public life. Although both men and women can be victims of online violence, online violence is not a gender-neutral crime. In the majority of cases, non-consensual intimate image sharing abuse is gender-based, mainly targeting women and girls.

In the pandemic and post-pandemic contexts, as the presence of digital technologies in our lives become more pervasive and impactful and as bridging the gender digital divide and connecting the unconnected becomes more urgent and imperative, online gender-based violence continues to silence Nigerian women, limiting their right to express themselves freely, deterring them from digital participation in social and political contexts, and forcing them to withdraw from the internet and to socially isolate.

In summary, women and girls face huge socio-economic and legal barriers to reporting online gender-based violence and accessing justice in Nigeria including the fear of being shamed, blamed and revictimized, fear of discrimination and

humiliation, fear of further violence from the aggressor, absence of clear reporting mechanisms, ignorance about legal protections, cost of legal resources, and just a deep distrust of the justice system amongst others. We have also discussed some of the most relevant Nigerian regulations applicable to cases of NCII including those that deal with violation of privacy and the copyrights law, and their limitations.

In seeking to address the restrictions in current legislative landscape to address cases of NCII, the justice systems must recognise that the most affected by NCII are women and the approach to justice needs to take into account their needs and experiences as well as the socio-economic and cultural barriers they face in terms of access to justice and the full exercise of their rights. Comprehensive legislation will not be restricted to criminalisation of online gender-based violence broadly or even NCII in particular, but will also address prevention, protection and redress for victims, while also including public policies and programs which broadly engender gender equality and women's empowerment.

The 'Analysing Access to Justice for the Distribution of Non-Consensual Intimate Image {NCII} Online in Nigeria' report is online at <https://www.techsocietal.org/>

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TechSocietal is a Nigerian-based non-profit organization focused on reducing digital inequalities and contributing to empowering digital access and use especially for vulnerable groups, by advancing safety, inclusion and rights online. We educate communities, engage and inform policy and foster networks to advance online safety and inclusive digital participation, especially for women, youth and children.

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