

*Cómo citar este texto:*

Vega-Lozada, F. (2021). Inteligencia artificial y ciberviolencia de género: el caso de la pornografía no consentida, *Derecom*, 31, 173-180 , <http://www.derecom.com/derecom/>

## INTELIGENCIA ARTIFICIAL Y CIBERVIOLENCIA DE GÉNERO: EL CASO DE LA PORNOGRAFÍA NO CONSENTIDA

## ARTIFICIAL INTELLIGENCE AND GENDER BASED CYBERVIOLENCE: THE CASE OF NON-CONSENSUAL PORNOGRAPHY

© Fredrick Vega Lozada  
Interamerican University of Puerto Rico  
fvega@intermetro.edu

### Resumen: work in progress

Si la pornovenganza lesiona la dignidad de las personas al basarse en la distribución de imágenes sexuales de una persona sin su consentimiento, las tecnologías que pueden multiplicar este fenómeno causarán un daño aún más irreversible a las víctimas. En sentido contrario tecnologías como deep learning o machine learning podrían ayudar a suprimir las prácticas de pornovenganza. Es un tema nuevo sobre el que la bibliografía es escasa.

### Summary

If revenge porn harms people's dignity by relying on the distribution of sexual images of a person without their consent, technologies that can multiply this phenomenon will cause even more irreversible harm to the victims. On the contrary, technologies such as deep learning or machine learning could help to suppress the practices of revenge porn. It is a new subject on which the bibliography is scarce.

**Palabras clave:** Transparencia. Crisis. Derecho de acceso. Información veraz. TICs.

**Keywords:** Transparency. Crisis. Right to Access information. Truthful information. TICs.

### 1.Introducción:el estado de la cuestión

Recently, Tik Tok revealed the use of Artificial Intelligence to begin a Video Interview program. However, this announcement caused a widespread public distrust.<sup>1</sup> This distrust on AI is the result of continued use of untested or unreliable algorithms in decision-based settings.<sup>2</sup> More than once technology is not tested or not tested thoroughly before use.<sup>3</sup> Sometimes the AI technology public deployment is used as testing for the technology.<sup>4</sup> However there is an

opportunity for AI to improve a fundamental right: the human dignity:<sup>5</sup> *human dignity is inviolable. It must be respected and protected.*<sup>6</sup> This is the shortest of all rights in the European Union Charter of fundamental rights.<sup>7</sup>

For Bieri, it is what makes us humans and points (...) *Dignity is humanity's most prized possession. We experience the loss of dignity as a terrible humiliation: when we lose our dignity, we feel deprived of something without which life no longer seems worth living.*<sup>8</sup> Around the globe, individuals, nations and international institutions embrace and defend the idea embodied in the quotation. There are more than a few accounts of dignity. Dignity is utilized in diverse fields of inquiry.<sup>9</sup>

*Dignity*, in International Law and in human rights documents, faces challenges imposed by the commercial use of the Internet of Things and Artificial Intelligence. One of those challenges is gender-based violence.

Gender-based violence is one of the most denigrating and disparaging vestiges of the human race. Notwithstanding, gender-based violence, especially against women, has a new *élan* with the use of new electronic communication technologies (Puente, Romero & Cupeiro, 2015; Rico, 1996) and it is something that continues to increase.

The European Institute for Gender Equality in its book *Cyberviolence against women and girls* defined one type of gender-based cyberviolence, the so called *non-consensual pornography*.<sup>10</sup> The definition of non-consensual pornography would be the disclosure or threats of disclosure of sexually explicit images or videos of a person without their consent (Citron and Franks, 2014; Franks, 2015). Another term used in the literature of the United Kingdom, New Zealand and Australia is *image-based sexual abuse* (McGlynn & Rackley, 2017) and *non-consensual dissemination of intimate images* (Maddocks, 2018).

It usually occurs after the dissolution of a relationship, as a way to control the victim or *punish* that ex-partner. (Burris, 2014; Stroud, 2014). Originally, the term *revenge porn* was used, but it does not recognize the sexually abusive nature of this act (Maddocks, 2018).

Although non-consensual pornography is not a new phenomenon, in recent years it has increased exponentially (McGlynn and Rackley, 2017; Uhl et al., 2018). As a matter of fact, there are many internet websites dedicated to the pornography business that are completely focused on hosting and facilitating non-consensual pornography (Uhl et al., 2018).

Studies have concluded that the victims of these acts have permanent effects on their mental health (Cecil, 2014; Citron and Franks 2014, Kopf, 2013). This act of non-consensual pornography is the nightmare of thousands of people in the world, which suffer due to the spite of their ex-partner who, without permission, discloses images publicly.

Most of the victims are women and other vulnerable groups, such as the LGBTQ + community (Vaina, 2019). Non-consensual pornography is a harsh lesson that is suffered with surprise, pain, and tears around the world (Rood and Schriener, 2020). No citizen around the globe is exempt (Musoni, 2019) from cases in which the privacy of a person is violated. Some victims have expressed in their legal claims that *it is total denigration* (Goldstein, 2020). The perpetrators, when carrying out these acts, have various intentions, such as: to damage the image of the person or the reputation of *an ex-partner (and / or his current partner)* or to profit from the

images or videos. The United Kingdom was the first country to start the legal discussion on the subject when men began to publish videos or photos of their former female partners on different pornographic portals. Later, this behaviour spread in other countries.

In the past few years a machine learning technique has developed and perpetuated the gender cyberviolence.<sup>11</sup> This is the case of deep fakes technology or the deep learning algorithms, which teach themselves how to solve problems when given large sets of data are used to swap faces in video and digital content to make realistic-looking fake media.<sup>12</sup> Currently the technology is used to harass women and vulnerable communities in such a way.<sup>13</sup>

In the other hand, the interaction of deep fake manipulated images<sup>14</sup> and artificial intelligence in robots have opened a new philosophical and ethical discussion<sup>15</sup> on robophilia.<sup>16</sup> the academic literature in the subject is meager and so are their interaction with *real* gender violence.<sup>17</sup>

### **Research questions proposal**

Here are two questions for thinking about, reading and widening the research which is in progress now:

The development of a machine learning technique to reduce or control deep fakes *revenge porn* or *image-based sexual abuse* in EU Internet websites.

Analyze the effect of robophilia in EU and its interaction with Cybergender-violence

---

<sup>1</sup> . DILL, K. (2021, May 2021). Gen z gets career advice, one tiktok at a time. *Wall Street Journal*. <https://www.wsj.com/articles/gen-z-gets-career-advice-one-tiktok-at-a-time-11621526403> (consultado el 1 de septiembre de 2021)..

<sup>2</sup> . SUEN, H. Y., CHEN, M. Y. C., & LU, S. H. (2019). Does the use of synchrony and artificial intelligence in video interviews affect interview ratings and applicant attitudes?. *Computers in Human Behavior*, 98, 93-101.

<sup>3</sup> . KELLY, J. (July 16, 2021). Tiktok is testing a new gen-z friendly résumé video feature: Will gen-xers and baby boomers feel excluded? *Forbes*. <https://www.forbes.com/sites/jackkelly/2021/07/09/tiktok-is-testing-a-new-gen-z-friendly-rsum-video-feature-will-gen-xers-and-baby-boomers-feel-excluded/> (consultado el 1 de septiembre de 2021)..

and MCGREGOR, J. (March 26, 2021) . The latest TikTok craze: Career advice, résumé reviews and interview tips. (s. f.). *Washington Post*. July 16 2021, de <https://www.washingtonpost.com/business/2021/03/26/tiktok-career-advice-job-interview-tips/> (consultado el 1 de septiembre de 2021)..

<sup>4</sup> . ALLEN, T.: [thelma.allen@nist.gov. ](2021, June 22). Proposal for identifying and managing bias in artificial intelligence(SP 1270). *NIST*. <https://www.nist.gov/artificial-intelligence/proposal-identifying-and-managing-bias-artificial-intelligence-sp-1270> p. 4, <https://www.eurac.edu/en/blogs/eureka/the-1st-of-all-eu-r-rights-dignity-and-how-the-charter-contributes> (consultado el 1 de septiembre de 2021)..

<sup>5</sup> . HOUSER, K. (2021). Artificial Intelligence and The Struggle Between Good and Evil. *Washburn Law Journal*, 60.

<sup>6</sup> . EUROPEAN PARLIAMENT COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS, Charter of Fundamental Rights of the European Union, accessed 18 July 2021,

[https://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](https://www.europarl.europa.eu/charter/pdf/text_en.pdf)  
<https://www.eurac.edu/en/blogs/eureka/the-1st-of-all-eu-r-rights-dignity-and-how-the-charter-contributes> (consultado el 1 de septiembre de 2021).

<sup>7</sup> . TOGGENBURG, G. (2021). *The 1st of all EU-r rights: Dignity and how the Charter contributes*. (s. f.). EURAC Research. July 13, de <https://www.eurac.edu/en/blogs/eureka/the-1st-of-all-eu-r-rights-dignity-and-how-the-charter-contributes> (consultado el 1 de septiembre de 2021).

<sup>8</sup> . BIERI, P. (2017). *Human Dignity: A Way of Living*. John Wiley & Sons.

<sup>9</sup> . PILKINGTON, B. C. (2012). *The problem of human dignity*. University of Notre Dame.

<sup>10</sup> . EUROPEAN INSTITUTE FOR GENDER EQUALITY. (2017). *Cyberviolence against women and girls*.

<sup>11</sup> . HENRY, N., POWELL, A., & FLYNN, A. (2018). AI can now create fake porn, making revenge porn even more complicated. *The Conversation*, 28.

<sup>12</sup> . WAGNER, T. L., & BLEWER, A. (2019). The Word Real Is No Longer Real: Deepfakes, Gender, and the Challenges of AI-Altered Video. *Open Information Science*, 3(1), 32-46.

<sup>13</sup> . KARNOUSKOS, S. (2020). Artificial intelligence in digital media: The era of deepfakes. *IEEE Transactions on Technology and Society*, 1(3), 138-147.

<sup>14</sup> . GREENGARD, S. (2019). Will deepfakes do deep damage?. *Communications of the ACM*, 63(1), 17-19, MESKYS, E., LIAUDANSKAS, A., KALPOKIENE, J., & JURCYS, P. (2020). Regulating deep fakes: legal and ethical considerations. *Journal of Intellectual Property Law & Practice*, 15(1), 24-31, YADLIN-SEGAL, A., & OPPENHEIM, Y. (2021). Whose dystopia is it anyway? *Deepfakes and social media regulation. Convergence*, 27(1), 36-51.

<sup>15</sup> . ARCHER, M. S. *Sapience and sentience: A reply to Porpora. In What is Essential to Being Human?* (pp. 40-55). Routledge.

<sup>16</sup> . PORPORA, D. (2021). *On robophilia and robophobia. In What is Essential to Being Human?* (pp. 26-39). Routledge.

<sup>17</sup> . ARCHER, M. S. (2021). *Friendship Between Human Beings and AI Robots?*.

## Bibliography

ACEVEDO-CASTILLO, N., LASO-SAMSING, C. y NORAMBUENA-AVILÉS, R. (2020). Violencia sexual y acoso en la web: evidenciando la falta de tutela judicial efectiva. *Entorno*, (69), 81-89.

AMBALE, M. (2008). Fair Housing Council of San Fernando Valley v. Roomates. com, LLC 521 F. 3d 1157 (9th Cir. 2008).

CECIL, A. L. (2014). Taking back the Internet: Imposing civil liability on interactive computer services in an attempt to provide an adequate remedy to victims of nonconsensual pornography. *Washington and Lee Law Review*, 71(4), 2513-2556.

CHOI, B. H. (2005). The Grokster Dead-End. *Harvard Journal of Law and Technology*, 19, 393-412.

CITRON, D. K. y FRANKS, M. A. (2014). Criminalizing revenge porn. *Wake Forest Law Review*, 49, 345-391.

END VIOLENCE AGAINST WOMEN. (2013). New Technology: Same Old Problems. [https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/Report New Technology Same Old Problems.pdf](https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/Report_New_Technology_Same_Old_Problems.pdf). (consultado el 1 de septiembre de 2021)

FENNING, K. (1929). The Origin of the Patent and Copyright Clause of the Constitution. *Journal of the Patent Office Society*, 11, 438.

FRANKS, M. A. (2015). Drafting an effective 'revenge porn' law: A guide for legislators. <http://dx.doi.org/10.2139/ssrn.2468823> (consultado el 1 de septiembre de 2021).

FRANKS, M. A. (2017). Revenge Porn Reform: A View from the Front Lines. *Florida Law Review*, 69, 1251-1337.

GOLDMAN, E. (2003). A road to no warez: The No Electronic Theft Act and criminal copyright infringement. *Oregon Law Review*, 82, 369.

GOLDSTEIN, J. (29 de octubre de 2020). *Revenge porn* was already commonplace. The pandemic has made things even worse. *The Washington Post*.  
[https://www.washingtonpost.com/lifestyle/style/revenge-porn-nonconsensual-porn/2020/10/28/603b88f4-dbf1-11ea-b205-ff838e15a9a6\\_story.html](https://www.washingtonpost.com/lifestyle/style/revenge-porn-nonconsensual-porn/2020/10/28/603b88f4-dbf1-11ea-b205-ff838e15a9a6_story.html).

HADWIN, J. (2017). Victim blaming and third-person effect: A comparative analysis of attitudes for revenge porn and sexual assault (Tesis de Maestría). Oklahoma State University. <https://hdl.handle.net/11244/54533> (consultado el 1 de septiembre de 2021).

HUBER, A. (2020). Women, image based sexual abuse and the pursuit of justice (Disertación doctoral). Liverpool: John Moores University.

JIE, W. A. N. G. (2011). Philosophical Analysis of “Safe Harbor” Provision. *Journal of Foshan University (Social Science Edition)*, (1), 3.

KOPF, S. (2013). Avenging revenge porn. *Mod. Am.*, 9, 22.

LICHTER, S. (2013). Unwanted exposure: civil and criminal liability for revenge porn hosts and posters. *Harvard Journal of Law & Technology*.

MADDOCKS, S. (2018). From non-consensual pornography to image-based sexual abuse: Charting the course of a problem with many names. *Australian Feminist Studies*, 33(97), 345-361.

MADDOCKS, S. (2020). ‘A Deepfake Porn Plot Intended to Silence Me’: exploring continuities between pornographic and ‘political’ deep fakes. *Porn Studies*, 1-9.

MATSUI, S. (2015). The criminalization of revenge porn in Japan. *Washington International Law Journal*, 24, 289.

MCGLYNN, C. Y RACKLEY, E. (2017). More than ‘Revenge Porn’: image-based sexual abuse and the reform of Irish law. *Irish Probation Journal*, (14), 38-51.

MCGLYNN, C., JOHNSON, K., RACKLEY, E., HENRY, N., GAVEY, N., FLYNN, A. y POWELL, A. (2020). *It’s Torture for the Soul: The Harms of Image-Based Sexual Abuse. Social & Legal Studies*. <https://doi.org/10.1177/0964663920947791>.

MONTERO, E. (2001). La responsabilité des prestataires intermédiaires sur les réseaux. Cahiers du Centre de Recherches Informatique et Droit (monográfico: Le commerce électronique européen sur les rails? Analyse et propositions de mise en œuvre de la directive sur le commerce électronique), (19), 273-295.

MORRIS, M. A. (2017). Empathy Induction to Reduce Victim Blaming in Revenge Porn Cases.

MUSONI, M. (2019). The criminalization of *Revenge Porn* in South Africa. *Obiter*, 40(1), 61-74.

OSWALD, L. J. (2006). The internet element of inducement to infringe under patent law: Reflections on Grokster. *Michigan Telecommunications and Technology Law Review*, 13, 225.

ROOD, M. L. y SCHRINER, J. (2020). The Internet Never Forgets: Image-Based Sexual Abuse and the Workplace. En *Handbook of Research on Cyberbullying and Online Harassment in the Workplace* (pp. 107-128). IGI Global.

STROUD, S. R. (2014). The dark side of the online self: A pragmatist critique of the growing plague of revenge porn. *Journal of Mass Media Ethics*, 29(3), 168-183.

STROUD, S. (24 de agosto de 2016). What Exactly is Revenge Porn or Nonconsensual Pornography? (Except from “Social Media, Online Sharing, and the Ethical Complexity of Consent in Revenge Porn”). En *Close Scheinbaum, A. (Ed.), Online Consumer Behavior: The Dark Side of*

*Social Media*. Routledge, Forthcoming. <https://ssrn.com/abstract=2828740> (consultado el 1 de septiembre de 2021).

UHL, C. A., RHYNER, K. J., TERRANCE, C. A. y LUGO, N. R. (2018). An examination of nonconsensual pornography websites. *Feminism & Psychology*, 28(1), 50-68.

VALENTI J. (September, 1, 2014).

What's Wrong With Checking Out Stolen Nude Photos of Celebrities The ethics of looking away. <http://www.theatlantic.com/entertainment/archive/2014/09/leaked-photos-nude-celebrities-abuse/379434/> (consultado el 1 de septiembre de 2021).

WANG, J. (2018). Self-regulation of Copyright Enforcement on Hosting Platforms. En *Regulating Hosting ISPs' Responsibilities for Copyright Infringement* (pp. 199-227). Singapur: Springer.