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PART III

**DEALING WITH  
SEXUALIZED VIOLENCE**

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# Rape Threats and Revenge Porn: Defining Sexual Violence in the Digital Age

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Jordan Fairbairn

*Definitions of violence against women continue to evolve as the breadth and harm of these experiences becomes known.<sup>1</sup>*

*Just ignore the trolls. Don't share personal information. Go offline.* These mantras pervade discussions of digital communication and the abuse and harassment that occur online. Although often well meaning, these statements contain problematic assumptions about whose responsibility it is to prevent harassment and how seriously we take certain forms of abuse. These statements also contain insights into how we relate the online interactions to the physical world, or what is often referred to as “in real life.” However, this is changing. Like sexual harassment and domestic violence in previous decades, advocates and activists are rejecting the notion that online abuse and harassment is an unfortunate but inevitable feature of girls’ and women’s existence. This notion is being replaced by a growing understanding that much abuse and harassment online is a manifestation of broader social ills such as misogyny, racism, and homophobia, and should therefore be taken seriously. For example, Canadian women’s rights advocate Julie Lalonde writes,

To believe that what happens online is of no consequence to the offline world is incredibly naïve. Just ask Anita Sarkeesian, who started a Kickstarter campaign to create videos about gender

stereotypes in video games and received countless threats to her life as a result. Or you can ask Jill Filipovic, a blogger, columnist and attorney, who recently wrote about her experience of having an online troll show up at her door. Or Amanda Hess, who recently wrote a lengthy piece detailing her experiences of online threats and quoted her friends, Lindy West and Jessica Valenti, whose personal safety was threatened by the same people we keep collectively deeming as harmless. The list goes on and on. Women, particularly women of colour, queer women and women with disabilities, are continuously threatened and harassed online.<sup>2</sup>

Emerging research is also highlighting and forging stronger linkages between sexual violence and online spaces.<sup>3</sup> The right to safe participation in online spaces is a driving force of this movement, with rape threats, slut shaming, and so-called revenge porn and/or non-consensual sharing of intimate images drawing particular attention.

In this chapter I argue that how violence is defined and operationalized matters for addressing sexual violence in digital spaces. To consider how definitions of violence shape our understanding of sexual violence against women and girls online, I draw from several areas relevant to social policy development, including advocacy work (Take Back the Tech), data collection practices (Statistics Canada General Social Survey), and media (news coverage of revenge porn). I approach so-called revenge porn as a form of violence against women and girls and take the position that violence is not a universal constant but, rather, a constructed understanding of socially defined harms resulting from aggression and abuse of power. Thus, definitions of sexual violence are historically, socially, and politically located and are presently evolving among activists, scholars, and advocates to capture harms associated with online violence. As a result of this evolution, the widespread but narrow understanding of violence as physical assault is not sufficient for current digital contexts.

## **Violence against Women and Girls as a Framework of Understanding**

Language matters. In particular, it matters when new understandings of social phenomena are being shaped. In this chapter, I am applying a framework of violence against women (VAW) to online sexual

violence for two reasons: first, to narrow the field of study to a more manageable focus; and second, but more importantly, this terminology places this analysis within broader feminist work that draws attention to the way that systems of gendered inequality enable and support physical, sexual, and psychological violence against women and girls worldwide. Although the umbrella terminology VAW is most frequently used in research and advocacy, in this chapter I will also use violence against women and girls (VAWG). This offers an alternative to generic terms such as “cyberbullying” that are used to describe a plethora of behaviours in ways that fail to meaningfully distinguish between materially different activities that merit distinctive analyses and responses.<sup>4</sup> The term VAWG is also in keeping with the youth-focused nature of this collection more broadly, while signalling recognition that girls may experience violence very differently from the ways in which women experience it.<sup>5</sup>

VAW exists in many forms and all areas of society. The 1993 United Nations Declaration on the Elimination of Violence against Women defines violence as any act that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life.<sup>6</sup> This declaration is particularly significant because it was the first internationally agreed upon definition of violence “as it pertained to women’s experiences.”<sup>7</sup> In specifically addressing violence against women, the declaration speaks about violence occurring in three spheres: the family, the community, and the state. Table 1 summarizes these areas.

**Table 1: United Nations Definition of Violence against Women**

Arena	Includes
Family	Physical, sexual, and psychological violence, including battering; sexual abuse of female children in the household; dowry-related violence; marital rape; female genital mutilation and other traditional practices harmful to women; non-spousal violence and violence related to exploitation.
Community	Physical, sexual, and psychological violence, including rape; sexual abuse; sexual harassment and intimidation at work, in educational institutions, and elsewhere; trafficking in women and forced prostitution.
State	Physical, sexual, and psychological violence perpetrated or condoned by the state, wherever it occurs.

In exploring the intersections with online abuse and harassment, this chapter focuses primarily on sexual violence against women and girls. Definitions of sexual violence vary in specifics, but generally acknowledge that sexual violence is about exerting power and aggression (not sexual desire) over someone else in order to undermine an individual's sexual or gender integrity.<sup>8</sup> Table 2 presents sample definitions of sexual violence.

**Table 2: Definitions of Sexual Violence**

Source	Definition of Sexual Violence
World Health Organization (WHO)	Any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed against a person's sexuality using coercion by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work. <sup>9</sup>
Centres for Disease Control and Prevention (CDC)	Any sexual act that is perpetrated against someone's will. Sexual violence encompasses a range of offenses, including a completed non-consensual sex act (i.e., rape), an attempted non-consensual sex act, abusive sexual contact (i.e., unwanted touching), and non-contact sexual abuse (e.g., threatened sexual violence, exhibitionism, verbal sexual harassment). <sup>10</sup>
Ontario Sexual Violence Action Plan	Any violence, physical or psychological, carried out through sexual means or by targeting sexuality. This violence takes different forms, including sexual abuse, sexual assault, rape, incest, childhood sexual abuse, and rape during armed conflict. It also includes sexual harassment, stalking, indecent or sexualized exposure, degrading sexual imagery, voyeurism, cyber harassment, trafficking, and sexual exploitation. <sup>11</sup>

The WHO definition is broad, yet specifies that sexual violence includes psychological violence and sexual harassment. The CDC's is more specific and notes that threatened and/or verbal sexual violence fall under the umbrella definition of sexual violence. More locally, the Government of Ontario's Sexual Violence Action Plan provides many examples of sexual violence, and includes specific reference to cyber harassment as part of this continuum. The Ontario Coalition of Rape Crisis Centres (OCRCC) also uses this definition of sexual violence.<sup>12</sup>

Since these various definitions of sexual violence already widely recognize psychological and verbal abuse as part of the spectrum of violence, it is arguably unnecessary to specifically state that sexual

violence can be cyber based. However, as we continue to draw and re-draw boundaries around various forms of abuse online (revenge porn, non-consensual sexting, cyberbullying), it is, in fact, necessary to be clear about defining online sexual violence *as* sexual violence. Based on the above definitions, we see that international human rights organizations and sexual assault service providers recognize sexual violence as something that involves multiple dimensions of violence. If this is to be widely relevant in our digital era, it is important to understand what sexual violence against women looks like in emerging media contexts.

### Sexual Violence and Digital Spaces

In addition to emerging research,<sup>13</sup> the Association for Progressive Communications' Take Back the Tech campaign is perhaps the most large-scale, comprehensive, and targeted advocacy effort to currently focus on VAWG online. Take Back The Tech is a collaborative campaign that takes place each year during the 16 Days of Activism against Gender-Based Violence (November 25 to December 10). It acts as "a call to everyone – especially women and girls – to take control of technology to end violence against women."<sup>14</sup> This campaign is important for conceptualizing digital technology and VAWG because of its understanding of the multi-faceted significance of digital technologies. That is, Take Back the Tech approaches digital technologies as tools and arenas that can be engaged for prevention work that are also woven into violence and power relations in various spheres.<sup>15</sup> Table 3 summarizes these key relationships.<sup>16</sup>

**Table 3: Examples of Harms Related to Online Sexual Violence**

Area of Harm	Connections to Digital Spaces
Sexual violence (physical)	Using social media to gain trust and/or arrange to meet in physical space and commit sexual assault; posting personal/location information and encouraging others to perpetrate sexual assault; recording and/or distributing images of sexual assault.
Sexual violence (psychological)	Sexual threats; sending repeated and unwanted sexual communication; using social networking sites to promote sexual violence or vilify survivors of sexual assault; stealing, coercing, and/or non-consensual sharing of sexually explicit images.



**Table 3: (Continued)**

Area of Harm	Connections to Digital Spaces
Communication rights infringement	Includes not only the freedom of opinion and expression but also areas such as the right to information, privacy, democratic governance, participation in culture, language, creativity, education, peaceful assembly and self-determination. Creation of hostile digital spaces infringes on these rights.

Source: Association for Progressive Communications

Although Table 3 distinguishes between physical sexual violence and psychological sexual violence for illustrative purposes, this is a blurry and often artificial distinction. For example, physical sexual violence frequently results in psychological harms for survivors, and psychological sexual violence can result in physical injuries such as self-harm or suicide. Take Back the Tech, like much anti-violence work, considers sexual harassment to be a form of sexual violence. Beyond its many concrete objectives and activities, the campaign also offers a valuable theoretical framework for weaving together an understanding of sexual violence and communication rights infringement where it is understood that “fear plays a significant role in arranging spatial relations.”<sup>17</sup> Online harassment is understood as a form of sexual violence in part because of the emotional distress and breach of an individual’s sense of safety. Moreover, when people’s safety and integrity is compromised online, they are marginalized and/or pushed out of these spaces. When this happens repeatedly based on gender identity and/or sexual orientation (among other factors, including racism), these patterns of discrimination exclude certain social groups from full participation in society.

In the definitions provided earlier (Table 1), we see that in addition to physical violence, sexual violence and psychological violence are included in each category of family, community, and state violence. Online violence could occur in all spheres, but perhaps falls most readily under community violence, including “sexual harassment, threats, and intimidation at work, in educational institutions and elsewhere.”<sup>18</sup> Remember that online spaces are, for many, deeply integrated with work and/or educational experiences and institutions, as well as social relationships generally, and the boundary between offline and online is increasingly artificial.

Efforts to categorize online sexually violent threats and non-consensual sharing of intimate photos, for example, as sexual violence are working against a strong social current of resistance (e.g., “But he wasn’t actually going to rape her”). This reluctance reveals important social attitudes, and in fact tells us a great deal about how well equipped we feel as a society to deal with the complications that arise from taking online sexual violence seriously. In this context, two questions are important to keep in mind. First, what other forms of violence were once considered inevitable (and even acceptable) for many women? Marital rape, domestic violence, and the sexual harassment of women and girls in the workplace and in schools were all once socially acceptable, and attitude changes took time (and are still underway).<sup>19</sup> Second, whose interests lie in maintaining the status quo, where online sexual violence is often trivialized? Defining something as violence is a call to action, a way to explicitly convey that certain behaviours are (1) an abuse of power; (2) harmful; and (3) unacceptable.

International campaigns such as Take Back the Tech exemplify the ongoing work being done to evolve definitions of violence. In Canada, recent initiatives, such as the thirty-five recommendations made by West Coast LEAF around legal responses to gendered hate and harassment online<sup>20</sup> and the Status of Women Canada’s funding for projects that address cyber and sexual violence,<sup>21</sup> are indicative of a growing awareness among various sectors that online sexual violence must be addressed. Campaigns such as Take Back the Tech highlight that power and control are complex and multifaceted within digital spaces. Not only does online sexual violence harm those targeted, it creates a culture where sexual abuse and harassment is expected, tolerated, and/or encouraged, and women and girls are held responsible for their safety and blamed for their victimization. These conditions are now widely characterized as rape culture,<sup>22</sup> and online environments are part of this culture. As boundaries between online and offline become increasingly blurred and our online presence increasingly integrated with professional and personal existence, it is imperative that we find ways to define, document, and prevent violence in all spaces, and to support the work of those undertaking this challenging task. In the remainder of this chapter, I will briefly consider how data surrounding online sexual violence could be drawn from the national victimization survey data and explore media coverage of revenge porn to consider how seriously we take this form of online sexual violence.

### **Counting Sexual Violence: The General Social Survey**

The General Social Survey (GSS) was established in 1985 as a series of independent, annual, cross-sectional surveys that explores six areas in depth.<sup>23</sup> The GSS (Victimization) has been conducted every five years since 1988 and explores criminal victimization and spousal violence. It is the only national survey of self-reported victimization in Canada.<sup>24</sup> Police, all levels of government, victim and social service agencies, community groups, and university researchers use GSS data to understand and respond to victimization, including sexual violence.<sup>25</sup> As noted in Angrove's chapter in this volume, we know from the GSS that women experience significantly higher rates of sexual violence compared to men. Specifically, women are eleven times more likely than men to be a victim of sexual offences and three times as likely to be the victim of criminal harassment (stalking).<sup>26</sup> Sexual violence is also one of the most underreported crimes: a majority of incidents (approximately 88 percent) are not reported to police.<sup>27</sup> We know that girls between the ages of 12 and 17 are eight times more likely than boys of the same age to experience sexual assault or another type of sexual offence.<sup>28</sup> This is also an age group whose lives are frequently embedded in digital contexts. In order to contribute to and build on the work of advocacy campaigns and legal analysis, it is important to explore the role and potential of core data collection practices.

How might information on online sexual violence be compiled from current GSS data? Table 4 presents select definitions from questions related to sexual violence, stalking, and cyberbullying that are used in the most recent version of the GSS (Victimization) survey questionnaire, the GSS 2014 (Cycle 28).<sup>29</sup>

**Table 4: General Social Survey Question Categories to Consider for Online Sexual Violence Data Collection**

Category	Definition
Sexual violence	Forced or attempted to force into unwanted sexual activity, by threatening, holding down, or hurting in some way; unwanted touching or grabbing, kissing, or fondling; sexual activity to which you were not able to consent (drugged, intoxicated, manipulated, or forced in other ways than physically).

**Table 4: (Continued)**

Category	Definition
Stalking	Repeated and unwanted attention that caused you to fear for your safety or the safety of someone known to you. Includes: repeated, silent, or obscene phone calls; unwanted messages through email, text, or social media; followed or spied on you either in person or through an electronic tracking device; posted inappropriate, unwanted, or personal information about you or pictures on a social media site.
Cyberbullying	Use of the Internet to embarrass, intimidate, or threaten someone. Includes: threatening or aggressive emails, instant messages, or comments directed at you; circulating or posting pictures that embarrassed you or made you feel threatened; use of your identity to send out or post embarrassing or threatening information.
Hate crimes	Crimes motivated by the offender's hatred of a person's sex, ethnicity, race, religion, sexual orientation, age, disability, or language.

Source: General Social Survey Cycle 28 Questionnaire

In comparison to the more comprehensive definitions of sexual violence presented earlier in this chapter (see Table 2), these GSS questions present a more narrow understanding of sexual violence that more closely corresponds to legal definitions of sexual assault. While this definition focuses on physical acts of violence, online sexual violence data could be gleaned from additional GSS categories. For example, the stalking category includes receiving threatening messages and/or having inappropriate, unwanted, or personal information or pictures posted on a social media site. The cyberbullying group of questions, however, is less helpful for assembling data on online sexual violence. Although the questions encompass online aggression, the specific nature of the abuse (i.e., whether or not is sexual abuse) is not captured by the term “cyberbullying.” A broad umbrella term, “cyberbullying” is used to describe many forms of abuse and harassment, including online sexual violence. Because this term is widely used, it may be that GSS respondents, if they report sexual harassment online at all, will report this harassment as cyberbullying rather than as sexual violence (which does not ask about non-physical violence) or stalking (a term not widely used to describe online rape threats and/or non-consensual sharing of photos, for example).

Finally, it is possible that data from hate speech questions could be useful to understanding sexually violent vitriol directed at women online. However, because this category asks specifically about crimes, it is likely that many acts of online sexual violence as defined in this chapter would not be captured under the current design. To prevent sexual violence against girls and young women in a cultural context where online sexual violence is not widely understood as violence, understanding the frequency and nature of online sexual violence requires additional detail and context in data collection practices. We need to think about what we know about sexual violence prevention and how this applies to digital spaces, rather than getting caught up in overly specific constructed categories. An example of such a category, which I will spend the rest of this chapter unpacking in relation to VAWG, is so-called revenge porn.

### ***Revenge Porn and VAWG***

Revenge porn is generally described as the practice of someone (usually a man) sharing intimate photos in order to humiliate an ex-partner (usually a woman).<sup>30</sup> The photos are often thought to have been taken consensually initially (though this is often not the case), but are then used by the “spurned lover” for revenge when the relationship ends. Revenge porn, as a social phenomenon, came into the spotlight during 2012 and 2013 primarily through the identification and arrest of an American man named Hunter Moore. Moore created and ran the site *isanyoneup.com*, where he encouraged men to share naked photos of women, along with their names, age, location, and links to their various social media profiles. Although he was previously immune to criminal charges because he was said to be only sharing third-party material, in 2012 Moore was charged for his role in hacking into people’s email accounts to steal photos. In December 2013 Moore was indicted on felony charges that included identity theft and conspiracy.<sup>31</sup> While legal scholars such as Danielle Keats Citron acknowledge that Moore’s prosecution is a step in the right direction, they also argue that it does not indicate that existing laws are sufficient to address revenge porn.<sup>32</sup>

So-called revenge porn is an important piece of evolving discussions about defining VAWG for three central reasons. First, it is a very recently labelled type of victimization. Second, there are gendered biases in both the effects of revenge porn as well as the criminal justice (non)response to victims.<sup>33</sup> And third, although not

often explicitly identified or discussed as a form of VAWG, as noted in Shariff and DeMartini's chapter in this volume,<sup>34</sup> discursive tendencies surrounding revenge porn are similar to those surrounding sexual violence generally, such as victim blaming ("What was she thinking taking that photo?") and viewing men as inevitable perpetrators ("Of course he shared it, what did you expect?"). Because of this, identifying revenge porn (or non-consensual disclosure of intimate images, as it is referred to in recent Canadian legislation<sup>35</sup>) as a form of VAWG is important to help shifting definitions of violence better address current digital contexts.

What can news media coverage tell us about current understandings of revenge porn as a form of VAWG? To answer this question, I read all online articles on revenge porn from the *Toronto Star* (N=4), the *Globe and Mail* (N=8), the *New York Times* (N=5), and *CNN* (N=7). This sample, collected from November 2011 to March 2014, was therefore small (24 articles) but exhaustive, as it contained all revenge porn online news coverage from these particular publications.<sup>36</sup> The average article length was 618 words, and ranged from 44 to 1,007 words. What is clear from the publication dates of these articles is that the emergence of news media use of the term "revenge porn" is much more recent than the broader practice of digital non-consensual sharing of intimate photos. Of the 24 articles found containing the term revenge porn, 22 were published between 15 June 2013 and 11 February 2014 (one article per year was published in 2011 and 2012).

Before discussing the findings in more detail, it is useful to provide a sense of the news themes. I found that news coverage of revenge porn fell into three general categories: (1) event/case; (2) legislation; and (3) victimization. The event/case group focuses on describing what revenge porn is by describing charges laid in two separate cases (both in California). Next, the legislation group discusses proposed laws in California and in Canada to address cyberbullying and revenge porn. The final category, victimization, focuses on the harms that victims of revenge porn experience, and connects the phenomenon of revenge porn to sexual harassment more broadly. Table 5 provides a summary of these categories and an example quotation to illustrate the type of coverage found in that category.

**Table 5: News Media Coverage of Revenge Porn**

Article Focus	Number of Articles	Example Quotation
Event/Case	13	"Federal prosecutors allege Moore operated the website, where he posted, 'nude or sexually explicit photos of victims.' The pictures, prosecutors added, were submitted without the victim's permission 'for purposes of revenge.'" ( <i>Toronto Star</i> , 23 January 2014)
Legislation	7	"Bill C-13 criminalizes the distribution of 'intimate images' without consent – including so-called 'revenge porn' – and offenders risk up to five years in prison .... The bill should deter anyone from texting, posting or emailing such images without consent." ( <i>Toronto Star</i> , 24 November 2013)
Victimization	4	"The effects can be devastating. Victims say they have lost jobs, been approached in stores by strangers who recognized their photographs, and watched close friendships and family relationships dissolve. Some have changed their names or altered their appearance." ( <i>New York Times</i> , 23 September 2013)
	Total: 24	

In reading the articles, I was interested in two questions: Do these articles use the term "violence" in relation to revenge porn? What harms is the victim portrayed as experiencing? I will consider each of these questions in relation to the three news themes.

#### **Article Focus: Event/Case**

The first group of articles identifies non-consensual sharing of intimate photos as the core element of revenge porn, described as something done by an ex-partner (usually male) with intent to humiliate the victim. Several articles indicate that the site isanyoneup.com sparked such public outrage not only because the photos were posted without consent, but because they were personalized: that is, victim's photos were linked to their social media accounts and, in some cases, their phone numbers and home addresses. For example, one article from the *Globe and Mail* states that "[The site] allowed users to submit nude photos of people (submitted by jilted exes, angry friends and hackers) and listed their names, locations

and social media profiles – the latter a particularly cruel addition in an age dominated by Google search results.”<sup>37</sup>

No articles in this category use the term “violence” (e.g., “sexual violence”) to describe the situation. One article uses the term “extortion” to describe how the accused allegedly charged victims between \$250 and \$350 to have their photos removed from his site.<sup>38</sup> This category of articles generally conveys the view that revenge porn is despicable but does not discuss specific harms experienced by victims. For example, one article states, “There aren’t any laws against being a grade A jerk or hosting extremely harmful and non-consensual pornography.”<sup>39</sup> Another notes that “so far only two states have restricted this humiliating, reputation-killing practice.”<sup>40</sup>

### **Article Focus: Legislation**

Of the seven articles focusing on proposed legislation, four focus on Canadian legislation and three discuss California legislation. The Canadian articles focus on revenge porn as a form of cyberbullying, and repeatedly reference the high-profile cases of Amanda Todd and Rehtaeh Parsons as context for the proposed bill.<sup>41</sup> The articles are generally quite critical of the legislation. For example, one article reads:

Bill C-13 touches upon cyberbullying in an almost cursory manner. It makes it a crime to share an intimate image without the consent of the person depicted in that image – a reasonable provision – but much else in the bill seems tacked on simply to increase police powers to investigate our online activities.<sup>42</sup>

As with the event/case group, articles discussing the proposed legislation also do not use the term “violence.” One article uses “harassment” to describe women’s experiences, including those of two teen girls: “After the deaths of Rehtaeh Parsons and Amanda Todd, teens who were harassed online by their peers...”<sup>43</sup> Sexual violence experienced by these young women and others are often simply described as cyberbullying: “We know the results of cyber bullying [*sic*] – we have heard about children who took their own lives because they could not cope with the humiliating consequences that befell them.”<sup>44</sup>

Although arguably empathetic, the fact that what happened to these young women is described as humiliation, but not violence, is significant. It does not have to be one or the other. Part of sexual



violence is humiliation and degradation, is violating a person's dignity and sense of well-being. But humiliation does not adequately capture the extensive trauma, isolation, and fear experienced by those who are targets of sexual violence.

**Article Focus: Victimization**

This small category of articles prioritizes stories of women who have experienced revenge porn, and links these stories to the broader context of sexual violence. Notably, legal scholars wrote two of the four articles in this group, including an in-depth piece by Danielle Keats Citron, who has explored online harassment in her work. Although only one article actually contains the term "violence," this group of articles discusses revenge porn in the context of a larger culture of sexual harassment (including slut shaming) and as inflicting significant harms to women who experience it. For example, one article states, "The effects can be devastating. Victims say they have lost jobs, been approached in stores by strangers who recognized their photographs, and watched close friendships and family relationships dissolve. Some have changed their names or altered their appearance."<sup>45</sup> Another article maintains that legislation against revenge porn could be a short-term solution to fixing the larger culture of sexual harassment: "It makes sense to use the criminal law to deal with some of the more worrying or immediately harmful effects of a slut-shaming culture while we undertake the larger task of changing the culture itself."<sup>46</sup> Keats Citron further explains,

Revenge porn is a harmful form of bigotry and sexual harassment. It exposes victims' sexuality in humiliating ways. Their naked photos appear on slut shaming sites. Once their naked images are exposed, anonymous strangers send e-mail messages that threaten rape. Some have said: "First I will rape you, then I'll kill you."<sup>47</sup>

Revenge porn is not gender neutral. Sexual double standards are widely applied to women's and men's sexual activity in society (e.g., slut/stud), and attitudes and beliefs that women's behaviour provokes sexual violence are deeply ingrained.<sup>48</sup> Thus, the nature and consequences of revenge porn are more severe for women than men. When drawing boundaries between what is violence and what is not, it is important to draw from the expertise that tells us that power

and control are central to violence in all spaces. In digital spaces, personal and technological boundaries are blurred and converging. Of course, not all conflict online is violence; it is important to look at power, consent, the presence of hate speech pertaining to gender, race, sexual orientation, etc., and what threats are made. But telling someone, “I will rape you and then kill you” is violence, whether uttered in person, in a letter, on the phone, or online.

### Shifting Definitions

Widespread recognition of sexual violence as a social problem did not happen organically. Dedicated research, survivor, and advocacy work built a conversation in legal arenas, social services, and research practice to provide a framework to talk about rape. The first rape crisis hotline was established in Washington in 1972,<sup>49</sup> and the first rape crisis centre in Canada (Vancouver Rape Relief and Women’s Shelter) opened in 1973.<sup>50</sup> In Canada, the 1980s rape law reform campaign and subsequent passage of the 1983 sexual assault legislation, led by women’s organizations and feminist lawyers, resulted in a dramatic increase in awareness of sexual violence as a political issue.<sup>51</sup> By the early 1980s, sexual violence and domestic violence had come to be viewed as symbols of women’s oppression and therefore central to feminist attention and activism.<sup>52</sup> As Johnson and Dawson explain,

In the past four decades, numerous achievements can be attributed to the tireless efforts of those involved in the violence against women movement. The definition of violence has been broadened to include those victimized by marital and non-marital partners and to recognize the equally detrimental effects of psychological, verbal, and financial abuse along with physical and sexual violence.<sup>53</sup>

Although research and advocacy efforts are advancing awareness of online activity and abuse, initial efforts to define and prevent violence online have been hindered by a lack of conceptual clarity about what it is we are working to prevent.<sup>54</sup> This is not unlike sexual violence prevention more broadly, where, as Holly Johnson explains, “a problem that has plagued prevention efforts is the inability to achieve consensus about what behaviours constitute violence.”<sup>55</sup>

Thus, clear definitions are needed to address violence against women and girls in all forms.

Revenge porn and other forms of online sexual violence are about much more than humiliation, harm to reputation, and privacy violation. These acts marginalize and hinder individual public participation based on gender and sexuality. Though campaigns such as Take Back the Tech reflect this growing awareness, our prevailing definitions of violence, including many laws, policies, and government data collection practices have a ways to go. The 2013 *Report to the Federal/Provincial/Territorial Ministers Responsible for Justice and Public Safety: Cyberbullying and the Non-Consensual Distribution of Intimate Images* acknowledges that existing criminal offences “do not adequately address the harm that is caused by the non-consensual sharing of intimate images.”<sup>56</sup> However, the report does not discuss this harm as violence nor the gendered nature of the targeted offences.<sup>57</sup> Furthermore, it contains specific assumptions about harms resulting from non-consensual sharing of intimate images: “The result of this type of conduct is usually embarrassment or humiliation caused by the breach of privacy, but not necessarily a fear for one’s safety.”<sup>58</sup>

Without a great deal more research to include the perspectives of those who experience sexual violence online, it is difficult to say to what extent they fear for their physical safety.<sup>59</sup> Additionally, by continuing to understand safety as primarily physical, and breaches of privacy as embarrassment, law and policy ignore the complexity of our social world. For example, women have had to change their identities, and have lost jobs and job opportunities due to online violence.<sup>60</sup> Isolation and poverty are important factors in women’s health and safety, and so it is misguided to conclude that online sexual violence has no impact on physical well-being.

It is also important that conversations about how to define violence look beyond individual situations to consider how abuse and harassment occurs based on gender, racialization, sexuality, ability, class, and other social forces. Sylvia Walby argues that “the sociological analysis of violence requires the development of an appropriate ontology of violence; defining the concept and elucidating the nature of the relationship between violence and other social forces.”<sup>61</sup> As we work to define violence in the digital age, we need to identify and interrogate pathologies within our ontology of violence. For example, Keats Citron explains that society has historically marginalized harms that uniquely affect women.<sup>62</sup> She argues that we must break

down myths pertaining to online harassment, including the idea that online harassment represents innocuous teasing; that women can address the harassment on their own; and that online abuse is part of the Internet's unique norms. Keats Citron maintains, "Just as society ultimately rejected the argument that law should ignore domestic violence and sexual harassment because families and workplaces had their own norms, federal and state law make clear that offline institutions can be brought to bear in cyberspace."<sup>63</sup>

Further to this, when deciding how to define violence we must consider the question, what are the consequences when we define violence in very specific ways? Holly Johnson and Myrna Dawson highlight the costs of defining sexual violence too narrowly: "Widespread myths and stereotypes severely limit what constitutes 'real rape' and prevent women from naming their experience as violence, even when they suffer injuries and trauma."<sup>64</sup> Myths and stereotypes also contribute to a culture of victim blaming. If we assume that online violence can be ignored, walked away from,<sup>65</sup> and/or is something that people cause or deserve, then we will continue to hold people responsible for the abuse and harassment they experience. Alternately, if we understand that violence online cannot just be ignored or dismissed because of the real psychological or emotional harm that it causes, perhaps we will be able to develop victim/survivor supportive approaches that take this violence seriously within a spectrum of harmful behaviours.

Of course, it is also important that we consider potential unintended consequences of shifts in defining violence. For example, after 1980s rape law reform, at least some research suggests that respondents viewed offences that were labelled as sexual assault as less serious than the same scenarios defined as rape.<sup>66</sup> The point here is to take violence more seriously, not less. We should not think about "lowering" our bar of what constitutes violence, but expanding our field of attention and responsiveness. In that regard, law and policy have important symbolic roles to play.<sup>67</sup> Violence is an abuse of power that hinders a person's ability to be physically and emotionally safe in the world. This world includes the Internet. In one television interview, Hunter Moore responded to critics by saying that if he had not monetized revenge porn, someone else would have. He told victims it was their fault for taking intimate photos in the first place, saying, "It's 2012, what did you expect?" For decades, those working to address violence against women have been fighting an uphill battle

against beliefs that violence, particularly sexual violence, is inevitable for women in certain marginalized groups (e.g., Indigenous women) and who engage in certain behaviours (e.g., drinking, walking alone at night). Much progress has been made, and there is much more work to be done. Moving forward, listening to survivors, advocates, and emerging research, I hope that our answer to Moore's question will be: we expect better. Understanding multiple dimensions of violence is a critical part of developing a strong theoretical framing and research base surrounding sexual violence and digital media, and this understanding is imperative to garnering public and policy support for anti-violence work in all spheres.

## Notes

- 1 Holly Johnson & Myrna Dawson, *Violence Against Women in Canada: Research and Policy Perspectives* (Don Mills, ON: Oxford University Press Canada, 2011), 2.
- 2 Julie S. Lalonde, "Online Harassment Isn't Melodrama, but Serious Abuse," Canada.com, 24 January 2014, <<http://o.canada.com/technology/internet/online-harassment-isnt-melodrama-but-serious-abuse>>.
- 3 See Danielle Keats Citron, "Law's Expressive Value in Combating Cyber Gender Harassment," *Michigan Law Review* 108 (2009); Anastasia Powell, "Configuring Consent: Emerging Technologies, Unauthorized Sexual Images and Sexual Assault," *Australian & New Zealand Journal of Criminology* 43 (2010); Jane Bailey & Mouna Hanna, "The Gendered Dimensions of Sexting: Assessing the Applicability of Canada's Child Pornography Provision," *Canadian Journal of Women and the Law* 23:1 (2011); Nicole Bluett-Boyd, Bianca Fileborn, Antonia Quadara & Sharnee Moore, *The Role of Emerging Communications Technologies in Experiences of Sexual Violence: A New Legal Frontier?*, Research Report No. 23 (Melbourne, Australia: Australian Institute of Family Studies, 2013), <<http://www.aifs.gov.au/institute/pubs/resreport23/rr23.pdf>>; Michael Salter, "Justice and Revenge in Online Counter-Publics: Emerging Responses to Sexual Violence in the Age of Social Media," *Crime Media Culture* 9 (2013), doi:10.1177/1741659013493918.
- 4 Jane Bailey, "Time to Unpack the Juggernaut?: Reflections on the Canadian Federal Parliamentary Debates on 'Cyberbullying,'" *Dalhousie Law Journal* 35 [forthcoming], archived at Social Sciences Research Network, <[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2448480](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2448480)>.
- 5 While there is limited research on differences between women's and girls' experiences of online harassment, we can draw from research on how girls may experience violence more broadly. For example, issues

- of consent, sexual exploitation, and abuses of power related to sexual violence have historically been a key area of focus for those under 18. Additionally, research has found that societal acceptance of violence is a major issue facing girls, and that self-esteem, self-image, peer pressure, self-harm (suicide, eating disorders), and the internalization of stereotypes and negative images of girls are significant issues of concern. Yasmin Jiwani, Kelly Gorkoff, Helene Berman, Gail Taylor, Glenda Vardy-Dell & Sylvie Normandeau, *Violence Prevention and the Girl Child: Final Report* (Ottawa: The Alliance of Five Research Centres on Violence, 1999), <<http://fredacentre.com/wp-content/uploads/2010/09/Jiwani-et-al-1999-Violence-Prevention-and-the-Girl-Child-.pdf>>.
- 6 General Assembly, "United Nations General Assembly, Declaration on the Elimination of Violence against Women," United Nations General Assembly 48/104 (NY: United Nations, 20 December 1993), <<http://www.un.org/documents/ga/res/48/a48r104.htm>>.
  - 7 Johnson & Dawson, *supra* note 1.
  - 8 Government of Ontario, *Changing Attitudes, Changing Lives: Ontario's Sexual Violence Action Plan* (Toronto: Queen's Printer for Ontario, March 2011), 5, <<http://www.women.gov.on.ca/owd/docs/svap.pdf>>.
  - 9 Rachel Jewkes, Purna Sen & Claudia Garcia-Moreno, "Sexual Violence," in *World Report on Violence and Health*, eds. Etienne G. Krug et al, (Geneva: World Health Organization, 2002), 149, <<http://whqlibdoc.who.int/hq/2002/9241545615.pdf>>.
  - 10 "Sexual Violence: Definitions," Centres for Disease Control and Prevention (CDC), <<http://www.cdc.gov/violenceprevention/sexualviolence/definitions.html>>.
  - 11 Government of Ontario, *supra* note 8 at 6.
  - 12 The Ontario Coalition of Rape Crisis Centres (OCRCC) explains that "any definition must acknowledge that while the majority of sexual violence is committed by men against women and children, it is also experienced by people in same sex relationships, by Trans people and by some men." <<http://www.sexualassaultsupport.ca>>.
  - 13 *Supra* note 3.
  - 14 "Take Back the Tech," *Take Back the Tech*, <<https://www.takebackthetech.net/page/about-campaign>>.
  - 15 Take Back the Tech defines VAW as "any act the results in harm or disproportionately affects women," and the campaign works by looking at how both technology and VAW affect people's capacity to fully enjoy human rights and fundamental freedoms. The campaign uses a broader lens of "information communication technologies" (ICTs) rather than only focusing on the internet. According to Take Back the Tech, ICTs, broadly refer to tools and platforms that we use for our communication and information needs. Some examples include radio, mobile telephones,

- television broadcasts, and the internet. <<https://www.takebackthetech.net>>.
- 16 Jac Sm Kee, "Cultivating Violence through Technology? Exploring the Connections between Information and Communication Technologies (ICT) and Violence against Women (VAW)," (Melville, SA: APC, 2005), <[www.genderit.org/sites/default/upload/VAW\\_ICT\\_EN.pdf](http://www.genderit.org/sites/default/upload/VAW_ICT_EN.pdf)>. Take Back the Tech discusses six core areas of violence: domestic violence, sexual harassment, sexual violence, trafficking of women, conflict situations, and communication rights. Given space limitations and the specific focus of this chapter, I am focusing here on only part of the work that Take Back the Tech does in this area.
  - 17 *Ibid.*, at 23.
  - 18 However, domestic violence involving electronic and digital media is also well documented. For example, see Joanne Belknap, Ann T. Chu & Anne P. DePrince, "The Role of Phones and Computers in Threatening and Abusing Women Victims of Male Intimate Partner Abuse," *Duke Journal of Gender Law & Policy* 19 (2012), <<http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1232&context=djglp>>.
  - 19 Of course, there is still much work to be done in these areas. For example, research suggests sexual harassment of girls is pervasive and starts early. See Helene Berman, Katherine McKenna, Carrie Traher Arnold, Gail Taylor & Barbara MacQuarrie, "Sexual Harassment: Everyday Violence in the Lives of Girls and Women," *Advances in Nursing Science* 22:4 (2000): 32–46, <[www.crvawc.ca/documents/Sexual%20Harassment%20Everyday%20Violence.PDF](http://www.crvawc.ca/documents/Sexual%20Harassment%20Everyday%20Violence.PDF)>. Furthermore, factors such as racism and ableism increase the severity and nature of the sexual harassment that girls experience at school. Harilyn Rousso, "Sexual Harassment in School: Invisible Issues for Girls and Young Women with Disabilities," Gender, Diversities and Technology Institute (Newton, MA: 2009, <[www2.edc.org/GDI/publications\\_SR/publications/CRicaPub/RoussoEnglish.pdf](http://www2.edc.org/GDI/publications_SR/publications/CRicaPub/RoussoEnglish.pdf)>
  - 20 "#CyberMisogyny: Using and Strengthening Canadian Legal Responses to Gendered Hate and Harassment Online," West Coast LEAF, <[www.westcoastleaf.org/userfiles/file/Cyber%20Misogyny%20Report.pdf](http://www.westcoastleaf.org/userfiles/file/Cyber%20Misogyny%20Report.pdf)>.
  - 21 Status of Women Canada, "Cyber and Sexual Violence: Helping Communities Respond," <<http://www.swc-cfc.gc.ca/fun-fin/cfp-adp/2013-2/index-eng.html>>.
  - 22 See Emile Buckwald, Pamela R. Fletcher & Martha Roth, *Transforming a Rape Culture* (Minneapolis: Milkweed Editions, 1993); Tanya Horek, "#AskThicke: 'Blurred Lines,' Rape Culture, and the Feminist Hashtag Takeover," *Feminist Media Studies* 14:6 (2014): 1105–1107, doi:10.1080/14680777.2014.975450.

- 23 The current topics for the independent surveys are, caregiving, families, time use, social identity, volunteering, and victimization. Statistics Canada, "The General Social Survey: An Overview," 2013, <<http://www.statcan.gc.ca/pub/89fo115x/89fo115x2013001-eng.htm>>.
- 24 *Ibid.*
- 25 Statistics Canada, "General Social Survey: Victimization," October 2014, <http://www23.statcan.gc.ca/imdb/p2SV.pl?Function=getSurvey&SDDS=4504>.
- 26 See Angrove, Chapter XII; Maire Sinha, *Measuring Violence Against Women: Statistical Trends* (Ottawa: Canadian Centre for Justice Statistics, 2013), 8, <<http://www.statcan.gc.ca/pub/85-002-x/2013001/article/11766-eng.pdf>>.
- 27 Maire Gannon & Karen Mihorean, *Criminal Victimization in Canada, 2004* (Ottawa: Canadian Centre for Justice Statistics, 2005), 25.
- 28 Statistics Canada, *supra* note 25.
- 29 The 2014 GSS data will be released in 2015. According to Statistics Canada, this cycle will reintroduce questions on stalking, which were initially introduced in the 2004 Victimization Survey but were not part of the 2009 survey.
- 30 Danielle Keats Citron & Mary Anne Franks, "Criminalizing Revenge Porn," *Wake Forest Law Review* 49 (2014): 345.
- 31 *Ibid.*
- 32 *Ibid.*
- 33 Michael Salter, "Responding to Revenge Porn: Gender, Justice and Online Legal Impunity," paper presented at Whose Justice? Conflicted Approaches to Crime and Conflict, University of Western Sydney, Sydney (27 September 2013).
- 34 Shariff & DeMartini, Chapter XI.
- 35 See the discussion of Bill C-13, *infra* note 42.
- 36 Four additional articles were excluded from the sample because they mentioned "revenge porn" only in passing. For example, one article overviewed topics from that week's daytime television lineup and noted that "revenge porn" had been discussed, but did not elaborate further.
- 37 Emma Woolley, "When a Revenge Porn Kingpin Is Busted, Does It Matter Why?" *Globe and Mail*, 11 February 2014, <<http://www.theglobeandmail.com/technology/digital-culture/when-a-revenge-porn-kingpin-is-busted-does-it-matter-why/article16776273/>>.
- 38 Associated Press, "California: Man Is Charged in 'Revenge Porn' Case," *New York Times*, 10 December 2013, <[http://www.nytimes.com/2013/12/11/us/california-man-is-charged-in-revenge-porn-case.html?\\_r=0](http://www.nytimes.com/2013/12/11/us/california-man-is-charged-in-revenge-porn-case.html?_r=0)>.
- 39 Woolley, *supra* note 37.



- 40 Editorial Board, "Fighting Back Against Revenge Porn," *New York Times*, 12 October 2013, <<http://www.nytimes.com/2013/10/13/opinion/sunday/fighting-back-against-revenge-porn.html>>.
- 41 Amanda Todd was a 15-year-old student in Port Coquitlam, British Columbia who committed suicide following months of online sexual exploitation, blackmailing, and bullying. Rehtaeh Parsons was a 17-year-old Nova Scotia high school student who committed suicide after months of digital harassment related to her sexual assault.
- 42 Tabatha Southey, "Bill C-13 is About a Lot More Than Cyberbullying," *Globe and Mail*, 6 December 2013, <<http://www.theglobeandmail.com/globe-debate/columnists/maybe-one-day-revenge-porn-will-be-have-no-power/article15804000/>>.
- 43 Editorials, "Cyberbullying Law Sneaks in Measures on Police Snooping," *Toronto Star*, 24 November 2013, <[http://www.thestar.com/opinion/editorials/2013/11/24/cyberbullying\\_law\\_sneaks\\_in\\_measures\\_on\\_police\\_snooping\\_editorial.html](http://www.thestar.com/opinion/editorials/2013/11/24/cyberbullying_law_sneaks_in_measures_on_police_snooping_editorial.html)>.
- 44 Sean Fine, "Tory 'Revenge Porn' Bill Touches on Terrorism, Cable Theft," *Globe and Mail*, 20 November 2013, <<http://www.theglobeandmail.com/news/politics/tories-wide-ranging-crime-bill-cracks-down-on-distributing-intimate-images/article15533521/>>.
- 45 Erica Goode, "Victims Push Laws to End Online Revenge Posts," *New York Times*, 23 September 2013, <<http://www.nytimes.com/2013/09/24/us/victims-push-laws-to-end-online-revenge-posts.html>>.
- 46 Michael Plaxton, "Canadian Women Deserve More Than a 'Revenge Porn' Law," *Globe and Mail*, 22 November 2013, <<http://www.theglobeandmail.com/globe-debate/canadian-women-deserve-more-than-a-revenge-porn-law/article15560839/>>.
- 47 Danielle Keats Citron, "Revenge Porn Should Be a Crime in U.S.," *CNN*, 16 January 2014, <<http://edition.cnn.com/2013/08/29/opinion/citron-revenge-porn/>>.
- 48 Helen Benedict, *Virgin or Vamp? How the Press Covers Sex Crimes* (New York: Oxford University Press, 1992).
- 49 Michelle Wasserman, "Rape: Breaking the Silence," *The Progressive* 37 (1973).
- 50 Joanna Den Hertog, "Herstory: Johanna Den Hertog – A Founding Member Keynote Speech at Rape Relief 35th Anniversary," 2008, Vancouver Rape Relief and Women's Shelter, <<http://www.rapereliefshelter.bc.ca/about-us/herstory/herstory>>.
- 51 Maria Los & Sharon E. Chamard, "Selling Newspapers or Educating the Public? Sexual Assault and the Media," *Canadian Journal of Criminology* 39 (1997): 293–328.
- 52 *Ibid.*
- 53 Johnson & Dawson, *supra* note 1 at 188.

- 54 Bluett-Boyd et al, *supra* note 3.
- 55 Holly Johnson, "Preventing Violence against Women: Progress and Challenges Volume," *Revue de l'IPC Review* 1 (2007): 73, <<https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=241584>>.
- 56 CCSO Working Group, *Report to the Federal/Provincial/Territorial Ministers Responsible for Justice and Public Safety: Cyberbullying and the Non-consensual Distribution of Intimate Images* (Ottawa: Department of Justice, 2013), 16, <<http://www.justice.gc.ca/eng/rp-pr/other-autre/cndii-cdnicii/pdf/cndii-cdnicii-eng.pdf>>.
- 57 For example, the report contains only six instances of the word "violence," none of which are referring to the specific behaviours under debate.
- 58 Johnson, *supra* note 55 at 16.
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- 60 Associated Press, "'Most Hated Man on the Internet' Charged over Plot to Post Stolen Nude Photos," *Toronto Star*, 24 January 2014, <[http://www.thestar.com/news/world/2014/01/24/most\\_hated\\_man\\_on\\_the\\_internet\\_charged\\_over\\_plot\\_to\\_post\\_stolen\\_nude\\_photos.html](http://www.thestar.com/news/world/2014/01/24/most_hated_man_on_the_internet_charged_over_plot_to_post_stolen_nude_photos.html)>.
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- 62 Danielle Keats Citron, "Law's Expressive Value in Combating Cyber Gender Harassment," *Michigan Law Review* 108 (2009), <<http://www.michiganlawreview.org/assets/pdfs/108/3/citron.pdf>>.
- 63 *Ibid.* at 401.
- 64 Johnson & Dawson, *supra* note 1 at 103.
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- 66 Julian V. Roberts, "Sexual Assaults in Canada: Recent Statistical Trends," *Queen's Law Journal*, 21 (1996): 395–421.
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