

Online abuse in a gendered perspective.

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The Scandinavian Research Council for Criminology Research Seminar

9 May 2019

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Warning: This will be a negative talk despite the 4th revolution
(sorry)

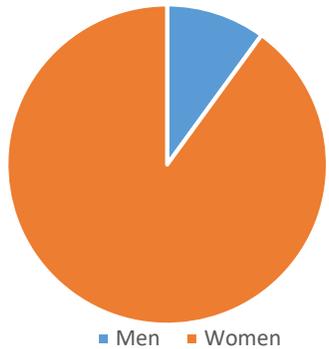


Vision

Cyberspace “... a place where anyone, anywhere may express his or her beliefs, no matter how singular, without fear of being coerced into silence or conformity.”
- Declaration of Independence in Cyberspace 1996

Women disproportionately affected by online abuse

Victim of revenge porn (Citron 2013)



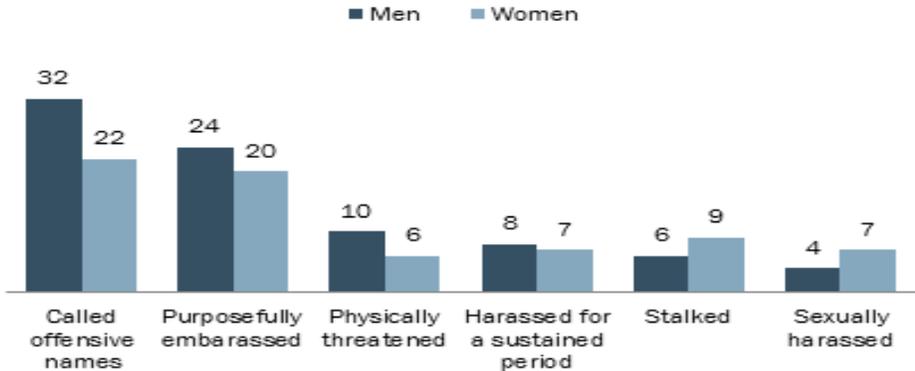
Despite lack of data, EIGE estimates 1 in 10 women over 15 in Europe have experience cyber-violence. (EIGE, 2017.)

EIGE warns cyber-violence is an extension of offline violence

Women **27** times more likely to be abused online than men
Men more likely to be online harassers (61%).
UN Women Broadband Commission (2015)

Men and women experience different varieties of online harassment

Among all internet users, the % who have experienced each of the following elements of online harassment, by gender...



A wide-angle photograph of a pebble beach. The foreground is filled with smooth, rounded pebbles in shades of brown, tan, and grey. The beach extends to a calm, blue ocean under a clear, bright blue sky. A single seagull is visible on the beach near the water's edge.

The public, the private and
the deep dark corners.

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The public domain

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The public sphere historically a gendered space.
Is Facebook the modern day agora?



**Online Abuse of Feminists
as An Emerging form of
Violence Against Women
and Girls (Lewis, Rope,
Viper, 2016).**



Indications of women not participating in the democratic discourse

70% of Swedish female public commentators self-censoring

“Women that participate in the public debate are particularly vulnerable to online hate, not least sexism banter, threats of sexual violence – in a way that is limiting the room for women in the public sphere and thus, to participate in the democratic discourse”
(NIKK, 2017)

58% of women stay away from participating in the online debate due to the harsh tone in the debate.
(DIHR, 2016)

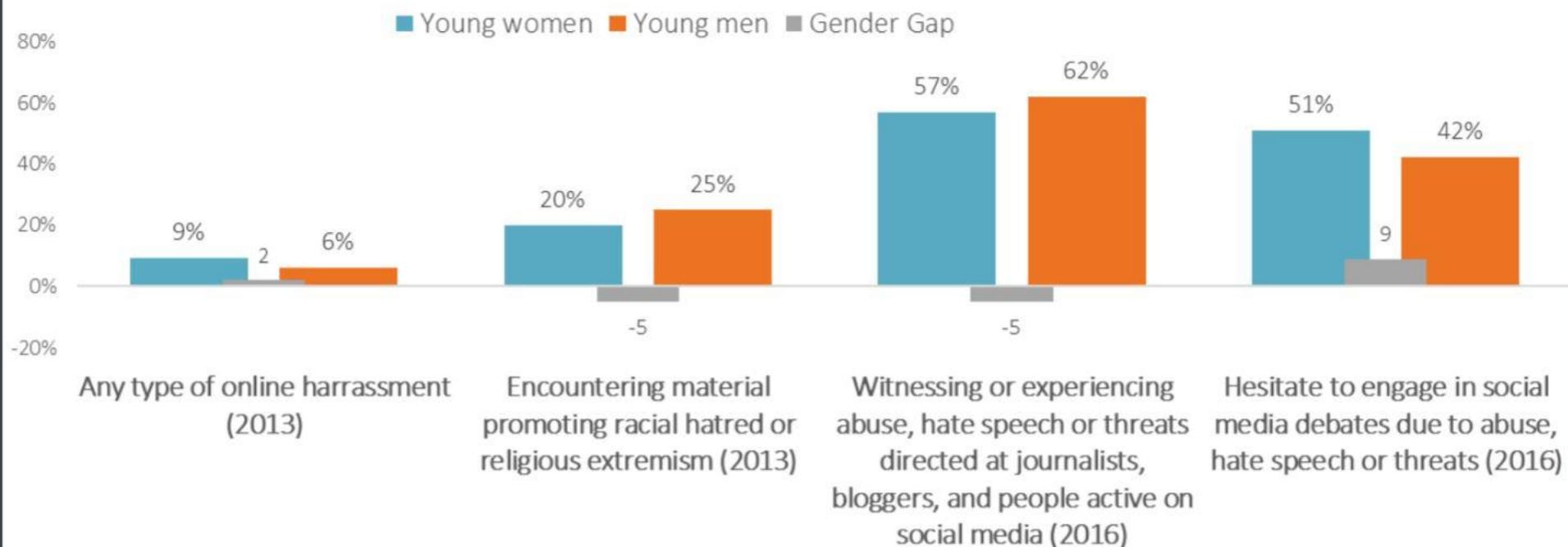
“Publicly voiced stigmatising, derogatory, offensive, harassing and threatening statements that are directed at an individual or a group based on the individual’s or group’s gender, ethnicity, religion, disabilities, sexual orientation, age, political beliefs or social status.”



The screenshot shows the Council of Europe website. The header includes the Council of Europe logo and navigation links: Home, News, At a glance, Gender Equality Strategy, Themes, Gender Equality Bodies, Events, and Co-operation. The breadcrumb trail reads: You are here: Democracy > Gender Equality > Themes > Gender Stereotypes and Sexism. The main heading is "Combating Sexist Hate Speech". Below the heading is a paragraph: "Sexist hate speech is a daily phenomenon for many women that is only beginning to be addressed. It requires both legal remedies and action to combat gender stereotypes." To the left of this text is a vertical stack of social media sharing icons: Twitter, Facebook, Google+, Pinterest, LinkedIn, and Email. Below the paragraph is a photograph of a group of people, with a caption: "Sexist hate speech relates to expressions which spread, incite, promote or justify hatred based on sex. Some groups of women are particularly targeted by sexist hate speech (notably young women, women in the media or women politicians), but every woman and girl is a potential target for online and offline sexist hate speech. The increasing availability and use of Internet and social platforms have contributed to growing occurrences of sexist hate speech. The Council of Europe has started to address this issue by looking at the potential use of existing standards and at policies on combating gender stereotypes." Below the photo is a link to a "Background note on sexist hate speech, Council of Europe, (2016)". At the bottom, there are two more links: "Platform to monitor threats against women journalists" and "Factsheet on Combating Sexist Hate Speech".

Abuse or threats impact women's behavior more

Issues encountered on the internet by sex (15-24)



Hat och hot på nätet (Bladini, 2017).

ras, etnicitet, hudfärg	skyddas av samtliga nordiska länders lagstiftning
nationalitet, religion	skyddas av samtliga nordiska länders lagstiftning
sexuell läggning	skyddas av samtliga nordiska länders lagstiftning
funktionshinder	skyddas i Norge och Finland
könsidentitet	skyddas i Finland (implicit), Island (explicit)
kön, ålder, social status	skyddas inte explicit i något av de nordiska länderna (och oklart om implicit i de straffskärpande reglerna)
politisk eller annan åskådning	skyddas inte explicit i något av de nordiska länderna (och oklart om implicit i de straffskärpande reglerna)

Det råder en osäkerhet bland poliser och åklagare angående när och hur bestämmelserna om hatyttringar och hatbrott ska tolkas och tillämpas. Enligt vad denna undersökning kunnat visa finns det inget fall i Norden där en möjlig grund för hatbrott som inte nämns explicit i bestämmelserna om straffskärpning på grund av hatbrottsmotiv har prövats. Det betyder att det i praktiken inte finns något straffrättsligt skydd för andra grupper än dem som explicit nämns i bestämmelserna. Härtill ska nämnas att det ofta föreligger en viss bevisproblematik, eller en viss osäkerhet kring bevisningen vad gäller just motivet. Även i de fall där en av de explicita grunderna prövas är fällande domar sällsynta. I Danmark tycks tillämpningen av bestämmelsen och förekomsten av fällande domar vara mer frekvent än i till exempel i Finland, Island och Sverige.

Samtliga nordiska länder, förutom Island, har hatmotiv som en särskild straffskärpningsgrund. På Island kan det möjligen tolkas in i allmänna regler om försvårande omständigheter. På så sätt kan hatbrott sägas vara kriminaliserat i samtliga nordis-

Land	Hatytringar	Diskriminering	Straffskärpning	Skadestånd/Gottgörelse	Övrigt
Danmark	SL § 266 b		SL § 81 p. 6	EL § 26 (godtgørelse)	
Finland	SL 11:10	SL 11:11	SL 6:5, p. 4	SkL 5:6	
Island	SL § 233 a			EL § 26	
Norge	SL § 185	SL § 186	SL § 77	LS § 3-3	SL § 264
Sverige	BrB 16:8	BrB 16:9	SL 29:2, p. 7	SkL 3:4	BrB 5:5

Vid en komparativ analys av den straff- och skadeståndsrättsliga regleringen i Norden konstateras att hatfulla yttringar har kriminaliserats i samtliga nordiska länder. I norsk rätt rubriceras brottet som *hatefulle ytringer*. Även på Island omtalas brottet som hatyttringar (*hatursáróður*), men det har ingen explicit rubricering. I övriga länder benämns brottet som *hets mot folkgrupp* (Sverige och Finland) eller *diskriminering* (Danmark).

ECHR and online hate

Delfi v. Estonia ([GC] (no. 64569/09, ECHR 2015)

Internet news outlet *Delfi* held liable on civil grounds for a defamatory comment posted on the site by a third party. Speech insinuated to violence.

Magyar Tartalomszolgáltatók Egyesülete (MTE) and Index.hu ZRT v. Hungary (no. 22947/13, ECHR, 2016)

Hungarian Courts in the case had not performed an exercise between the competing rights of freedom of expression as protected under Article 10 and the right to personal integrity as protected under Article 8,

resulting in too strict application of liability of third party comments and constituting a breach of the protection awarded to the applicants under Art.10.

Both findings circumvent Dir. 2000/31/EC -raised on civil defamatory grounds

Fundamental point: For-profit entity that benefits economically from circulation

Does that entail a non-profit has a wider margin?

Pihl v. Sweden (Admissibility decision 74742/14)

A comment claiming the application to be naziposted on a not-for profit website. Findings of national court and ECHR that the comment constituted defamation and consequently fell within the scope of Article 8. A balance between Art. 8 and Art. 10 was struck. Inadmissible application.

*“especially the fact that the comment, although offensive, did not amount to hate speech or incitement to violence and was posted on a small blog run **by a non-profit association** which took it down the day after the applicant’s request and nine days after it had been posted,”*

Höiness v. Norway (no. 43624/14)

“The Court also considers that it is not necessary to examine in depth the nature of the impugned comments, as they in any event did not amount to hate speech or incitement to violence.” No violation.

Toxic Twitter (Amnesty UK 2018) vs. Delfi v. Estonia



- 3.good that[La.'s]initiative has not broken down the lines of the webflamers. Go ahead, guys,[L.]into the oven!
- 4.[littleL.]go and drown yourself
- 5.aha...[I]hardly believe that that happened by accident ...assholes fck
- 6.rascal!!![inRussian]
- 7.What are you whining for, knock this bastard down once and for all[.] In future the other ones...will know what they risk, even they will only have one little life.
- 8....is goddamnright. Lynching, to warn the other [islanders] and would-be men. Then nothing like that will be done again! In any event, [L.] very much deserves that, doesn't he.

Gender and hate online 2-3 November 2017

Sussex University

Policy:

Legislators redefine the scope of hate speech legislation to include gender as a protected characteristic.

Police and the judicial system build on the experience of Nottinghamshire Police by treating misogyny as a form of hate speech, and introduce training for staff and police officers.

Social media platforms ensure their terms and conditions address the gendered reality of abuse, and have clear reporting mechanisms in place for those who suffer sexism and gendered hate online.

Research:

The impact of online misogyny, both on those affected and the [bystander effect](#).

The background of perpetrators, in order to understand where the behaviour stems from.

It's not OK to be harassed because you're a woman



GROPING ME IN A CLUB
CALLING ME A BITCH
ABUSING ME ONLINE
THREATENING TO RAPE ME
FOLLOWING ME HOME

REPORT IT. STOP IT.

Nottinghamshire Police take misogyny hate crime seriously

You can report it:

Emergencies - call 999
Non-emergencies - call 101
Report online - www.report-it.org.uk
(You do not have to give your details)



NOTTINGHAMSHIRE
POLICE



Nottingham
Women's Centre
come on in

Nottingham Women's Centre is a registered charity, no. 1105837

Legislative response on gendered hate speech can shoot to high and miss the target (Kelly, 2016.)



A wide-angle photograph of a pebble beach. The foreground is filled with smooth, rounded pebbles in shades of brown, tan, and grey. The beach extends to a calm, blue ocean under a clear, bright blue sky. A single seagull is visible on the beach near the water's edge.

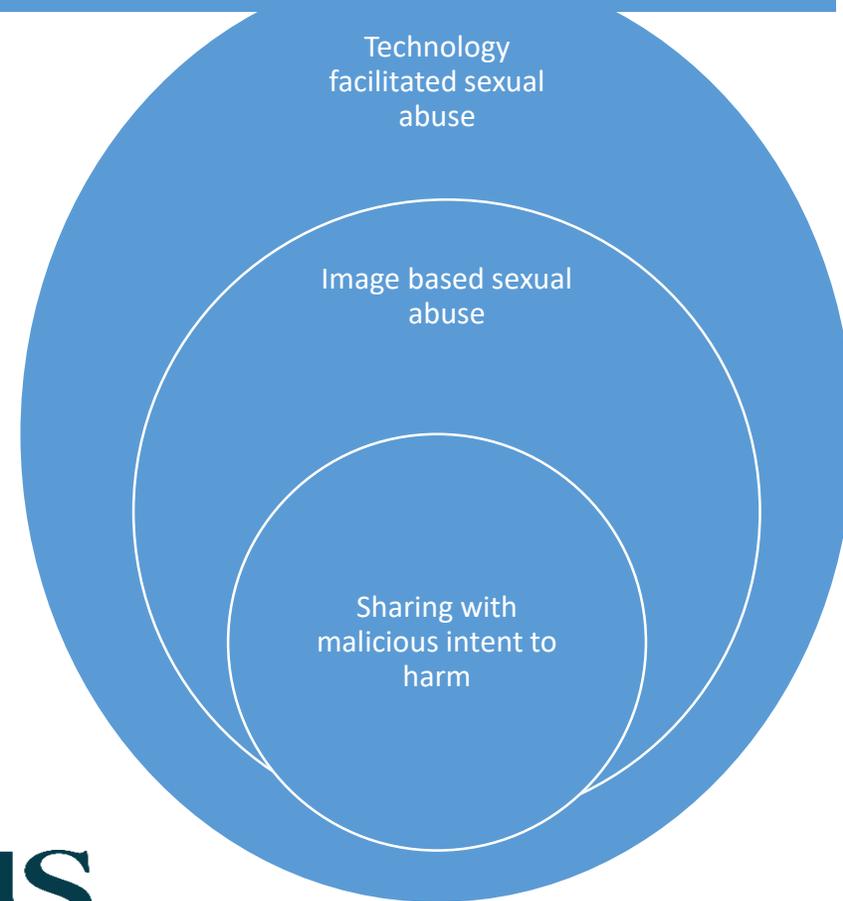
The private domain

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Relationship between technology and privacy

Continuum of sexual violence (McGlynn et. al. 2015.)

When dealing with cases of non-consensual sharing of intimate images, often known as 'revenge porn,' or doxxing, where a person's personal details are shared publicly, **the link between privacy and online-gender-based violence is very clear. Privacy violations are used to oppress women and gender diverse people.** (Privacy International, 2019).



Privacy – historical flaws in equal application



Husbands colonize wives' sentiments and bodies.

John Stuart Mill *The Subjection of Women*.
1869.

The private and public sphere
Workplace sexual harassment

Domestic abuse

(Danielle Citron, 2014.)

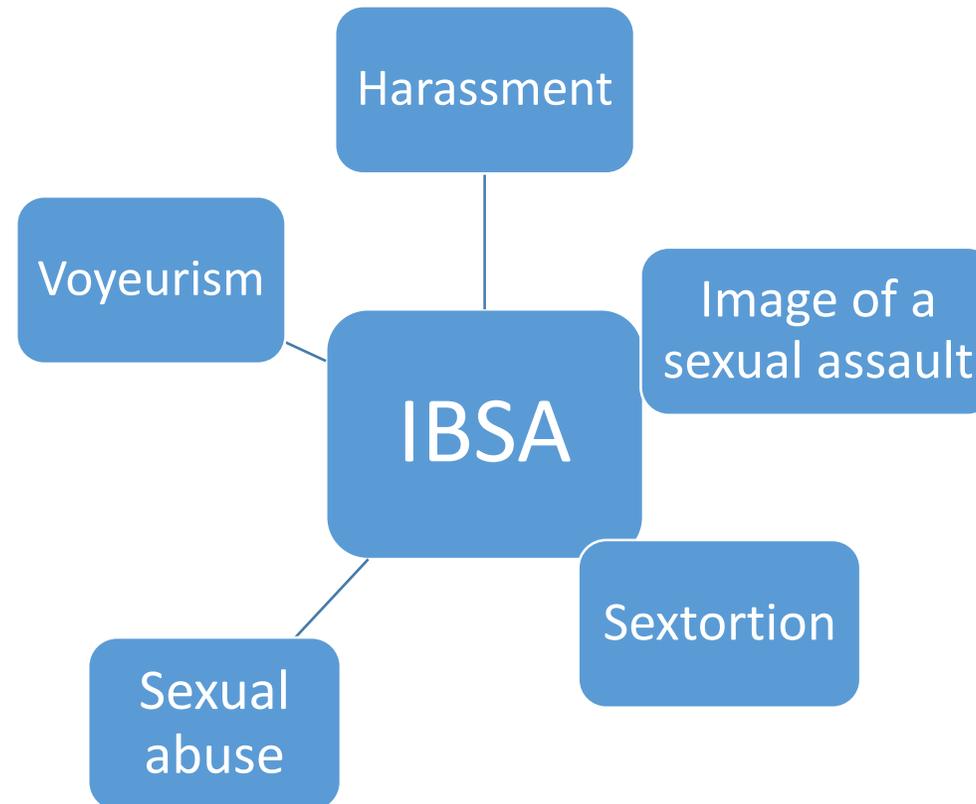
Image based sexual abuse – Sexual privacy

Varied origin

- Hacking
- Deceit
- With consent
- Without consent

Purpose of distribution:

- “Accidental”
- Malicious intent
- Sexual gratification
- Intent to harm
- Intent to destroy lives



Scope – not clear. Context, culture, norms.

Spouses – former spouses

2013 MacAfee USA: 1 out of 10 ex-spouses threaten to expose sexually explicit material online without consent

60% published the material

Children young people

BBC FOI request to UK Parliament 2016. Youngest victims 11 years old.

Young people (15 and under) not making a clear distinction between online and offline persona.(Foresight).

2015 Internet Watch Foundation:

Nude/explicit selfies shared with others, youngest sender deemed 7 years old. 3 months study, 269 cases, 90% distributed further than initial sender intended.

Women

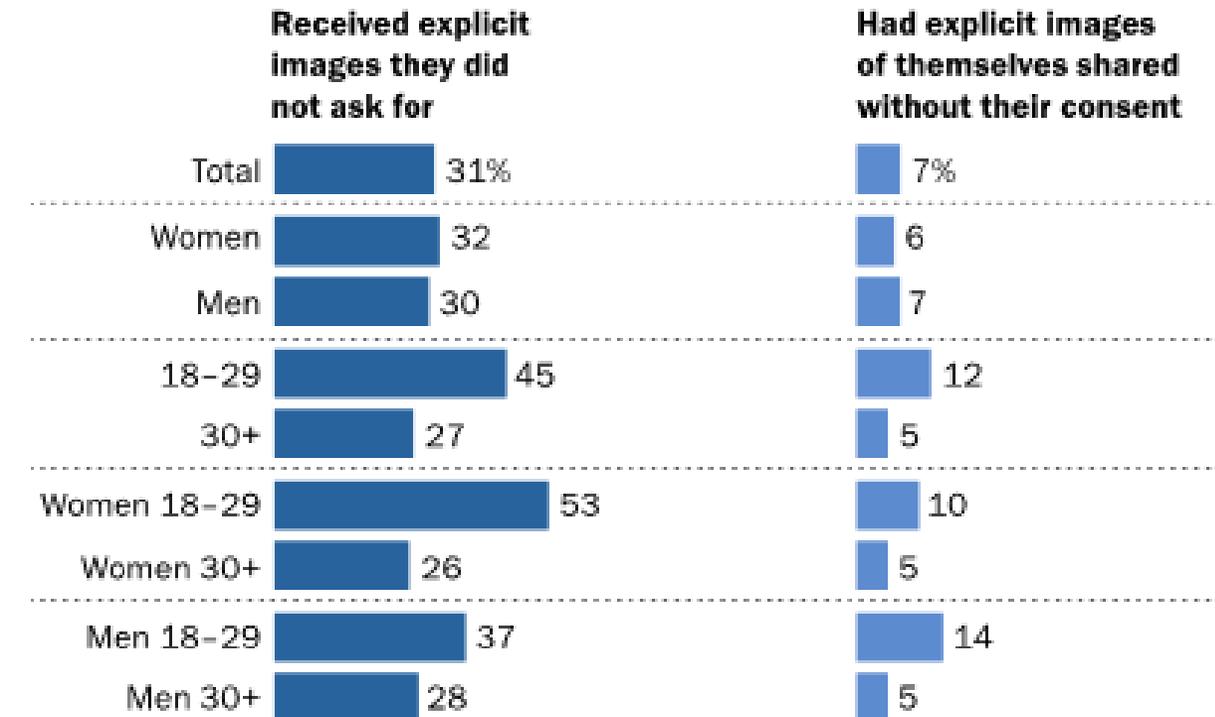
USA 2013 90% victims female

Danielle Citron. 2014. Hate crimes in Cyberspace.



Half of young women have received explicit images they did not ask for

% of U.S. adults who have ever ...



Source: Survey conducted Jan. 9-23, 2017.
"Online Harassment 2017"

PEW RESEARCH CENTER

Nordic research

Kvenréttindafélag Íslands
KUN
Kvinderådet

Ásta Jóhannsdóttir
Mari Helenedatter Aarbakke
Randi Theil Nielsen

Online Violence Against Women in the Nordic Countries

Few seek criminal justice.
Negative experience of the
criminal justice system.
Lack of understanding,
Dismissive attitudes.
Best in Norway, related to hate
training.
Feel the matter is not met with
sufficient seriousness.
Unclear legislation?

What should states do?

Guide to human rights for internet users

states have to ensure that individuals can enjoy their rights effectively and that the obligations of States to respect, protect and promote human rights “include the oversight of private companies.”

Recommendation CM/Rec(2014)6 of the Committee of Ministers to Member States

Special rapporteurs for Freedom of Expression and Violence against Women 8th of March 2017.

- **Called for action from governments**, companies and civil society organisations to tackle online gender-based abuse and violence, emphasising that such action needed to take place with respect to fundamental rights such a freedom of expression.

“The Court reiterates that the expression “prescribed by law” in the second paragraph of Article 10 not only requires that the impugned measure should have a legal basis in domestic law, but also refers to the **quality of the law** in question. The law should be **accessible** to the persons concerned and formulated with sufficient precision to enable them – if need be, with appropriate advice – to **foresee**, to a degree that is reasonable in the circumstances, the **consequences** which a given action may entail”
Olafsson v. Iceland from 16. March 2017.
(Application no. 58493/13).

Positive obligation in an online context – Balancing act between Art. 8 and Art. 10

K.U. v. Finland, (Application no. 2872/02)

*“Object of Art8 is essentially to protect the individual against arbitrary interference by the public authorities in addition [...], there may be **positive obligations inherent in an effective respect for private or family life...**” [that] **“may involve the adoption of measures designed to secure respect for private life even in the sphere of relations of individuals between themselves”***

“Although freedom of expression and confidentiality of communications are primary considerations and users of telecommunications and Internet services must have a guarantee that their own privacy and freedom of expression will be respected,

such guarantee cannot be absolute and must yield on occasion to other legitimate imperatives, such as the prevention of disorder or crime or the protection of the rights and freedoms of others. ...

*it is nonetheless the **task of the legislator to provide the framework for reconciling the various claims which compete for protection in this context ...***



Role of the state to provide a balanced framework

Trend towards legislation - criminal

Israel 2013

- First to define as a sexual crime

40 US states

- Varies between criminal and civil liability
- New York Jan. 2019 (intent to harm)

England and Wales 2015

- Intent to harm. Not a sexual crime.
- “Upskirting” 2019.

Scotland 2017

- Sexual crime.

Sweden 2017

- Upgrade protection of privacy in light of digital reality. Criminal privacy violation.

Denmark 2018

Iceland 2019???

Land	
Danmark	SL § 232 krænkelse av blufærdigheden eller SL 264 d fredskrænkelse
Finland	SL 24:9 ärekränkning eller SL 24:8 kränkning av privatlivets fred
Island	Eventuellt SL § 209 kränkning av anständigheten eller SL 233 b grovt förtal (krävs koppling offer-förövare). Övriga ärekränkingsbrott i SL §§ 234-236 faller inte under allmänt åtal.
Norge	SL 267 Krænkelse av privatlivets fred
Sverige	Eventuellt BrB 5:1 förtal, eller brott mot PuL

Legislative efforts in Denmark and Sweden

Sweden:

Violations of private interests online – police response and readiness. 2015.

2014 – 2016. Broad review of the protection provided by criminal law for individuals' personal privacy, particularly with regard to threats and other violations.

New penalty provision in Penal Code on unlawful violation of privacy. (2017)

Denmark:

Government research paper 2016

Legislative and policy measures 2017

Raise maximum punishment to 4 years in prison.

Massive prevention campaign.

19th Century virtue for 21st Century Privacy?

Art. 209 [Any person who, through lewd conduct, offends people's sense of decency or causes a public scandal, shall be imprisoned for up to 4 years, or [up to 6 months] or fined if the offence is minor.]



Sexual privacy

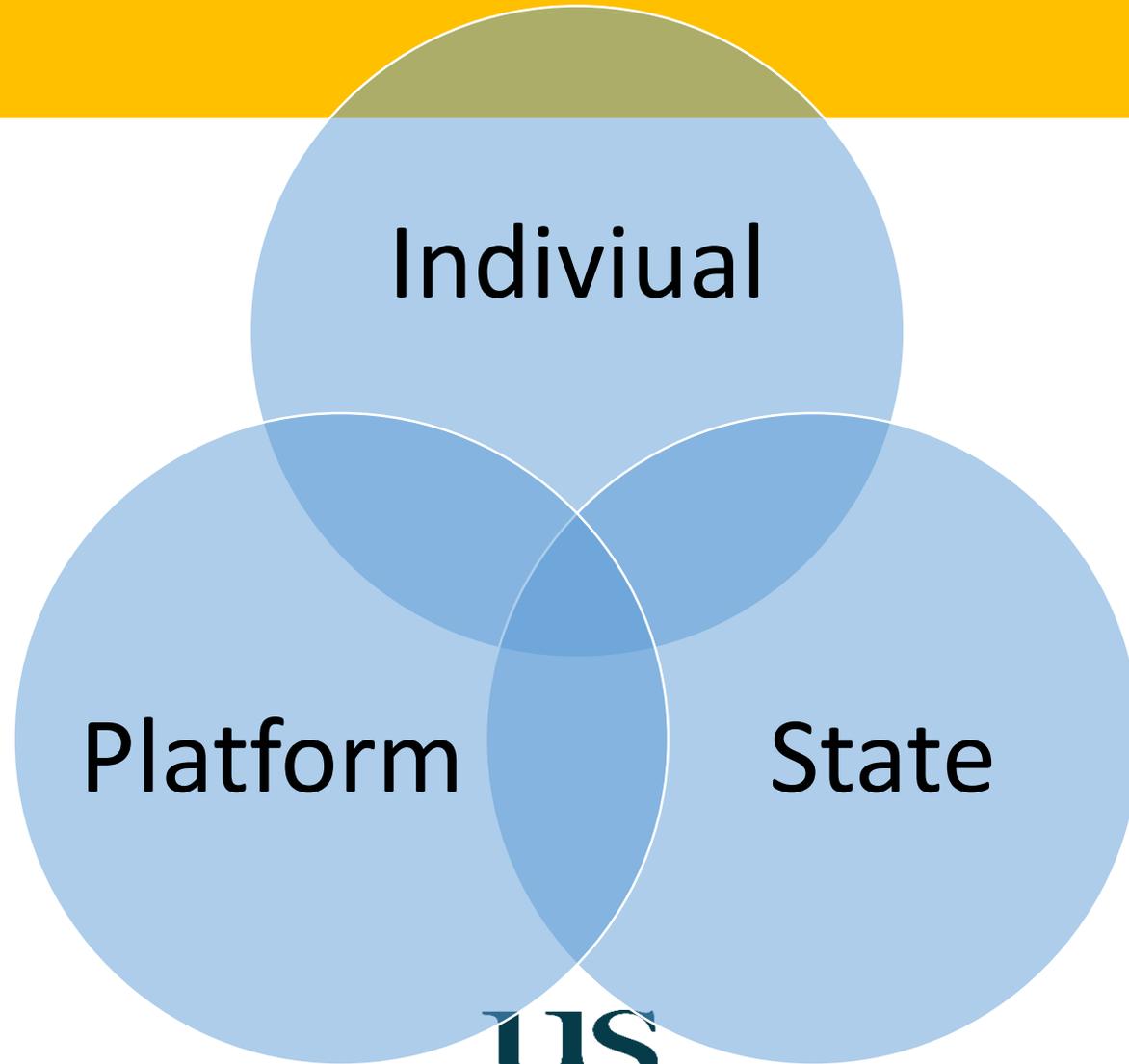
Privacy is foundational for forming thoughts and uttering expressions.

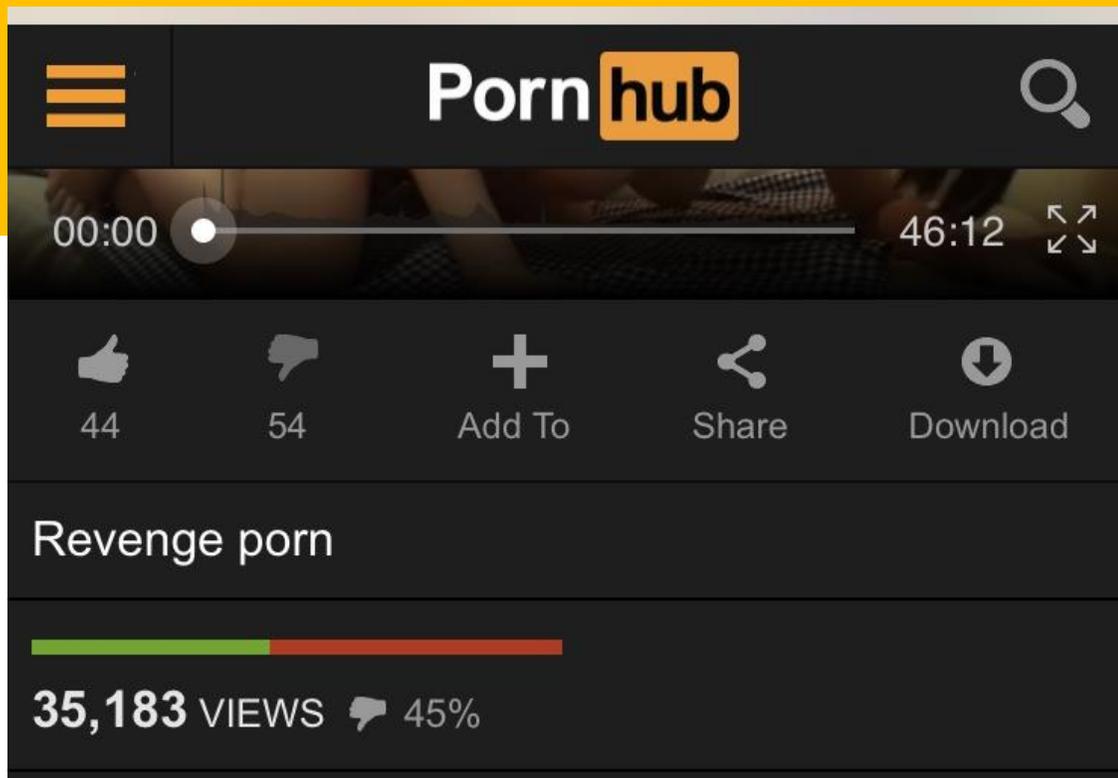
“Important to view the interest at stake, what kind of violations? It is crystal clear to me that this is a violation of a persons privacy, but it is also a sexual violation. This needs protection in both instances.”

Sexual privacy. Confirming that the violation is against the most sensitive rights of all, privacy. (Citron, 2019.)

Experience from other jurisdiction (England and Scotland).

- Framing calls for procedural issues holding victims back from reporting to the police.
- Important to ensure maximum procedural support (**advocacy lawyer**).





14. Adult nudity and sexual activity

We restrict the display of nudity or sexual activity because some people in our community may be sensitive to this type of content. Additionally, we default to removing sexual imagery to prevent the sharing of non-consensual or underage content. Restrictions on the display of sexual activity also apply to digitally created content unless it is posted for educational, humorous or satirical purposes.

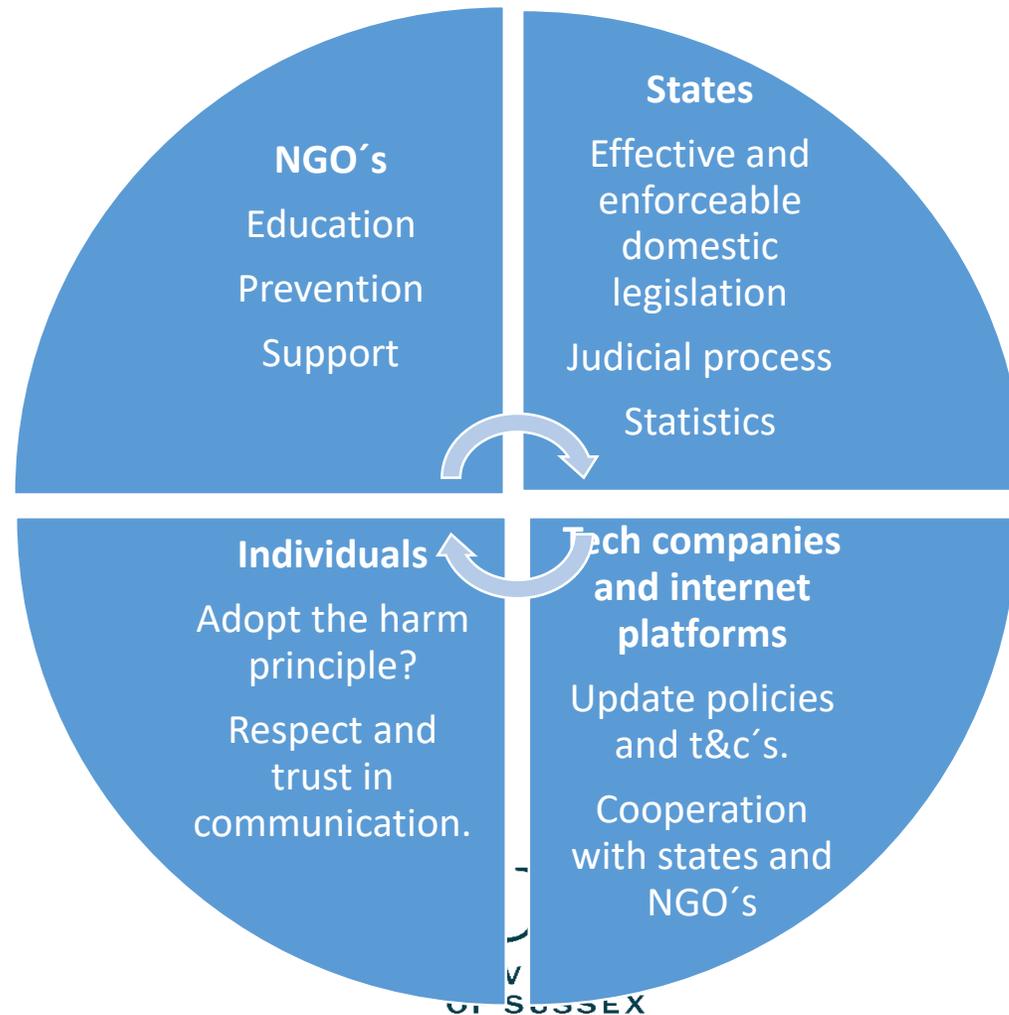
chansluts bringing the camwhores of the world together

About chansluts
 chansluts is a collection of imageboards where **camgirls, camboys, and lurkers** can upload and **share links, images, and videos** (in WEBM). Everyone is free to choose to **post anonymously, or with a desired username** (in the name field), and share their comments and files, and discuss the media. **No registrations required**—not even an email address.

chansluts imageboard index	Camwhores female	tranchan	textchan
Camwhores/Female General	Archive/Girls	Nameless	ASCII Art
Camwhores/Safe For Work	Dolores / Loll-chan / Jezebel	Cross-dressing	Cross-dressing, trapping, etc
reddit /r/gonewild	HeadlessBruise-chan	Traps	Copy-pasta
Tumblr	Kandie	Transsexual and Transgender	Technology
Temple of the Sky Queen	mimi	Camwhores/General	intern3ts
BTSyncs, Downloads, Torrents	Up-chan	Animated GIF	:3
General/BBW	Camwhores male	Self/Tips	Anime
General/Girls	Archive/Boys	male general	Animals
General/Island, Iceland	age	Camwhores/Male General	Dolls
General/Random	Camwhores dunnolol	Camwhores/Ugly	Drawings & Photography
General/Requests	Rina	General/Dongs	Fashion
Archived boards	Archived camwhores female	General/Fetish	Food & Health
Camwhores/Male General	sister chan	Random Faggotry	Infographics / Information
nd's tinypic emporium	Togepi	Alice 'Pooper' Cooper	Random
Planet Pluto	Archived camwhores male		Technology
Magical	InsertPenisForms		Userbars
Wink	PooruVonEvil		Suggestions
	whoreface		

Resources

Draft -Legal and policy response in Iceland.



A scenic view of a rocky beach with a clear blue sky and ocean. The foreground is filled with smooth, rounded stones in shades of brown, orange, and grey. The middle ground shows a wide expanse of pebbles leading to a calm, blue sea. A single seagull is visible on the beach near the water's edge. The sky is a uniform, clear blue.

The deep dark corners – where
potential abuse is brewing.

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Incel culture

The Becky



The Stacy



The modern day Agora?



The public – democratic interest
The private – individual rights
The deep dark corners – norms and
social attitudes

Thank you!

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