



Image Based Sexual Abuse: A Multilateral Comparison



Image Based Sexual Abuse: Abuse experienced predominantly by women arising from the non- consensual creation and/or distribution of private sexual images.

(Beyond "Revenge Porn": continuum of image-based sexual abuse, 2017, McGlynn, Rackley and Houghton <https://link.springer.com/article/10.1007/s10691-017-9343-2>)



What kind of images are covered by the law?

Broad definition of images that are covered



Narrow definition of images that excludes some survivors

- England and Wales:** In England and Wales, the law requires the images that are shared to be "private and sexual" and images that have been altered are not included in the law. Voyeurism offences are limited to places where there is a "reasonable expectation of privacy"; this means that recordings of rapes or sexual assaults are not covered by this law.
- Scotland:** In Scotland, images are considered intimate if the people in them are taking part in an act that would normally be considered sexual, or if it is something that is not ordinarily done in public & the law also specifically excludes images which were taken in a space that members of the public can access.
- Republic of Ireland:** In Ireland, an image is intimate if it shows a person's genitals, buttocks or a woman's breasts (this excludes transgender individuals), the image shows underwear covering those body parts, a naked person or a person engaged in sexual activity of any form. Irish law protects against the distribution of altered images and videos, such as deepfakes.
- Canada:** The Canadian definition of an intimate image is broad, and it covers the re-distribution of images that were initially shared by others; however, it does not include altered images.
- Germany:** In Germany, the law covers any image which shows the person in a "highly private" state, helpless or dead as well as naked people, and people in private or protected spaces.

Are there requirements for the perpetrator's intentions?

No Intention Requirements



Strict intention requirements for conviction

- Germany & Canada:** In both Germany and Canada, the reasons why someone shares intimate images of others are irrelevant. If the image has been shared without consent, the perpetrator is guilty of the offence.
- Republic of Ireland:** Ireland has two separate offences; if there was intent to cause harm by the perpetrator, they are guilty of a more serious offence than people who shared an image without the intent to cause harm.
- England and Wales:** English and Welsh law requires proof that the perpetrator intended to cause distress to the victim-survivor for disclosure offences, and threats to share must include view to gain or intention to create loss to the victim.
- Scotland:** In Scotland there is also a requirement for intent to cause fear, alarm or distress to the victim survivor.



Does the law protect from threats to share?

Threats to share are covered by criminal law in the act itself



There is no protection against threats to share

- England and Wales:** Threats to share the images are covered by the Domestic Abuse Act 2021.
- Scotland, Republic of Ireland & Canada:** All three countries have laws which protect against threats to share the images in their criminal law.
- Germany:** In Germany, threats to share images fall under blackmail.



Is there anonymity for victim-survivors?

Full anonymity for victim-survivors



No anonymity is provided for victim-survivors

- England and Wales:** Anonymity is inconsistent and only given to survivors of voyeurism and upskirting, but not for disclosure offences.
- Ireland:** Anonymity is provided for all victim-survivors, and they cannot be identified.
- Canada & Scotland:** Neither country provide any form of anonymity and identity protection for victim-survivors; images can only be removed through civil law.
- Germany:** Germany does not provide anonymity. However, the criminal law requires all copies of images, as well as any hardware used to create or store the images to be handed over to the state.



Is there a statutory definition of consent?

Clear statutory definition of consent in the Act



No definition of consent

- England and Wales, Ireland, Canada & Germany:** None of these countries defined consent in their criminal legislation.
- Scotland:** The Scottish law includes a clear definition of how consent must be given and which images it applies to.

Links to legislation:

Canada: https://laws-lois.justice.gc.ca/eng/annualstatutes/2014_31/page-1.html#h-2
 Germany: https://www.gesetze-im-internet.de/stgb/_201a.html
 Ireland: <http://www.irishstatutebook.ie/eli/2020/act/32/enacted/en/print#sec3>
 Scotland: <https://www.legislation.gov.uk/asp/2016/22/section/3>
 England & Wales: <https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11isxou24uy7q/uploads/2021/02/Intimate-image-abuse-consultation-paper.pdf>

Support is available here:

Speak to the police to report the abuse if you can!
 Revenge Porn Helpline: <https://revengepornhelpline.org.uk>
 Tel: 03456000459
 E-Mail: help@revengepornhelpline.org.uk
 UK Safer Internet Centre: <https://www.saferinternet.org.uk>
 Report Harmful Content: <https://reportharmfulcontent.com/?lang=en>
 Women's Aid: <https://www.womensaid.org.uk/>
 Rape crisis: <https://rapecrisis.org.uk/>
 Victims of Internet crime: <https://voic.org.uk/>

Sophia Hoeckle:
sophia.hoeckle.2019@live.rhul.ac.uk
 With supervision of Aislinn O'Connell:
aislinn.oconnell@rhul.ac.uk

