

Non-consensual pornography:
a new form of technology facilitated sexual violenceLa condivisione non consensuale di materiale intimo
come nuova forma di violenza online

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Abstract

The use of technology and devices as forms of sexual exploitation and criminal victimisation in people's relationships and intimacy is growing day by day. One of these is Non-Consensual Pornography, that can be defined as the sharing of private materials with sexual content, either photos or videos, without the consent of one or more of the individuals involved, in order to harm the victim. Most of the times there are two main consequences: on one hand the viral and uncontrolled diffusion of private material and on the other hand, the related crimes that can be committed. The aim of this article is to explore the phenomenon from two different points of view: a legal aspect and some gaps in technology that have not been either solved or investigated yet, since damages are socially considered less serious because of the distance the web creates between the perpetrator and the victim. Important data are provided by PermessoNegato, a non-profit advocacy organization, based in Milan, that provides technological support to the victims of Non-Consensual Pornography, online violence and hate crimes. The ultimate purpose of the research is to shed light on facts in order to prevent such crimes.

Keywords: Article 612-ter C.p., online shaming, gender-based offence, victim blaming, digital signature, revenge pornography, non-consensual intimate image.

Riassunto

Una delle peggiori forme di violazione della privacy perpetrate al giorno d'oggi è il cosiddetto Non-Consensual Pornography, o pornografia non consensuale, termine utilizzato da una parte della comunità scientifica per indicare la condivisione di immagini o video sessualmente espliciti senza il consenso della persona rappresentata. Due sono le conseguenze principali quando questo reato viene perpetrato: la diffusione virale del materiale condiviso e l'ulteriore danno subito dalla vittima a causa dei reati correlati che possono porsi in essere. L'obiettivo del presente lavoro è di approfondire il fenomeno sotto due punti di vista: le discrepanze normative e tecnologiche non ancora risolte, al fine di comprendere se la distanza che la rete crea influisce sulla percezione sociale che si ha della vittima. I dati raccolti sono stati principalmente forniti dall'associazione PermessoNegato, no-profit a promozione sociale che si occupa del supporto tecnologico alle vittime di pornografia non consensuale, violenza online e attacchi d'odio in rete. La finalità ultima del contributo è quello di cercare di comprendere come sia possibile prevenire la vittimizzazione dei soggetti coinvolti, in un periodo storico in cui c'è una chiara emergenza educativa nell'uso – abuso di Internet.

Parole chiave: Articolo 612-ter C.p. – online shaming – violenza di genere – victim blaming – firma digitale – revenge porn - pornografia non consensuale.

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Non-consensual pornography: a new form of technology facilitated sexual violence

1. Definition, national response and legal discrepancies

Non-consensual Pornography can be defined as the sharing of private materials with sexual content, either photos or videos, without the consent of one or more of the individuals involved, in order to harm the victim. Such images and / or videos are either produced consensually (e.g. by knowing individuals with both parties consent during intercourse or willingly sent by an individual to a third trusted party) or non-consensually (e.g. with spy cameras, hidden recordings of sexual assault or by downloading images and / or videos from electronic devices), but in both cases, there is no consent to the dissemination of them. Most of the times there are two main consequences: on one hand the viral and uncontrolled diffusion of private material with important reputational damage and, often, public shaming resulting in loss of trust and often firing; and on the other hand, the related crimes that can be committed, such as cyberbullying, hate speech (both online and offline), doxing, stalking, cyberstalking and e-shaming. All of them include offensive, degrading and sexist comments on the various platforms or by email, smartphone, along with unwanted offerings for sexual intercourses. Despite its emerging prevalence, little is known about the damage the victims of Non-Consensual Pornography suffer, probably also because most of the cases are not reported at all. Anyway, before the enactment of the Italian Law No. 69/2019, there were some articles that could offer a sort of protection to the victims, in particular Article 595 (Defamation), Article 615-*bis* (Unlawful interference in private life), Article 617-*bis* (Fraudulent filming), all of the Italian Penal Code (C.p.), and, finally, Articles 33-39 of the Italian General Data Protection Regulation (GDPR), 2016/679. Even if the aforementioned Articles protect the individual from different perspectives of his / her private life, these are not adequate for the protection that the victims of Non-Consensual Pornography truly need. For example, Article 617-*bis* does not include any mentions regarding the fraudulent diffusion of photos; even if the defamation offers a sort of protection to the victim, it is certainly not able to grasp the serious and long-lasting consequences when non-consensual pornography occurs. The new Italian Law No. 69/2019, enacted on July 19th, 2019, aims to protect the victims of domestic and gender-based violence, also perpetrated through electronic devices and today Non-Consensual Pornography is punished according to Article 612-*ter* of the Italian Penal Code, named “*Illicit distribution of sexually explicit images or video*”.

In accordance with the Article:

1. *If the offence is not of a most serious nature, whosever, after having produced or stolen images or videos of sexual organs or sexually explicit content, destined to remain private, without the consent of the person represented, sends, delivers, assign, publishes or disseminates the images or videos, is punished with imprisonment from one to six years and a fine from 5.000 to 15.000 euros.*
2. *The same penalty applies to those who, having received or acquired the abovementioned images or videos, send, deliver, sell, publish or disseminate them without the consent of the person represented in order to bring them harm.*
3. *The punishment is increased if the facts are committed by the spouse, even if separated or divorced, or by a person who is or has been linked by a relationship to the victim or if the facts are committed through computer or electronic tools.*
4. *The punishment is increased from one third to half if the facts are committed in damage to a person in a condition of physical or mental inferiority or in damage of a pregnant woman.*
5. *The offence is prosecutable on the action of the injured party within six months. The offence is prosecutable ex officio in the cases referred to in the fourth sub section, as well as when the offence is connected with another crime prosecutable ex officio”.*

Why has it been necessary to wait until 2019 to give a legislative protection to the victims of Non-Consensual Pornography? Probably the answer is a combination of different factors: first of all, it is important to remember that technologies are faster than law; also, social and historical factors must be taken into consideration, such as the hostility against women's independence. Other factors concern the difficulties in understanding the gravity of such behaviour, the related consequences for the victim and the blame that is often put on women when accused to be moral culprits of the act, being the first creators of the sexual material (if this has not been illegally obtained), forgetting the absence of consent to spread the images and/or videos. Indeed, a victim's consent is unfortunately often extended also to other contexts. Maybe also for this reason some gaps remain, even if Law No. 69/2019 has certainly filled a regulatory one, assumed that before Article 612-*ter* the victims of Non-Consensual Pornography could not claim their rights against a specific criminal offence. Law No. 69/2019 modifies Article 362 of the Italian Code of Criminal Procedure, providing now that in the severe cases required by the penal law, such as, for example, sexual assault ex Article 609-*bis* C.p., sexual acts with a minor ex

Article 609-*quarter* C.p. and stalking ex Article 612-*bis* C.p., the Prosecutor speaks with the victim in a particularly vulnerable condition within three days upon the registration of the crime reported. Why has the abovementioned protection not been provided to the victims of Article 612-*ter*? It can be useful to consider the possibility that the legislator is not fully capable to understand the Non-Consensual Pornography harmful implications. Moreover, according to the new Article 13-*bis* of the Penitentiary Law, people condemned for sexual violence, stalking and other criminal offences, can undergo a psychological and criminological treatment for the purpose of rehabilitation. Why has this not been required for the perpetrators of Non-Consensual Pornography? A criminological or psychological treatment should be necessary regardless of whether the abuse takes place online or offline; and the purpose must be to investigate and understand what the consequences of certain behaviours are and the extent of the damage being caused to the victims.

2. Online vs offline victimisation

It may be correct wondering if, in some cases, the damage is considered less serious because of the distance that the web creates between the perpetrator and the victim. This question has accompanied all the present article, where answers have been given thanks to facts and consideration carried out so far. Starting from the assumption that crimes committed online include a wide range of offences, we shall divide these in two big groups: cybercrimes, such as abusive access to computer systems, and those that can be defined as “digital crime,” crimes that can be committed both online and offline (e.g., stalking or romance scam). If we consider offline victims, there are different needs: generic ones, such as the legal assistance, psychological support and the recognition of the victim as such; and specific needs, such as the economic one (e.g. in cases of theft in the apartment) and the medical one (e.g. in case of aggression). In fact, online victims face the same consequences, in psychological, social and economic terms, of offline ones. For example, in stalking and cyberstalking, the same situation of loss of control and fear is common to both types of victims, without considering the consequences in terms of reputation for the online ones: it is very easy nowadays to damage someone thanks to technologies. Unfortunately, there are not many studies on the difference between online and offline victims and on their specific needs. We will refer to the study conducted by Dr. Nottè of The Hague University of Applied Sciences. The research is based on the following question: *“In relation to the police/judiciary, how and to what extent do the situation and needs of victims of online crimes (both cyber-enabled and cyber-dependent crimes) differ from the situation and needs of victims of traditional offline offenses?”* To answer the question, different approaches have been adopted, including the study of policy documents, interviews with experts (e.g. police officers, victims’ support

centres) and questionnaires, submitted to n.19 victims of various online crimes, such as hacking, sexual cyber-enabled crimes, phishing and online fraud. The interviews with the victims and the experts show that in fact *“most of the consequences experienced by victims of online offenses correspond to the consequences of traditional offline offenses (...). Almost all victims report psychological and emotional consequences of online crime, to a greater or lesser extent. Some consequences have a devastating impact, for example if they impact on multiple aspects of life. Commonly reported consequences are: loss of trust, guilt and shame, anger, outrage and frustration, stress, fear, feeling unsafe, powerlessness, grief and disappointment”*.

3. Is non-consensual pornography a gender-based offence?

Although victims of Non-Consensual Pornography can be both male and female, according to some statistics the victims are in most cases women. Referring to the Revenge Porn Helpline, based in UK, in number of cases reported between 2015 and 2019, 66% were female, 25% male and 9% not known.

From the statistics of *PermessoNegato*, an Italian organization that will be introduced in the next paragraph, it came up that there are more female victims (60%) rather than male ones (40%). The latter are mostly victims of sextortion: i.e., when someone threatens his/her victims by distributing his/her private material (with a sexual content) if the victim does not provide images of a sexual nature, sexual favours, or money in exchange. One of the reasons why women are more exposed to Non-consensual Pornography but also to the related crime (e.g., stalking, hate speech etc.) is that usually a woman is condemned more severely than a man for having lent herself to the production of images and / or videos with sexual explicit content: victim blaming is in fact predominately exercised against women, while the male counterparts seem to be far more target of mere derision. This issue will be heightening further on; however, it is important to highlight, that it is as difficult as fundamental trying to change at least in part a predominantly male-dominated culture. Let’s remember that the consent given to the partner in intimacy, must never be intended as a general consent to disclosure.

4. PermessoNegato

A Social Network can be defined as the online information service, which allows the creation of social interactions on the net, with the possibility for users to share textual, hyper textual contents, images or videos. Nowadays, the most used Social Network is Facebook Inc. conglomerate of Facebook / Instagram, which currently boasts about order to develop a team that can effectively support those who required help.support also together with other associations, in 2.23 billion monthly active

users. Through this social phenomenon it is now normal to share very intimate aspects of life, and to take possession of the private life of others, thus creating a reciprocal and potentially unlimited exchange of sensitive data. This often leads to the performance of illegal activities, such as identity theft, online grooming, cyber stalking and acts of Non-Consensual Pornography. PermessoNegato is a non-profit social advocacy organization, born at the end of 2019 and based in Milan, that provides technological and legal support to victims of Non-Consensual Pornography, online violence and hate attacks. The association has a deep knowledge of how the dynamics of spreading personal material can impact the life of a person. The aim of the organization is to develop and apply technologies, strategies and policies for the non-proliferation of Non-Consensual Pornography and other forms of online violence and hatred, through the identification, the reporting and the removal of such contents from the majority of online platforms. Moreover, they provide strategic and educational support to those who promote policies and Laws to protect the victims of Non-Consensual Pornography attacks or of other forms of online violence and loathing. PermessoNegato has a multidisciplinary approach: the organization is made up of a team of lawyers (specialized in new technology and the rights of the weakest), criminologists, security and reputation experts and management experts. Facebook has co-financed the association, which is creating a network of contacts and support tools, also together with other associations, in order to develop a team that can effectively support help requests. The data published in a dedicated report on November 25th 2020, born from investigating and monitoring activities carried out by PermessoNegato within the statutory mission of analysis and contrast to the phenomenon of Non-Consensual Pornography in Italy, are reported below. In particular, the new scenario presents the data of the survey as related to the groups and channels dedicated primarily to the sharing of Non-Consensual Pornography material in Italy. The Permanent Observatory of PermessoNegato found, in November 2020:

- **Groups and channels:** 89 groups and channels active in the sharing of Non-Consensual Pornography intended for an Italian audience;
- **Non-unique users:** the groups examined found a number of non-unique registered users equal to 6.013,688 accounts;
- **Largest group:** the largest group examined included a number of 997,236 unique users;
- **Unique users:** a sample analysis of the largest groups led to an estimate of the overlap of users between groups at around 60%.
- The phenomenon has rapidly grown during 2020 and for the sake of greater clarity below the previous observations, data provided by PermessoNegato are reported:
- **February 2020:** 17 groups / channels for a total of 1.147,000 non-unique users;
- **May 2020:** 29 groups / channels for a total of 2.223,336 non-unique users.

The phenomenon of Non-Consensual Pornography has reached alarming proportions in Italy especially in the last year, much more than the so-called Revenge Porn, which identifies revenge as its main purpose.

5. Methods

With specific reference to the technological support implemented by PermessoNegato, when Non-Consensual Pornography occurs, victims can ask for support through different channels: the association's Facebook-page, email, Instagram or Twitter accounts. Every time a victim asks for support, despite from the chosen channel, an email pops up, thus generating a ticket that allows to get in touch with the potential victim. It is fundamental to listen to the victims' needs, understanding why and in which way they become a victim and how to help them effectively and quickly. A distinction must be made between victims of Non-Consensual Pornography and those who have suffered a breach of privacy. In this second case, a redirection is made to the Facebook page that deals with this kind of reports, specifying that PermessoNegato only deals with sexual violations. Many of the victims are young: it is important to understand whether the interlocutor is an adult or a minor. Indeed, the support provided changes accordingly, for two reasons: the main one is that for many operations the consent of the child's legal guardian is required, and the second one is that PermessoNegato can't directly handle child pornography material to remove, because it would constitute a crime (Article 600 *quarter* C.p., possession of pornographic material). In this case the solution proposed is an interview with a legal counsel, who is part of the association (remaining anonymous). The aim of the interview is to understand the position of the minor, where sometimes in order to dig deeper into the matter the involvement of the legal guardians is necessary. Regardless of the victims' age, if he or she know users or groups in possession of this delicate content, determined to spread it, PermessoNegato can report them to the platforms as a matter of priority. In case of minors, Facebook provides the CyberTipline in order to notify the crime to the National Centre for Missing and Exploited Children. If the victim is an adult, three different scenarios can open up. First, an interview with a lawyer, which can be scheduled through the platform. This is always guaranteed, as in case of a minor victim. It is important to underline that the legal counsel will not be able to assist the victim as a professional (in order not to risk violating the Code of Forensic Deontology, Articles 36.2 and 37), but the legal counsel will in any case define the path of justice of the victims' position and which steps can be made to protect the victims' rights. Moreover, the two main used tools are the assistance in preventive removal and the removal assistance: on one hand an instrument with a preventive purpose was implemented, and on the other hand a technological support when the crime has already been committed was defined. To activate the re-

removal assistance, the victim must know the address where the offending content has been uploaded. In this case, when the Facebook pages containing the material or the accounts that have published the material or exchanged it via private messages are provided, the association gets in direct contact with Facebook, requesting the closure of the accounts and/or the removal of the content and the related pages / accounts / groups. Often, in fact, the closure of the entire account is requested as they were created specifically to damage the victim by creating a fake profile. The assistance in preventive removal provided by the association is instead the first tool created in Europe with the aim of preventing Non-Consensual Pornography and it gives the possibility to those who feel in danger to protect themselves in advance. If the user claims being of age and in possess of a copy of the incriminate content, the process of “digital signature” of the content can take place. Specifically, this procedure allows the platforms cooperating with PermessoNegato (Facebook and Instagram) to create a virtual signature of the content, thus preventing from a possible upload and removing historical data that is present on the platform. Choosing to take part to this procedure and by specifying their willingness to the association, the applicant will receive an email with a single use internet address on which he or she can send this content directly to the platform, and no one of those working inside PermessoNegato will ever come in direct contact with such material. The material sent must portray the sender personally (alone or with other subject), a mandatory requirement to avoid misuse of the tool to remove content of unknowingly third parties. Usually, when the whole procedure is completed and the material has been verified, the “digital signature” procedure is completed within 72 hours, and from that moment any new upload will be promptly and automatically deleted without the need to report each instance. In the table below you will find the number of tickets created, based on the requests received, from the 1st of February to the 10th of November 2020. Out of 249 tickets, 246 were solved and in only 3 cases it was not possible to help the victim.

It would be utopic to think that in all 246 cases the problem was solved, making the victim safe and sound. As previously mentioned, crimes committed online have no territorial boundaries and the disclosure of material with sexual content can be repeated over time and on different channels (Social Networks, messages, emails, groups or porn channels). With ticket resolved it is intended that in 246 cases PermessoNegato did everything in its power to help the victim. This was made by displaying the different options and suggesting the right ones based on the specific case; listen to the victims and their need; persuading the victims to share the name of the perpetrator or the involved group. Basically, the most important actions taken are: proceeding with the preventive removal of the images, with the reporting of the user /page to Facebook which were threatening the victim, doing sextortion or that already had shared the images, requesting the closure of the profile and / page involved. Finally, in different cases a meeting with a lawyer has been scheduled to suggest how to handle the situation. In three cases it was not possible to help the victims, because after an initial report via Facebook, the victims deleted their account and it was no longer possible to contact and support them. The phenomenon in Italy is very bad: there are numerous social sites and “channels” dedicated to the spread of Non-Consensual Pornography, leading their users to a sort of “competition”, by uploading intimate videos of their current or ex-partner, with the purpose of sharing, exchanging or simply for mere “evaluation”. To make things worse, a large part of the material is accompanied by the name, surname and / or links of the personal social profiles of the victims as well as - less often - email addresses or mobile numbers. The consequences of this phenomenon are often devastating for the victim, with repercussions not only on the psychological and reputational level, but increasingly with direct repercussions on the working level. This will be analyzed in the next paragraph. To make the situation worse, the phenomenon affects minors more and more: in fact, explicit requests for child pornography ma-



Table I: Ticket handled by PermessoNegato from February to November, 2020

terial on “groups” and forums dedicated to Non-Consensual Pornography are not rare. Use of sexting and requests for pornographic content received in messages, even upon the promise of compensation, are increasing. In many cases, however, minors who sent content have been coerced, forced or heavily pressured.

6. Consequences for the victims

The consequences when Non-Consensual Pornography occurs can be different and all of them are subjective. The degree of subjectivity depends on both the victim (e.g. the victims’ character, the solidarity of the family or of the friends) and on the consequences that occur after the dissemination of the material. Three types of consequences will be taken into consideration. These cover several aspects of a person’s life: the psychological, social and financial ones.

6.1 Psychological consequences

As in the cases of sexual abuse, even when Non-Consensual Pornography occurs victims use to suffer serious harm, both physical and psychological. It was in fact demonstrated that Non-Consensual Pornography is identified more and more as a form of sexual abuse. It is interesting to note how the victims do not recognize themselves as such, since the abuse is not physical but virtual, unless other forms of violence such as hate speech offline and stalking take over. However, even if they do not recognize themselves as victims at first, they have mental and physical repercussions following up the non-consensual dissemination of their photos and / or videos with sexual content. A study conducted by Dr. Samantha Bates in 2017 (BATES, *Revenge Porn and Mental Health*), analysed the psychological consequences of 18 female victims of Revenge Porn, interviewed between February 2014 and January 2015. The study found out that most of the victims suffered a posttraumatic stress disorder (PTSD), depression, anxiety and suicidal thoughts. Moreover, it was highlighted how the privacy and intimacy failure was the same suffered by a victim of sexual abuse perpetrated offline, even more if we consider the difficulty in removing information and material published online. Because of the difficulty of the victims in recognizing themselves as such and because of the dark number that typically characterizes sexual crimes, there are not many statistics and studies on the psychological distress suffered by the victim: the topic deserves to be further investigated, especially on the national side. The “2017 nationwide online study of non-consensual porn victimization and perpetration” conducted by Dr. Asia A. Eaton, Dr. Holly Jacobs and Yanet Ruvalcaba is worth further consideration. The report represents the first American nationwide study about Non-Consensual Pornography, including the reason that led to the commission of the crime and in part the consequences for the victims. Even if the statistics pre-

sented until then were based on a specific purpose for the commission of the crime (e.g. revengeful purpose, extortion), the present study is addressed to all victims of Non-Consensual Pornography, regardless of the reasons that led to the crime commission. The study is based on a survey conducted between November 2016 and March 2017 to adult users on Facebook. 3.044 users took part in the survey, where they were asked for an opinion on the non-consensual sharing of images or videos with sexual content. The eligibility criteria were the age of majority and the residence in the USA.

The survey showed that:

- 53.8 % of the participants were female, 46.2% male;
- 12.8% of all participants reported having been victims of Non-Consensual Pornography or having been *threatened* with Non-Consensual Pornography;
- Women were more likely (about 1.7 times as likely) to have been victims of Non-Consensual Pornography or to have been threatened with Non-Consensual Pornography if compared to men, with 15.8% of all women reporting having been victimized or threatened vs. 9.3% of men across all ages.

Concerning the psychological consequences, the study showed that, thanks to the Mental Health Inventory 5-item Scale and the Somatic Symptom Scale-8, the victims of Non-Consensual Pornography had worse mental health outcomes and psychological problems than non-victims, such as posttraumatic stress disorder (PTSD), depression, anxiety, panic attacks, night terrors and suicidal thoughts. In addition to the lack of control on the spreading of information online, the victims felt humiliated and the distress included guilt and anger. The post assault symptoms associated with a sexual assault such as shame, self blame and nervous system arousal, often apply also when Non-Consensual Pornography occurs.

6.2 Social consequences and the normalization of pornography

How do Non-Consensual Pornography victims relate to their family, friends and the social context, when they discover that everyone has seen their intimate images or videos? “*What will other people think of me?*”: this is the question. According to the 2017 nationwide online study, previously mentioned:

- 34% of the interviewees said that being a victim has jeopardized their relationships with their families;
- 13% said they have lost a significant other/partner due to being a victim;
- 37% said they have been teased by others due to being a victim;
- 40% fear the loss of a current or future partner once he or she becomes aware that this is in their past;
- 54% fear the discovery of the material by their current and / or future children.

Why is the spread of Non-Consensual Pornography so quick and easy? Two considerations have been made in order to answer this question. On the one hand the Non-

Consensual Pornography is spread mainly on the Internet, through porn sites, dedicated sites or Social Networks / App such as Facebook, Instagram, WhatsApp, Telegram etc. It can be stated that Internet gives the possibility to view and download pornographic material very easily. It is sufficient to consider that in 1991 in the United States there were less than 100 pornographic magazines, while in 2015 the search for the word “porn” on Google led to more than 360 million results. On the other hand, the ease in finding pornographic material has probably influenced what in sociology is called the “normalization of pornography”: it has been asked then whether there is a correlation between Non-Consensual Pornography and traditional pornography. During the last century pornography has been seen mostly as a taboo, hidden and spread mainly through videotapes or porn magazines. Today, thanks to devices such as televisions and computers, we are constantly bombarded with nude photos, videos and sex scenes: in movies, TV series, magazines and television programs. In this sense there has been a normalization of pornography: watching nude images and / or videos and openly speaking about sexual topics has become normal, it has entered the daily life of young people too and has become an important aspect in the modern society. In such a normalization of pornography, let’s consider the amateur pornography: homemade contents, more authentic, true. It is not just about movies or hard images but also about nude materials that are voluntarily posted by the person represented on his or her social networks: if publishing a nude photo or video perfectly integrates the freedom of expression of the person represented, it must be considered that in cases of Non-Consensual Pornography it is always more difficult to understand and then to prove in court whether or not there was the consent to the disclosure, especially if the material comes from practices such as sexting, which will be discussed in the next paragraph. When a user watches hard movies and or images he or she does not know if the material has been vo-

luntarily diffused or if it falls within the cases of Non-Consensual Pornography, or if there is any information that makes the viewer understand the nature of the content, unless the same contents have been uploaded on the dedicated sites. This means that there will always be either a user who believes he or she is watching a “classic” hard video or images, or a user who is conscious that it is Non-Consensual Pornography material. This information would be lived as a transgression, considering that today, “classic” porn has nothing to do with transgression. In conclusion, the traditional use that users make of pornographic material is well known and does not require further investigations. The price to be paid for the pleasure of watching such material will turn into a second victimization: indeed, the person represented has first of all become a victim of Non-Consensual Pornography, and secondly the sexual object of a stranger.

6.3 Financial consequences

There are two types of financial consequences:

Direct consequences: Not all the victims of Non-Consensual Pornography have the financial resources to instigate a civil and / or penal case against their perpetrators, and in any case, the lack of anonymity, that characterizes the online perpetrators, can prevent from finding them;

Indirect consequences: During December 2009 Microsoft commissioned to Cross-Tab a research entitled “Online Reputation in a Connected World”. The research was conducted in France, Germany, the United Kingdom, and the United States. 275 recruiters, human resources (HR) professionals, and hiring managers, and about 330 consumers were interviewed in each country. The reason that led the company not to recruit candidates are shown below. It is therefore easy to guess which consequences there could be for a victim of Non-Consensual Pornography as, nowadays, in Job Recruiting the web reputation is considered a fundamental aspect.

	US	UK	Germany	France
Concerns about the candidate’s lifestyle	58%	54%	42%	32%
Inappropriate comments and text written by the candidate	56%	57%	78%	58%
Unsuitable photo, videos, and information	55%	51%	44%	42%
Inappropriate comments or text written by friends and relatives	43%	35%	14%	11%
Comments criticizing previous employers, co-workers, or clients	40%	40%	28%	27%
Inappropriate comments or text written by colleagues or work acquaintances	40%	37%	17%	21%
Membership in certain groups and networks	35%	33%	36%	37%
Discover that information the candidate shared was false	30%	36%	42%	47%
Poor communication skills displayed online	27%	41%	17%	42%
Concern about the candidate’s financial background	16%	18%	11%	0%

Table II: Types of Online Reputational Information That Influenced Decisions to Reject a Candidate

Moreover, the Italian panorama has unfortunately witnessed, also in the recent months, some cases in which, after becoming victims of Non-Consensual Pornography and revenge porn, the same have undergone a second victimisation. In fact, the women, were fired for “damaging the image” of their employer.

7. Related behaviors and crimes

Non-Consensual Pornography often occurs as a result of sexting (i.e. diffusing sexually explicit images, messages or videos through computers or mobile phones), which is practiced by both adults and minors, underestimating the consequences that such a dangerous behaviour can have. Moreover, when someone becomes a victim of Non-Consensual Pornography, he or she interfaces with millions of users who see those images or videos, which can become viral very quickly. Instead of recognizing the victim as such, the person represented is usually mocked and judged: mocked because people generally think that they will never find themselves in such a situation and because of the strength that people often draw from others' weaknesses. They are judged, especially if the victim is a woman, as it is believed that she could have prevented that situation and that the victim could only blame herself. For these reasons some related crimes have been chosen and analysed. The most common ones are hate-speech, which is practiced both online and offline, mocking and offending the victim, as well as contributing to the further dissemination of the material, often accompanied by insults and offenses. Online shaming or slut shaming is another crime, which further rages on the victim's reputation, and that has been already compromised by the violation of his or her most intimate sphere. Online shaming consists in the public humiliation of a subject for actions carried out, in most cases, in the private sphere. Supporters of online shaming (which can be both men and women) consider it a form of “self-justice” but in reality, this type of behaviours encourages the destruction of the reputation and career of the victims, no matter if the victim is a person or a company. Online shaming can be declined in various ways and does not necessarily have a sexual connotation. Among the most widespread forms of online shaming we can find doxing, i.e. the publication of private information online, even when illegally stolen, often resulting in de-anonymizing the identity of a mere photo providing personal details and – often – social media accounts and phone numbers later on used for stalking. Another one is the body shaming, that consists in comments, mostly on social networks, about the aspects of the person involved, and in most cases the victim is a woman. The victim is denigrated because its body does not correspond to the ideal of beauty required by fashion, magazines, cinema etc. (regarding height, weight, skin colour, etc.). Offenses are intended to intensify when Non-Consensual Pornography takes place, both because of the sexual content (in which the victim is naked or semi-naked) and of the slut

shaming. This refers to the consideration of a person (again, most of the time, a woman) as guilty or inferior for her behaviour or sexual desires that deviate from the expectations, both familiar and social, linked to the historical moment or religious belief of belonging. Indeed, women are often judged on the basis of the clothing they wear or their sexual choices and when they become not only a target of Non-Consensual Pornography but also of offline violence such as sexual assault, the victim is often sadly judged and attacked with phrases such as “*You asked for it*”. Again, there is confusion between the various type of consensus (recovery vs diffusion), as previously mentioned. Finally, slut shaming often falls into the so called “Victim blaming”, which is the tendency to blame the victim for having given the consent to record some moments of intimacy. In other words, those who practice victim blaming as well as hate speech, believe that in the moment that the victim decides to “create” the material with a sexual content and share it even with a single person, he or she accepts the risk of a publication. Moreover, in all these cases hate speech occurs, both online and offline, by insulting and often judging the victims with very severe comments. The persistence of such behaviour, the hatred that is poured free and without justification into the victims, led to some doubts concerning a cultural resistance towards the freedom of expression of women. In fact, when Non-Consensual Pornography occurs, a person often feels justified in insulting the victim because of this wrong belief: he or she could have avoided exposing him or herself by allowing the photo to be taken, the videos being recorded or by doing sexting; however, the person involved has consensually been exposed to it: did he / she brought this on him or herself? Finally, we must mention the crime of stalking, practiced both online and offline, which can turn into a violence suffered even in real life. We underline “real” because it gets in contrast with the meaning of “virtual”, thus increasing the importance of personal violation and, at the same time, reducing the difference between the two realities. In fact, it can happen that the victim suffers a further victimization: hate speech (both online and offline), stalking/cyberstalking or even both. The possibility of these related crimes is partially confirmed by the statistics: in fact, together with the dissemination of the images or videos, at least one of the following information were posted in the cases handled by PermessoNegato:

- Full name;
- Social network info / screenshot of social network profile;
- Physical home address;
- Phone number.
- Moreover, most of the victims said they have been harassed or stalked online by users that had received her or his contact. The disclosure of the victim's personal information often occurs because the offender is a well-known person. In fact:
 - 60% are female and victims of revenge porn by a person that acquired those pictures in trust regime;
 - 30% are male and victims of sextortion by an ex or a

- person that acquired those pictures in in trust regime or a user known online;
- In 10% of the cases it was not possible to understand how close victim and perpetrator were.

The psychological and emotional consequences for the victims of stalking can be very different, assumed that the consequences are quite subjective; anyway, it can be assumed that when a state of fear and anxiety arises, there is certainly an injury to the psychological serenity and personal tranquillity. The causes that lead to stalking and the relation between the perpetrator and the victim is certainly worth of digging further. For the moment, it will only be highlighted that the consequences for the victims of stalking are very similar (and sometimes overlap) to those suffered by the victims of Non-Consensual Pornography: being also a victim of stalking and / or cyberstalking can only complicate the psychological condition of the same.

8. Limits

What are the limits of the work done by the organization and more generally when it comes to Non-Consensual Pornography? Looking at the tickets created until November 2020, the first thought concerns the so called dark-numbers, which affect statistics. The preventive removal tool, implemented by Facebook with the aid of *PermessoNegato*, is the first and only case in Europe of creating a method to prevent, at least on the main social networks, the disclosure of material with sexual content without the permission of the person represented. But, like any pilot project, there can be several obstacles. First of all, from a technical point of view, bugs in the system often occur, because like any new project it needs to be tested first, but only in the launching phase you will really know if the tests performed were sufficient, from a technical and human prospective. Furthermore, despite a technically-positive response, which is settling in these months, it is fundamental not to forget the number of active users on the Social Networks. If the work of the association were massively publicized during the initial phase of the pilot project, it is not known what would have been the number of users who could ask for help, leading to two aspects that could be critical: the possible collapse of the system and, especially, the effort required. This is required by *PermessoNegato*, both as an organization of people who manage the support and as experts who can handle this material, considering the delicacy of the work done and the images, video and messages received, that can sometimes be emotionally hard to manage. On the other side, there is the response from Facebook, intended as the number of people (in this case, maybe a dedicated team should be taken into consideration) who has to physically deal with the closure of the account, pages and uploading images and / or videos for preventive purpose, remembering that millions of support requests arrive every day for the

most diverse reasons (e.g., violation of privacy or of Facebooks policy). Therefore at least until the first months of 2021, it was decided to proceed by ear. Victims who ask for help are already making a great effort to tell what happened and they deserve to find, on the other side, a team that is perfectly synchronized and that can give maximum support in a short time, regardless of the number of requests receipts. It should also be remembered that Non-Consensual Pornography is still too little discussed and that a law to protect the victims has been existing since just one and a half year. Moreover, it is a matter of fact that the victims themselves are not always aware of what is happening to them and what are the measures able to protect them. Consequently, *PermessoNegato* is expanding the network of contacts, not only with and through the Facebook platform, but also in different areas of the Italian territory: associations, law firms, schools and victim support centres just to name a few: a collaboration that was certainly slow to be activated also due to the social restrictions imposed to the current pandemic situation. In addition to the problem encountered by the single association, it is important to highlight that most of the times all these forms of harmful behaviours turn out to be cybercrimes that typically have no territorial borders. This leads to the conclusion that nowadays there is no harmonic legislation across different countries and the studies carried out revealed the necessity to further investigate the incidence of the phenomenon in the Italian reality with a multidisciplinary approach. This is fundamental within such an evolving social and technological context in order to understand the victimization impact and the related consequences and it would be probably the only way to implement an efficient prevention system.

9. Conclusion

“Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly.”
(Martin Luther King JR., Letter from the Birmingham Jail)

The main purpose of the article was to dig deeper into the consequences of Non-Consensual Pornography, a phenomenon that has been recognized as a crime by the Italian law only in 2019. There are different reasons why the dissemination of sexually explicit content has become illegal and recognised as criminal offence so late (in contrast to other countries such as UK in 2015). It is believed that the context and the societal reaction play a predominant role. Events such as the suicide of Tiziana Cantone in 2016, only 33 years old, is one of the most well-known Italian cases that report the damages of Non-Consensual Pornography, and, sadly, it is not the only one. Despite this, the Article 612-ter of the Italian Penal Code and in general Law No. 69/2019 have several gaps that raise questions as to whether the normative apparatus can effecti-

vely protect the victims. In fact, sharing intimate images and / or videos take only few seconds, but there can be long-term consequences. Often the victim is not recognized as such, either by themselves or by society and this is perhaps one of the most serious aspects, especially for women. The criticism directed at the indictment of Non-Consensual Pornography exposes the victim to danger. It is often believed that the creation and sharing of sexually explicit material, usually with the partner, are equivalent and make the risk of a broader diffusion of those materials more acceptable. In this way the reproach shifts from the perpetrator to the victim, thus implementing victim blaming. A person should feel free to express herself in a context of confidentiality and trust. This means that the images that are shared, must be considered private, unless the person clearly expresses the desire to share them, for example by publishing the material on social networks. Men and women should be recognized as equal, especially in their sexual choices: this requires a change of mentality and culture that cannot be done with a single Law. For this reason, it was chosen to highlight in this written contribution the importance of prevention and recognition of the damage caused, because the distance that Internet creates does not make the online victim less worthy of protection and a psychological abuse is not necessarily less serious than a physical one. Most of all, the choices that are made in intimacy do not automatically mean that consensus can be extended into other areas. Moreover, to mock, to insult and to persecute the victim online confirm that, although technologies allow us to live in a digitally advanced world, perhaps we do not always know how to handle these technologies in the correct way. On the contrary, online victims may also suffer from further damages compared to offline victims: in fact, victims of Non-Consensual Pornography, even if they obtain the removal of the material online in a short time, they will never know when or if it will be released again and this total lack of control can have repercussions affecting all areas of life. It is also important to remember the increasing difficulties in recognizing the perpetrator, thanks to the anonymity that Internet guarantees; this is due also to the fact that the legislator has great difficulty in making the law keep pace with technology. Moreover, there are both positive and negative consequences when the victim decide to give a complaint: if on the one hand complains help generating a social change and can deter a human being from hurting another one, which would have a voice and encourage other victims to come out and share stories, on the other hand opposite effects can take place, making the victims' situation worse (the so-called backlash effects). The only solution seems to be taking prevention actions: users must be aware of the consequences that may occur, both when the sexually explicit material is produced and when it is released. Only in this way we can try to prevent this phenomenon. What the victim being mocked is suffering constitutes a situation in which everyone could find themselves, although it seems very distant from us. One of the goals of *PermessoNegato* is in fact to create a network taking care of prevention and

education in the use of the internet and digital defence. In addition to the Non-Consensual Pornography that comes from the consensual production of material, also material illicitly obtained (e.g. hidden recording) can be distributed. We can make reference to the UK Revenge Porn Helpline statistics, available since the victim support center was created:

Year	Cases of Revenge Porn reported
2015	520
2016	740
2017	1.100
2018	1.300
06/ 2019	680

Table 3: Cases of Revenge Porn reported between 2015-2019 by the UK Revenge Porn Helpline

It was wondered what the Italian number could be and whether it would have been better to consider the importance of making “further steps” following the enactment of Article 612-ter of the Italian Penal Code. First it is essential to understand the extent of the phenomenon: who and how many the victims are and the number of potential victims of Non-Consensual Pornography. The fact analysed in this article are in need of greater clarification in future research, currently ongoing within the *PermessoNegato* association, with a methodology which would combine several in-depth qualitative and quantitative approaches; in addition, national and international literature studies should demand more investigation, when created, regarding e.g. the consequences and treatment of traditional offline offences and considering if they can be applied also when an online offence takes place. Moreover, it would be important to deal with experts' meetings in order to ascertain the cultural beliefs and the level of empathy with the victims of Non-Consensual Pornography and related crimes. It should be also taken into consideration to create a victim support apparatus that goes beyond legal and technological systems, and the UK Revenge Porn Helpline is an excellent example, which increasingly deals with cases of Non-Consensual Pornography. The Helpline was established in 2015 at around the same time that the law was introduced making the sharing of intimate images without consent illegal. Originally, the idea was to offer advice to clients and help them get images removed from the internet by reporting these to the webmaster. This is still very much part of what they do, but over time it has become clear that there was a need to give advice and support reporting the facts to the police and signposting to appropriate services. The Revenge Porn Helpline also do a lot to raise awareness of this crime and its devastating impact through contributions to research and media. In particular, when a new case occurs, the Revenge Porn Helpline focus on four steps:

- Support and reassurance;
- Law/police and how it relates to them;
- The content removal (if needed);
- Signposting (for further advice and support (domestic abuse or stalking service for instance).

The Helpline has, so far, asked and obtained the removal of nearly 29,000 individual pieces of intimate content from the internet from 2015 to the middle of 2019, representing over 83% of what was reported. It is essential to underline that the non-consensual dissemination of private images and/or videos with a sexual background, for the purpose of revenge or not, show a generalized risk: no social or demographic class is excluded, from adolescents to representatives of institutions, from public personalities to private individuals, with almost always devastating effects on the lives of those people involved. According to the American Psychological Association in a 2019 study, those affected are 10% of the population, with a higher incidence on minors. If we add to these alarming figures that about 51% of victims contemplate the possibility of suicide as a solution to the problem, it is easy to realize the severity of the problem. For this reason, if we consider the building of a national, effective apparatus with the addition of the new prevention and removal technology PermessoNegato created with Facebook, I strongly believe that there is a real possibility for a future research and implementation of a whole-heart support system, even if it is well known that this type of crimes moves faster than law and that the societal reaction plays a fundamental role. In conclusion, this can be reached only with a multi-disciplinary approach, in favour of the social welfare improvement, by gaining insight and by helping to keep balance between the rights of privacy and freedom of expression.

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