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**Delineating non-consensual sexual image offending: Towards an empirical approach**

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### **Abstract**

The topic of non-consensual sexual images has become an increasingly important issue within the social policy landscape. Social and legal scholars have advocated for these behaviours to be designated sexual offences due to the mode of perpetration of these behaviours, but are explicit in their rejection of a sexual element being important in the motivations underpinning such behaviours. However, this rejection is inconsistent with the core theoretical models related to sexual offending. In this article, we outline some of the potential psychological concepts that may help us to understand how and why people engage in a range of non-consensual sexual image offences, such as revenge pornography, upskirting, deepfake media production, and cyber-flashing. In doing so, we aim to begin to bridge the gap between legal scholars and psychological scientists, and develop a more comprehensive and theoretically coherent approach to studying this important social topic.

*Key words:* non-consensual sexual images, revenge pornography, upskirting, deepfake media, cyber-flashing

### **1. Introduction: Existing theorising about non-consensual sexual image offending**

Since around 2010 there has been strong public debate surrounding the distribution of private sexual images (commonly referred to as ‘revenge pornography’ offending). This has contributed to legislative developments throughout the Western World including Australia, Canada, Europe, and the majority of the United States of America (38 states, plus Washington, DC), wherein laws and criminal penalties relating to revenge pornography not only vary from state to state but cover several remits of law including privacy and harassment. In the United Kingdom (UK) specifically, revenge pornography stands classified as a sexual offence that carries a maximum prison term of two years (or up to five years imprisonment in Scotland) under the Criminal Justice and Courts Act 2015. However, there currently exists no universal laws pertinent to either revenge pornography specially or other image-based sexual offences more broadly (see Hall & Hearn, 2018, for a detailed review); making international comparisons in relation to judgements, motivations, and proclivity difficult to assess.

More recently, feminist and legal scholars have begun to comment on the nature – both legal and psychological – of revenge pornography in the context of a so-called “continuum of image-based sexual abuse” (McGlynn, Rackley, & Houghton, 2017, p. 38; see also Henry & Flynn, 2019; Powell & Henry, 2017). This notion of revenge pornography being just one type of behaviour related to the abusive (or non-consensual) use of private sexual images is consistent with Kelly’s (1988) and Stanko’s (1990) sociological theorising of sexual violence spanning a continuum that encompasses a range of behaviours, from everyday subtly oppressive interactions between men and women, through low-level acts of harassment, to rape offences. According to Stanko (1990), all of these experiences make women feel vulnerable to male predation in everyday life (Stanko, 1990; see also Brownmiller, 1975/1993).

The notion of a continuum of image-based sexual offences is a constructive first step in broadening the social discussion about sexual offending, and addresses the short-term political viewing of major legislative issues that can arise through high-profile and ‘available’ media campaigns (Harper & Hogue, 2014). It does this by bringing ostensibly disparate high-profile cases under a unified legal umbrella, necessitating and rationalising a coherent response to a growing social issue. However, this conceptualisation begins to break down with the assertion that each of the behaviours along such a continuum share common underlying motivations, as has been advocated by several of the aforementioned scholars. This comes in the form of researchers discussing offence motivations for ‘image-based sexual abuse’ (DeKeseredy & Schwarz, 2016; Maddocks, 2018; McGlynn & Rackley, 2017; McGlynn et al., 2017; Powell, Henry, & Flynn, 2018; Powell, Scott, Flynn, & Henry, 2020), ‘image-based sexual exploitation’ (Henry & Powell, 2016), or ‘technology-facilitated sexual violence’ (Henry & Powell, 2015a; 2015b) in a broad sense, rather than exploring the potentially divergent motivations for specific forms of such offending (e.g., revenge pornography, upskirting, deepfake media production; see below).

While some have advocated for a constellation of potential motivations for image-based sexual abuse, including the blackmail of victims, for fun, to induce sexual arousal and achieve sexual gratification, or for social status or monetary gains (Henry & Powell, 2016; Powell et al., 2020), the most vocal of these legal commentators in terms of advancing the legislative debate have ascribed motivations as being predominantly rooted in malicious gendered desires of power and control (Hall & Hearn, 2018; McGlynn, 2018). This argument was famously advanced in the book *‘Against our Will’* by Brownmiller (1975/1993) which, in spite of winning many accolades and inspiring more than four decades of sociological work

on rape and sexual violence, presented only anecdotal evidence and activism arguments in support of its main thesis. At its core, this notion assumes that in imbalance in the relative rates of female-to-male sexual victimisation, and male-to-female sexual perpetration, offers evidence of sexual aggression being rooted in male privilege and the presence of a rape culture that encourages male entitlement in relation to the sexual access to and control over women (Kimmel, 2008), and excuses and condones male sexual aggression (DeKeseredy, 1988; Seabrook & Ward, 2019). While some argue that this absolutist thinking does not reflect modern feminist thinking about sexual and intimate partner violence, it was prevalent in the recent #iwasblamed campaign on Twitter. During this campaign, the prominent Julie Bindel spoke out in support of feminist activist Jessica Taylor, stating "... yet the backlash when we talk about MALE VIOLENCE is met with 'women do it too' or 'not all men'. YES all men, because every single male on the planet benefits from those that do the raping, the beating, the killing, the trafficking, because it keeps us in fear" (Bindel, 2020; emphasis in original). Such a culture, according to this ideological frame, is spread via everyday expressions, actions, and interactions that scaffolds sexual violence and leads to the persistence of gendered social structures (Phipps & Young, 2015). This negates the role of evolutionary processes and issues related to sex drive and its potential links to sexual assault, with Thornhill and Palmer's (2000) book on this topic being criticised as being excusing, justifying, and normalising of rape (rather than as an explanatory framework for understanding the potential biological roots of some sexually aggressive behaviour; see DeKeseredy, 2017; Kimmel, 2003).

The sociologically-based power conceptualisation, alongside other explanations about the expression of hegemonic masculinity (e.g., showing off to friends, seeing the harassment and abuse of victims as fun) is particularly problematic when authors advocating this view also call for revenge pornography to be classified as a sexual offence. This is because all major multifactorial theories of sexual offending within the psychological literature containing some element relating to sexual interest or arousal (see Finkelhor, 1984; Hall & Hirschman, 1991; Marshall & Barbaree, 1990; Seto, 2019; Ward & Beech, 2006; Ward & Siegert, 2002). Indeed, there has been no systematic attempt to map these emergent sexual offence-related behaviours onto existing theories of sexual offending. These theories do not discount the importance of concepts such as a sense of sexual entitlement, or hostile attitudes towards women, as precursors to sexual aggression. However, they consider these ideas in a more nuanced way, showing how they interact with sexual arousal and other psychological vulnerabilities in the lead up to sexual offending. Further, the importance of sexual arousal is

reflected in treatment models for those convicted of sexual crimes. That is, helping individuals with sexual convictions to (1) recognise and manage offence-related sexual thoughts (e.g., via the Healthy Sex Programme run in Britain; Lucy Faithfull Foundation, 2015), or (2) reduce generally problematic levels of sexual arousal (Grubin, 2018; Lievesley, 2019; Lievesley et al., 2013) is a key treatment target. This is because deviant or problematic sexual arousal has been identified through meta-analytic work as important risk factors for recidivism (Hanson, Harris, Scott, & Helmus, 2007; Hanson & Morton-Bourgon, 2004; Knight & Thornton, 2007).

In this article, our aim is to define different behaviours that we encapsulate under the broad term of ‘non-consensual sexual images’ (NCSI), and to situate these definitions within the context of the established empirical literature on motivations underpinning sexual offending. In doing so, we challenge some of the sociological or ideological arguments advanced by scholars in other disciplines, while simultaneously supporting their arguments that the rightful ‘home’ for NCSI offences is within sexual crime legislation. Delineating different forms of NCSI and exploring their distinct or overlapping motivations is important, as there is a lack of empirical data into why such offences are committed (Walker & Sleath, 2017). Towards the end of this article, we offer a range of hypotheses related to the motivations of those who commit specific NCSI offences, in the hope of encouraging more empirical analyses of this growing social problem. It is important to stress that we do not offer these suggestions as a definitive account of the motivations underpinning NCSI offending. Instead, we are seeking to outline some potential psychological factors that may be implicated in this type of behaviour. As such, we offer this commentary as a preliminary account, from which future research can develop a more detailed psychological understanding of NCSI offending.

## **2. Defining ‘non-consensual sexual image’ (NCSI) offending**

It is important to begin by defining what we mean by offending via non-consensual sexual images. We operationalise this phrase to encompass broad range of behaviours involving NCSI and draw upon McGlynn et al.’s (2017) continuum of image-based sexual abuse to propose a taxonomic constellation of behaviours falling under this broad umbrella term. This distinction between a continuum and taxonomy is important, as we do not assume a hierarchy of NCSI offences, but rather see these as a collection of behaviours that gather under this broad term, with each manifesting in different ways, having unique motivating

factors, and requiring targeted social and judicial responses. These behaviours are outlined in Table 1.

**Table 1.** Behaviours considered to be ‘non-consensual sexual image offending’ in this article

<b>Behaviour label</b>	<b>Description</b>
Revenge pornography	The distribution of private, explicit images of an individual without their consent, with the intention to cause harm through embarrassment and/or distress.
Upskirting	The non-consensual and surreptitious capturing of intimate images under an individual’s clothing.
Deepfake media production	Using visual editing software to superimpose the likeness of another onto sexually explicit material.
Cyber-flashing	Sharing sexually explicit images via digital technologies (e.g., text messaging, instant social media, or Bluetooth) to unsuspecting or non-consenting recipients.

Breaking down this broad label into its component parts, ‘images’ should be taken to refer to a range of physical or digital media, including photographs and video. Our use of ‘image(s)’ in this article is simply a reflection of the popular discourse related to this type of behaviour at the time of writing. ‘Non-consensual’ can refer to the production (upskirting, deepfake media), distribution (‘revenge pornography’), or sending (cyber-flashing) of such media without the consent of the individual depicted in or receiving it. ‘Private’ relates to the notion that the media involved in such offending would ordinarily be reasonably assumed to not be within the public domain (this criterion may, by necessity, be waived for cyber-flashing behaviours involving freely-available online pornography). ‘Sexual’ that the person or people depicted in the media are involved in sexual acts (deepfake media, ‘revenge pornography’, and cyber-flashing), the media depicts their genitalia (and/or breasts, in the case of women and girls), or the media is produced or shared for the purposes of sexual gratification (all offence categories).

As we will set out in the remainder of this article, there may be a multitude of motivating factors that contribute to the commission of offences involving NCSI. In doing so, we challenge the psychological utility of this broad legal category for understanding the motivations of this likely heterogeneous group of individuals who are responsible for committing such offences. Indeed, it seems possible that specific offences may be underpinned by different sexual and/or non-sexual reasons. As such, the very label of ‘image-

based sexual abuse’, as advanced in DeKeseredy and Schwartz (2016), Henry and Powell (2015a; 2015b), Henry, Powell, and Flynn (2017), and McGlynn et al. (2017), may be problematic from an empirical perspective, and in terms of aligning suggested motivations with behavioural labelling. Instead, we propose (and use) the more generic label ‘NCSI offending’ in this article in order to reflect the likely variation in offence motivations.

### **3. Multi-factorial motivations for sexual offending**

We are broadly in agreement with other scholars (Crofts & Kirchengast, 2019; Henry & Powell, 2015a; McGlynn & Rackley, 2016; 2017; McGlynn et al., 2017) that the more appropriate legislative home for NCSI offences lies within sexual crime legislation. This is because the categorisation of offences relies upon the mode of the offending behaviour itself, rather than the motivations of individual perpetrators of such offences. However, we diverge from previous authors with regard to our designation of these motivations. For example, common sense and legal discussions about the status of NCSI have explicitly designated the taking and/or distribution of such media as ‘sexual offences’ *because*:

“...sexual offending is about power, entitlement, control, punishment and humiliation. It is harmful whether involving contact or not; whether offline or online. Sexual offending is not about sexual arousal.” (McGlynn, 2018).

This broad statement about NCSI offending, and sexual offending more broadly, takes the legal argument about this constellation of behaviours and places it within the sphere of theoretical and empirical psychology. Further, the final sentence of the above quote claim places legal scholarship at-odds with established psychological theory pertaining to the nature of sexual offending. Our frameworks for understanding the biological, psychological, and socio-cultural antecedents highlight the importance of each of these clusters of motivation. In turn, they account for several complex and nuanced pathways through which individuals who commit sexual offences travel before committing their crimes, and thus form the theoretical basis for the treatment of individuals with sexual convictions.

Each of these theoretical frameworks agree that there are a multitude of key factors that contribute to the commission of a sexual offence (Ward & Beech, 2016). In Ward and Hudson’s (1998) metatheoretical work, these over-arching models are referred to as ‘level one’ multifactorial theories, which are comprised of specific factors (explained at ‘level two’), which can further be explained in terms of their specific offence-chain behavioural

manifestations (explained at ‘level three’). In itself, this metatheoretical framework reflects the complexity of understanding sexual offending motivations and its associated antecedents. However, examining some of the established psychological theories of sexual offending in more depth allows us to overcome the simplistic ‘power and control’ argument for NCSI offending, or even the myriad other socially-based motivations (e.g., for amusement, or gaining social prestige) that has been advanced in previous work.

One of the earliest level one theories was formulated by Finkelhor (1984) as a model of understanding the commission of acts of child sexual abuse. He suggested that an individual must satisfy four ‘preconditions’ before committing a child-directed sexual offence. Initially, an individual must have a motivation to sexually offend. This is conceptualised in the model as being associated with one or more factors related to emotional congruence with children, sexual arousal towards the potential victim, or broader sexual ‘blockage’ or frustration. These factors lay the foundations for potential sexual abuse to occur. However, even with such motivations for sexual abuse, an individual still needs to satisfy the other three preconditions. This includes overcoming internal inhibitors to sexual offending (precondition two; overcome actively through the use of intoxicating substances or indirectly through stress or cognitive distortions about children and sex), followed by external inhibitors (precondition three; overcome by isolating a child victim from their primary caregiver, or by selecting a victim with no real supervisory structure in place), and finally overcoming victim resistance (precondition four; satisfied by the giving of gifts, desensitising the victim to sexual activity, or direct threats of violence).

While the explanatory range of the Finkelhor (1984) model is somewhat limited by the types of offending it was directed at explaining, it did identify a range of different factors (e.g., sexual arousal, affect regulation deficits, cognitive distortions) that have subsequently been implicated in the lead up to a range of sexual offences, as formulated in subsequent multifactorial frameworks (e.g., Hall & Hirschman, 1991; Marshall & Barbaree, 1990; Ward & Siegert, 2002). According to Ward and Beech (2016), the concepts described in the preconditions model correspond to several “interlocking neuropsychological systems” (p. 125) identified in more modern neurobiological research (Pennington, 2002). In Ward and Beech’s (2006) integrated theory of sexual offending, these systems correspond to specific neurological components that are rooted in developmental and evolutionary processes. For example, sexual arousal and emotional congruence with children (precondition one) can be linked to motivation and emotional systems, disinhibition or impulsivity (via alcohol use or stress; precondition two) are associated with dysfunction in action selection and behavioural



control, and the active overcoming of external inhibitors and victim resistance (preconditions three and four) require the enactment of specific behavioural strategies within the perceptual and memory systems of the brain.

These interlocking functions, rooted in brain activity but comprised of different functions, call into question the notion that sexual offending is purely motivated by a patriarchal striving to maintain power and control over women and girls, a male sense of entitlement, a socialised rape culture, or male privilege (e.g., Brownmiller, 1975/1993; Kimmel, 2008; Seabrook & Ward, 2019). In no model is this nuanced approach to sexual offending motivation more explicitly encapsulated than Ward and Siegert's (2002) pathways model. This framework is based around the principle of four core mechanisms that feed into specific pathways of sexual offending behaviour. These mechanisms are 'intimacy and social skills deficits', 'distorted sexual scripts', 'global emotional dysregulation', and 'distorted sexual cognition'. According to Ward and Siegert (2002), "all sexual crimes will involve emotional, intimacy, cognitive, and arousal components" (p. 335), though a specific mechanism will be dominant for each individual perpetrator.

At this point, it is important to acknowledge that the established theories of sexual offending mentioned thus far are directed towards explaining either child sexual abuse (Finkelhor, 1984; Ward & Siegert, 2002) or contact sexual offending behaviour more broadly (e.g., Ward & Beech, 2006; 2016). Nonetheless, recent attempts to explain other forms of sexual offending (e.g., the use of child-sexual exploitation material; CSEM), or the cross-over from CSEM offending to contact offending) have provided evidence for the applicability of similar constructs in these offence patterns (Babchishin, Hanson, & VanZuylen, 2015). Seto's (2019) motivation-facilitation model asserts that sexual offending (broadly defined) is driven by two classes of antecedents: 'motivators' and 'facilitators'. Motivators are those factors which act as a catalyst for an interest in sexual offending behaviour. In earlier iterations of the motivation-facilitation model, the aim was to explain child sexual abuse (Seto, 2008). As such, motivators were geared primarily around paraphilic interests related to paedophilia. However, Seto (2019) has since described how this model can be used to explain other forms of sexual offending, with motivations including specific deviant sexual interests (e.g., biastophilia, paedophilia), high libido, a lack of available outlets for sexual satisfaction, and a preoccupation with sexual variety. While motivations to sexually offend are necessary for the commission of an offence, they are not sufficient when considered in isolation. Offence-related facilitators are also required. These can take the form of psychological factors, such as impulse control deficits or dark tetrad (i.e., Machiavellian, narcissistic, psychopathic, and

sadistic) personality traits (Book et al., 2016). The presence of some of these facilitators (e.g., not being able to inhibit the motivations for sexual offending, or overcoming internal inhibitors due to high levels of psychopathy or manipulateness), may be enough to lead to an offence being committed. Further, facilitators can be situational in nature, stemming from low mood or intoxication. As such, the motivation-facilitation model might be considered a parsimonious summation of Finkelhor's (1984) and Ward and Beech's (2006) earlier theorising. The broad applicability of these constructs and theoretical processes has been demonstrated in relation to both contact offending, and the use of indecent images of children (Babchishin et al., 2015).

We do not intend to present these theoretical models in a way that suggests their direct applicability to the NCSI offending context, nor do we even suggest that they explain every case of sexual offending in a comprehensive way. However, what these frameworks do is suggest that it is likely that a multitude of interacting explanations and antecedents may apply to a very broad range of sexual offences – a range within which we and others classify NCSI-related behaviours. Further, we also acknowledge that those engaging in these behaviours may do so for different reasons (as in the pathways model; Ward & Siebert, 2002), with these motivations potentially guiding the behavioural manifestation of the NCSI offence (i.e., whether an individual is more likely to engage in revenge pornography vs. upskirting vs. deepfake media production offences). As outlined by McGlynn et al. (2017), some of these mechanisms may indeed reflect a socialised need for power and control. Framing these facilitators of such offending behaviours (as they would be referred to in the motivation-facilitation dichotomy) makes this approach more suitable for psychological analysis. For instance, we might conceptualise these needs as forms of sexual entitlement, or distorted cognitions about the roles or social positioning of women in comparison to men (Burt, 1980; Polaschek & Gannon, 2004; Polaschek & Ward, 2002; Seto, 2019; Szumski, Bartels, Beech, & Fisher, 2018). Further, NCSI sharing behaviour may be explicable using established ideas related to emotional dysregulation, whereby the taking or sharing of NCSI represents a way to redress negative emotions related to self-image being experienced by a specific offender, or as a reactive way of redressing a perceived slight from a victim (akin to the 'revenge' aspect of revenge pornography offending; Hall & Hearn, 2018; Walker & Sleath, 2017; Uhl, Rhyner, Terrance, & Lugo, 2018). In this regard, we offer these theoretical models as offering clear empirical frameworks within which to consider the nuanced motivations and pathways into NCSI offending and begin to move away from unifactorial models of such

behaviour. In the sections that follow, we begin to delineate the potential motivations of specific forms of NCSI offending.

#### **4. Psychological motivations for NCSI offending**

The divergence between our own views regarding the possible motivations for NCSI offending and those of sociologically-minded scholars (e.g., McGlynn et al., 2017) may be reflected in epistemological or disciplinary differences. That is, much of the theorising on NCSI offending has thus far taken place within the legal sphere. It is clear that the grouping of offences that look similar in terms of their behavioural manifestations make sense from a legislative standpoint. This is not uncommon, and this approach has been taken elsewhere, namely with the Sexual Offences Act 2003. As such, we reiterate our support of the grouping of offences involving NCSI for this legal purpose.

However, it does not logically follow that behaviours grouped together into legal categories always share common underlying psychological motivations or causes. Similarly, (as we have demonstrated above in our discussion of theoretical explanations of sexual offending) such behaviours cannot necessarily be explained by simplistic causal mechanisms advocated by social scholars in non-empirical disciplines. As such, we think it may be useful to explore specific causal mechanisms that may be at play in relation to each of the NCSI offence categories we outlined at the beginning of this article. In doing so, we demonstrate how this constellation of offences could be explained in a number of different ways from a psychological perspective. It should be noted at this point that our theoretical applications below should be viewed as hypotheses to be tested in experimental, cross-sectional, and longitudinal studies as this field of research continues to develop.

##### ***4.1. Revenge pornography offending***

Revenge pornography is perhaps the most well-known and widely discussed NCSI offence within the general population and in popular media outlets. Indeed, the seminal qualitative review on reasons behind this type of behaviour (Hall & Hearn, 2019) documented multiple instances of perpetrators wanting ‘revenge’ for an ex-partner halting or ending a relationship, and/or because of their misdeeds or sexual shortcomings. This kind of explanation may have some grounding in the available evidence on engagement with revenge pornography, with Uhl et al. (2018) reporting how such material received more views and comments when the reason for posting accompanied it. However, Hall and Hearn (2019) also presented accounts of individuals who disseminated private images of others as a means of

evidencing their sexual prowess and ability to gain attractive mates. In this sense, sharing images may be a method of engaging in intrasexual competition (Buss, 1998; Buunk & Fisher, 2009), and it is this sharing behaviour (and the associated 'entertainment' associated with the sharing of the sexual image) that makes the material pornographic (Franks, 2016). This is consistent with work by Fido, Harper, Davis, Petronzi, and Worrall (2019) who found that intrasexual competition predicted leniency among women (but, contrary to expectations, not men) when judging a revenge pornography case example. As such, although the desire to harm a former partner (or any other victim of this type of crime) may be a commonly reported motivation for the distribution of private sexual images (Hall & Hearn, 2018; Walker & Sleath, 2017), the use of the term 'revenge' may wrongfully distort our understanding of the possible motivations underpinning this type of offence. As such, the more holistic term of 'image-based sexual abuse' (DeKeseredy & Schwarz, 2016; McGlynn et al., 2017; Powell et al., 2020) may better reflect the effects of such offences while also being more inclusive of the range of potential behavioural motivations on the parts of perpetrators.

Evidence from the literature on sexual offending suggests that negative affective states, such as anger, anxiety, or loneliness may proliferate the use of sexual behaviours as a means of coping (Cortoni & Marshall, 2001; Marshall & Marshall, 2000). These affective states are similar to those documented during the breakdown of a relationship (Field, Diego, Pelaez, Deeds, & Delgado, 2009). As such, disseminating sexually explicit images of another may help, in part, to reduce existing negative affective states related to feelings of inferiority, insecurity, and a loss of power (Hall & Hearn, 2019), and thus reinforces the use of sexual offending behaviour as a coping mechanism in the future (Howells, Day, & Wright, 2004). This conceptualisation is consistent with aforementioned sociological theories of sexually based aggression being brought about by a need to redress some perceived power imbalance on the part of the perpetrator (Brownmiller, 1975/1993; Kimmel, 2013), but, consistent with our aim, augments this argument with the existing literature on motivations of sexual offending.

Such negative affective states have also been associated with the suppression of empathic responses in perpetrators of sexual offences (Howells et al., 2004), as well as increased risk taking behaviour in users of CSEM, more specifically (Quayle & Taylor, 2002). Together, reduced empathy (a characteristic of those with callous, unemotional, and uncaring personalities) and disinhibition have been associated with increased anonymous and non-anonymous internet-mediated bullying behaviour (Wright, Harper, & Wachs, 2019) and

exploitative sexual strategies (Jonason & Kavanagh, 2010). A recent in-depth review into the habits and experiences of users of online CSEM suggests cognitive dissonance exists between how users construct normative discussion of children's protection, sexuality, and innocence offline and online (Rimer, 2019). As such, it is possible that perpetrators of revenge pornography may view their actions as less 'real', as they are using the internet as a means of anonymously distancing themselves from their amoral and pervasively-damaging actions. In this sense, the same 'Triple-A-engine' of online CSEM offending (Cooper, 1998) of affordability, access, and anonymity makes offending in this way both easy to do (access and affordability) and relatively difficult to detect once media have been shared (anonymity). This has been cited as a potential mediator of other online sexual offences (Bartels & Merdian, 2016; Merdian, Curtis, Thakker, Wilson, & Boer, 2013), and so may warrant further empirical enquiry in the domain of NCSI offence perpetration. For example, implicit theories about the nature of the harm caused by revenge pornography offending (as distinct from harm caused by other forms of sexual crime) may be a factor that facilitates such behaviour when a vengeful (or other) motive is experienced. Taking inspiration from Bartels and Merdian (2016), who identified implicit theories about CSEM use that were distinct from rape- and child abuse-related implicit theories, it is possible that a discrete set of beliefs about the sharing of private sexual images form a basis of offence motivations for revenge pornography perpetrators. Given the emergent nature of existing revenge pornography legislation, mixed methods approaches using an exploratory sequential design (with qualitative work using a small pool of perpetrators preceding wider quantitative analyses in the broader population; Creswell & Plano Clark, 2017) may shed light on the unique belief structures that drive this type of offending.

#### ***4.2. Upskirting***

Upskirting is a colloquial term that refers to the taking of private sexual images underneath the clothing of a non-consenting (and often unaware) individual. The behaviour looks similar to voyeuristic behaviour, where individuals (more likely men than women; Långström & Seto, 2006) observe unsuspecting others who are either naked, undressing, or engaging in private (including sexual) activities (Kaplan & Krueger, 1997). This type of activity is classified as a paraphilia, meaning that it is viewed as an abnormality of sexual interest (McManus, Hargreaves, Rainbow, & Alison, 2013). According to Långström and Seto's (2006) analysis of voyeurism, those engaging in this behaviour were more likely to have experienced mental health difficulties, abuse alcohol and illegal drugs, have lower levels

of sexual satisfaction, and be non-heterosexual in their orientation. The apparently novelty-seeking nature of voyeurism, when combined with these outcomes, may suggest that those engaging in voyeuristic acts may be seeking a sense of sexual satisfaction that they cannot achieve in tandem with another person, either due to the diverse range of sexual interests that can be experienced by voyeuristic individuals (Baur et al., 2016; Långström & Seto, 2006), or due to some deficit in interpersonal functioning.

Psychologically speaking, there is an argument to be made that upskirting may be predicted by a perceived entitlement to sex (Pemberton & Wakeling, 2009). This would be consistent with the patriarchally-based arguments of sociological scholars about the origins of males' sexual aggression (DeKeseredy & Schwartz, 1993), but can also be fused with existing psychological literature in relation to the onset and maintenance of sexual aggression (Polaschek & Gannon, 2004; Polaschek & Ward, 2002; Ward & Keenan, 1999). With regard to sexual entitlement, an individual may perceive themselves as being more powerful and important than another (Beech & Mann, 2002) and so their ability to take what they want, in this case, upskirt images, is uninhibited. However, the desire to possess an upskirt image begins this offending trajectory, and thus acts as a motivating factor (with entitlement representing a psychological facilitator of the behavioural seeking of the desired material).

There may also be other personality traits to be implicated as facilitators of NCSI offending generally, and this is specifically the case with upskirting. For example, psychopathy (a dark triad personality trait) is related to fetishism, and also moderates the effects of pornography consumption on sexual behaviour (Williams, Cooper, Howell, Yuille, & Paulhus, 2009). Further, dark triad traits predict sensation seeking, a heightened desire for sexual stimulation, and behaviours related to seizing opportunities to achieve instant sexual gratification (Jonason, Webster, Schmitt, Li, & Crysel, 2012). In this sense, subclinical or undetected levels of psychopathy may predict a higher than average propensity to seek out and obtain sexual gratification in an impulsive manner, consistent with Långström and Seto's (2006) psychological profiles of voyeurs. The ubiquity of portable devices with picture-taking capabilities, coupled by the prevalence of subclinical levels of sadistic personality traits (one facet of the dark tetrad) within the general population (up to 7% in student samples; O'Meara, Davies, & Barnes-Holmes, 2004) could be a contributing factor as to why these behaviours appear to be on the rise. McGlynn (2018) has identified how a large number of pornographic videos depict upskirting-related themes. As such, the link between subclinical dark triad traits and the consumption of this type of sexual material should be considered when seeking to understand upskirting proclivity. Studies seeking to understand a

propensity to engage in upskirting behaviour may thus look to investigate the moderating roles of technology use, behavioural inhibition, and antisocial personality over the relationship between sexual satisfaction and upskirting proclivity.

### ***4.3. Deepfake media production***

Deepfake media production (also referred to by some as ‘morph porn’ or ‘deepfake porn’) refers to the use of machine learning software (such as Google’s TensorFlow) to dynamically transpose one image (or a series of similar images) onto a still or motion picture. Notable examples include the use of deepfake tools to generate fake videos of politicians giving speeches that give credence to the criticisms raised by their ideological opponents, and the creation of sexualised videos of celebrities including Taylor Swift, Emma Watson, and Meghan Markle. These latter materials gained internet notoriety due to both their sexual nature as well as the celebrity status of the individuals they profess to portray. The software necessary to achieve this end is widely available and relatively easy to use. As such, virtually anybody wishing to do so can produce fake, sexualised images of another in order to humiliate, extort, and/or harass them, or to initiate and satiate their own sexual arousal.

The notion of financial and physical control is clearly evident in the above synopsis. However, applying Taylor and Quayle’s (2003) and Merdian et al.’s (2003) models of CSEM offending, it is possible that the generation of deepfake media may be motivated by a number of other factors, including curiosity, sexual compulsivity, or a specific sexual interest. Indeed, Harris (2019) asserts that the generation of deepfake pornography might be used for the purposes of one’s own sexual gratification. Theoretical models of sexual socialization, such as that by Wright (2014), suggest that viewing sexually explicit material plays a role in the generation of sexual cognitive scripts that help shape our understanding of normative, appropriate, and rewarding sexual behaviour. Dysfunctional script formation, combined with a sexual desire to see intimate images of somebody who has not made available sexually-explicit images of themselves, may result in the use of deepfake pornography as a means of fulfilling this curiosity, or for achieving a heightened sense of sexual satisfaction. Sexual scripts and cognitive beliefs are core constructs in a range of multifactorial models of sexual offending (Hall & Hirshman, 1991; Ward & Beech, 2006; 2016; Ward & Siegert, 2002), and thus it is unsurprising that they would play a role in the commission of this emerging sexual offence category. However, this behaviour does highlight the potential role of the Internet and deep-learning algorithms in facilitating such offending.

Naturally, the existence of such technologies will create a subgroup of individuals who, for financial and social gain, generate deepfake media for the consumption of collectors of such images. The ‘collector’ is a typology delineated in Krone (2004) in the context of how individuals engage in using CSEM. In regards to deepfake media, collectors may seek to own an entire collection of (or even bespoke) deepfake media depicting either a certain individual or a variety of individuals who are engaged in a similar sexual act in order to achieve gratification (either sexual or non-sexual) for themselves. It is also consistent with the different domains of the ‘motivations’ dimension of CSEM offending, as put forward by Merdian et al. (2013), of which financial gain was posited as one motivator of these behaviours. Given the possible overlap between deepfake media production and CSEM offending, it may be fruitful for researchers to seek to apply case formulation and treatment strategies for CSEM users and producers to this newer NCSI population. One framework for doing this is was put forward by Merdian, Perkins, Dustagheer, and Glorney (2018), who applied the motivation-facilitation model (Seto, 2019) by adding subjective behavioural evaluations and considering the effects of sexual arousal on permission-giving thoughts. Using such a framework could offer a standardised framework for studying the production of deepfake media.

#### ***4.4. Cyber-flashing***

The term ‘cyber-flashing’ can encompass a number of different behaviours, from the sending of self-produced sexual media (colloquially, we see frequent references in modern society to ‘dick pics’ sent by men; Waling & Pym, 2017) to the non-consensual transfer of pornographic media via digital technologies such as Bluetooth or Apple’s AirDrop feature. It is important to note that we do not include consensual sexting behaviour within established personal or romantic relationships as a form of cyber-flashing. These behaviours are relatively common (more than 50% of college students, for example, have reported sending sexually explicit images or videos; Drouin & Landgraff, 2012), and the consensual nature of these interactions mean that they do not fit our definition of NCSI.

The key feature of cyber-flashing that dictates whether a behaviour falls under the NCSI umbrella is that the media shared is done so in a non-consensual or intrusive manner. As such, there are links here between cyber-flashing and the existing literature on exhibitionism, whereby individuals (typically men; Långström & Seto, 2016) expose themselves to unsuspecting others. Psychologically, those engaging in exhibitionism score high on sexual sensation-seeking, substance misuse, poor psychological adjustment, and



having lower satisfaction with life (Långström & Seto, 2006). Exhibitionists, however, are also found to have typically experienced a greater number of sexual partners, and endorse a broader range of sexual fantasies than individuals who do not engage in this behaviour (Baur et al., 2016; Långström and Seto, 2006). Linked to the notion that cyber-flashing is related to the achievement of the perpetrator's own sexual gratification, Hayes and Dragiewicz (2018) cite a quotation from an anonymous Tinder-hosted podcast (who they provided with the pseudonym 'Max'), who said:

“If you just start sending the dicks right away, that's something that turns *you* on. It's not about getting someone else off. If I haven't had any message from you before, and I just see “hey bro” ...and they get like 10 pictures of a penis, like...that's just like what you're into, that's not about turning someone else on. Like...probably no one wants to see that dick.” ('Max', as cited Hayes & Dragiewicz, 2018).

In this sense, 'Max' is denoting a specific sexual motivation for sending unsolicited 'dick pics' that links to the sender's own sexual arousal and sense of entitlement to sexual contact with others. While this does not directly contradict the standard social science argument put forward by sociologically-oriented scholars such as McGlynn et al. (2017) and Kimmel (2008), it does suggest that there is a potentially important sexual component to the sending of 'dick pics'. In this sense, sexual arousal becomes entangled with sexual entitlement and narcissistic personality traits in a manner that is consistent with Seto's (2019) motivation-facilitation model.

Though likely used to evoke distress in the receiver, it could be argued that one mechanism of cyber-flashing may be to garner the possibility of short-term mating, particularly in the current fast-paced context of dating apps and so-called hook-up culture (Garcia, Reiber, Massey, & Merriweather, 2012; Heldman & Wade, 2010). This contextual issue is also consistent with exhibitionistic behaviour being more common among younger men than those of an older age (Långström & Seto, 2006). Jonason, Li, Webster, and Schmitt (2009) suggest that dark triad traits are associated with engagement in short-term mating strategies and a propensity to engage in sexual relationships with the absence of commitment, consistent with the ways in which individuals act out a fast life strategy (see Figueredo, Cabeza de Baca, & Woodley, 2013). We argue that cyber-flashing may thus be indicative of a modern manifestation of the pretactile stage of courtship disorder (Freund & Blanchard, 1986). That is, after initially identifying a potential sexual partner or target, a sexual image

may be used as a way of demonstrating sexual availability and interest. Freund, Watson, and Rienzo (1988) note that those engaging in exhibitionistic behaviour are often caught masturbating before presenting themselves, and also use the act as a means of initiating sexual contact with a view to intercourse. It could be that cyber-flashing is a modern method of initiating this contact without the necessity to make oneself vulnerable in a physical way, which would be consistent with emerging research on young people's emerging preference to form and maintain relationships in online settings (Twenge, 2017).

The sexual component of cyber-flashing may also be present in the unsolicited sending of pornographic media via technology such as Bluetooth and Apple AirDrop. That is, sending these stimuli may be related to a process of sexual grooming, and represent the stage at which the individual sending the media attempts to desensitise a potential partner to the idea of engaging in sexual activity (Briggs, Simon, & Simonsen, 2011; Elliott, 2017). However, there is little psychological research that can offer a coherent paradigm for studying this phenomenon at the time of writing. Given the growing nature of this issue, establishing theoretical models for the motivations underpinning a range of cyber-flashing behaviours (and possible ways to prevent further victimisation) should become a priority in this area of research.

## **5. Conclusions**

Sociological and legal scholars (e.g., Crofts & Kirchengast, 2019; Henry & Powell, 2015a; McGlynn & Rackley, 2016; 2017; McGlynn et al., 2017) rightly argue that in the legal arena, the non-consensual disclosure of sexual images is a form of sexual offending. This is because of the mode of perpetration (i.e., the media produced, delivered, or shared is without consent, and sexual in nature), and not the motive. However, by framing this issue in such a way, we ignore common theoretical underpinnings pertaining to wider sexual offences, of which sexual arousal, sexually-related cognitions, and specific sexual interests feature heavily.

One area that we have not explored in this article is the social context of technology use, and how this allows a new suite of sexual offences to take place. As Seto (2019) noted, even if an individual possesses both motivating and facilitating traits, a crime will only occur if the opportunity to offend presents itself. What is unique about NCSI offending is exactly how technological advance accelerates the opportunity to offend among sufficiently motivated individuals. Such technology (e.g., software advances and the proliferation of social media) allow information to be easily copied, shared widely, archived even after initial

deletion, and easily accessible/discoverable in the future. Some critical commentators might argue that digital technology platforms should be a key target for intervention to prevent the spread of an epidemic of NCSI offending. Although we do not disagree that such platforms have a vitally important role to play, our focus here is on understanding the interpersonal and intrapersonal processes by which individuals may be motivated to engage in such behaviours.

We, by no means, attempt to offer a definitive explanation of the underpinnings of NCSI offending. Instead, we seek to facilitate wider discussion around potential psychological and personality factors which *might* account for some of these behaviours, in certain situations. It is hoped that this article will provide the initial impetus for social and legal scholars to collaborate more closely to bridge disciplinary gap and develop a more joined-up and comprehensive account of this growing social issue.

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