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# **DIGITAL SCARS: RECLAIMING DIGNITY FROM NON- CONSENSUAL INTIMATE IMAGE ABUSE IN INDIA**

AUTHORED BY - SAAKSHI SHARMA

## **Abstract**

This research paper provides an in-depth analysis of the Non-Consensual Intimate Image (NCII) abuse in India. What India has today in the name of a legal framework is merely a patchwork of provisions from the Bharatiya Nyaya Sanhita, 2023, and the Information Technology Act 2000, which is fundamentally inadequate. I have shaped my analysis in a way that reveals a systematic tendency to prosecute NCII as a crime of 'obscenity' rather than a violation of privacy and dignity. This is basically a mischaracterization that gives rise to victim-blaming and fails to provide adequate redress. This paper draws its source from landmark judicial pronouncements, socio-legal studies, and an examination of intermediary liability. Also, it highlights the devastating impact on victims who are compounded by secondary victimization within the justice system. Since there is an absence of any specific legislation, it has been the Court's duty to innovate remedies. The Court in landmark judgements like *State of West Bengal v. Animesh Boxi*<sup>1</sup> and *Mrs X v. Union of India*<sup>2</sup>, creates a nascent right to be forgotten. Towards the end of this paper, it concludes by advocating for a *sui generis*, victim-centric law that unequivocally criminalizes NCII based on the absence of consent, alongside systemic reforms to ensure compassionate enforcement and robust intermediary accountability.

**Keywords:** Non-Consensual Intimate Image (NCII), Right to be Forgotten, Intermediary Liability, IT Act 2000, Victim-Centric Justice

## **1. INTRODUCTION: THE DIGITAL BETRAYAL**

The non-consensual sharing of intimate images (NCII) has rapidly increased in today's digital age, where all our personal lives are more and more mediated by technology, and this must be characterized as a harmful form of gender based violence. This violation involves creating, obtaining, or distributing sexually explicit content without the depicted consent of the

<sup>1</sup> *State of West Bengal v. Animesh Boxi*, G.R. No. 1587/17, Judgment dated 07.03.2018 (Judicial Magistrate, 1st Class, 3rd Court, Tamluk, Purba Medinipur).

<sup>2</sup> *Mrs X v. Union of India*, W.P. (CRL) 1505/2021, Judgment dated 26.04.2023 (Delhi High Court).

individual.<sup>3</sup> Colloquially referred to as 'revenge porn', a term that is misleading and restrictive, presumes a motive of revenge within a former intimate relationship. This leads to the failure to encompass a broader spectrum of violations, including sextortion, blackmail, hacking, or the malicious creation of AI-generated "deepfakes".<sup>4</sup> If this doesn't sound damaging enough, this term 'revenge porn' also shifts the focus from the perpetrator's criminal act to the victim's personal history and perceived morality that questions their role in the "revenge".<sup>5</sup> The word 'pornography' too is misleading because it does refer to a material that was created with consent and for commercial distribution, which is the antithesis of NCII.<sup>6</sup> Therefore, in this paper, I adopt the term NCII, alongside the related concept of Image-Based Sexual Abuse (IBSA), to accurately centre the harm on the fundamental violation of consent.<sup>7</sup>

The scale of this problem in India is alarming. There is an immense potential for digital abuse, with over 624 million people online and 448 million active on social media, which is on the rise on a daily basis.<sup>8</sup> These numbers hide behind themselves very real stories of harassment, exploitation, fear, and violation. According to the National Crime Records Bureau, cybercrimes in India have increased at an alarming rate of 63% between 2018 and 2019, and approximately one out of five targeted women.<sup>9</sup> Additionally, we all know how many cases go unreported due to fear, stigma, or lack of legal recourse, so this data has likely captured just a fraction of the actual reality. Surveys indicate that a large number of women who go through these kinds of abuse are either unaware of it or are deeply hesitant to report it because they fear facing social exclusion, shame, and further harassment.<sup>10</sup> One study reports that 18.3% of females do not even know they are the victims, and only 35% of those who are aware have actually filed a formal complaint.<sup>11</sup>

How and what we choose to call this kind of violence is not just a matter of some words; it forms the basis of how we as a society and the law will choose to respond to it. The term

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<sup>3</sup> A. De Angeli et al., "Reporting Revenge Porn: a Preliminary Expert Analysis", *arXiv preprint* (2021).

<sup>4</sup> Prashant Mali, "Revenge Pornography: Legal Framework in India", 4(4) *Int'l Journal of Law Management & Humanities* (2021).

<sup>5</sup> Vaishnavi Sharma, "Understanding Non-Consensual Dissemination of Intimate Images Laws in India with Focus on Intermediary Liability", 14(4) *NUJS Law Review* 801 (2021).

<sup>6</sup> *Ibid.*

<sup>7</sup> *Supra* note 3.

<sup>8</sup> *Supra* note 5.

<sup>9</sup> *Ibid.*

<sup>10</sup> Mani Abinaya K. & Janani SU, "Inadequacy of Laws Dealing with Revenge Porn in India", *IJLLR*.

<sup>11</sup> *Revenge Porn or Non-Consensual Pornography*, India Law Offices, available at: <https://www.indialawoffices.com/legal-articles/revenge-porn-or-non-consensual-pornography> (last visited Jul. 22, 2025).

"revenge porn" attracts some amount of personal drama and moral judgment, which in turn drags the personal life of the victim into the spotlight. It compels people to ask what kind of personal relationship the victim had with the abuser and why these kinds of images exist in the first place, because of this, the victim fears reporting these matters even more.<sup>12</sup> However, when we use its actual name, i.e., non-consensual intimate image sharing (NCII), focus shifts to what actually matters: the absence of consent. This nomenclature brings it in line with the principles of sexual assault law, where the main issue is violation of autonomy and not the choices of the victim. The primary reason I focus on embracing the language of NCII is that it is a necessary step towards justice because it helps us move away from blaming the victims and brings us to holding the perpetrators accountable.

The central argument of my paper is that India's legal approach to non-consensual intimate image sharing (NCII) is both fragmented and flawed. We rely on a patchwork of outdated laws that focus more on public morality and obscenity rather than the individual's privacy and consent. As a result of this, we end up failing or even blaming the very people we should be protecting. In the absence of a clear legal framework, the burden has fallen on the **judiciary to step in and create remedies**, piecing together protections where none formally exist. The judiciary has made many vital strides, but actual and meaningful justice must not only rely on judicial creativity. It should depend on a comprehensive rights-based law that puts the dignity of the victim and consent at the center while offering a clear and compassionate path to accountability.

## **2. A PATCHWORK OF PROTECTION: THE INADEQUACY OF INDIA'S LEGAL ARSENAL**

In the face of the growing menace of non-consensual intimate image sharing (NCII), India's legal system offers outdated and ill-fitting laws from different areas, which are definitely not a sharp and targeted remedy. Many legal scholars note that there is no dedicated legislation that directly and comprehensively addresses this form of digital abuse.<sup>13</sup> The victims and prosecutors have to put together a response from the scattered provisions in the Bharatiya Nyaya Sanhita, 2023 (India's updated criminal code) and the **Information Technology Act, 2000**. Due to this approach, the nature of the harm is usually misunderstood, and meaningful

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<sup>12</sup> *Supra* note 10.

<sup>13</sup> *Ibid.*

justice is not delivered, leaving the survivors with no clear recourse and deepening their trauma through procedural confusion and moral judgment.

A. An Analogue Law in a Digital World: The Bharatiya Nyaya Sanhita, 2023 (BNS)

The victim first seeks recourse under BNS 2023, whose updated legal provisions are also rooted in legal frameworks that predate the full complexity of the digital age.

Section 77 of BNS (Voyeurism)- This section replaced Section 354 of IPC and is one of the relevant provisions in the context of non-consensual intimate image abuse. According to this section, any person who watches or captures the image of a woman engaged in a private act without her consent is engaging in criminal behaviour.<sup>14</sup> This section has an attached explanation 2, which explains a common NCII scenario where the image was initially taken with the consent of the woman. However, its **subsequent dissemination without consent is still an offence.**<sup>15</sup>

However, there are limitations to this provision as it is explicitly gendered and protects only women from voyeurism; this excludes males, transgenders, and nonbinary victims from its ambit.<sup>16</sup> It also focuses majorly on 'watching' or 'capturing' that does not capture new and recent forms of abuse like deepfakes or digitally altered synthetic media, wherein no actual recording or physical act of voyeurism may take place.<sup>17</sup> Section 77 of BNS acknowledges the digital harm; it can still not be called a comprehensive and perfect tool to address the complete NCII spectrum.

**Section 294 of the BNS** (corresponding to the old **Section 292 of the IPC**) was initially crafted to deal with the sale and circulation of obscene physical materials like magazines, pamphlets, books, etc.<sup>18</sup> But when this provision is applied to NCII in today's digital age, it is equivalent to trying to put out a wildfire with a bucket of water. The problem here is that the heart of the offence does not lie in the violation of the consent but whether that consent is deemed obscene or not, and obscenity is a very subjective and morally conservative idea often shaped by our

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<sup>14</sup> **BNS Section 77 – Voyeurism**, available at: <https://devgan.in/bns/section/77/> (last visited Jul. 22, 2025).

<sup>15</sup> Ibid.

<sup>16</sup> Understanding Voyeurism and Section 354C of the IPC, XpertsLegal, available at: <https://xpertslegal.com/blog/understanding-voyeurism-and-section-354c-of-the-ipc/> (last visited Jul. 22, 2025).

<sup>17</sup> Legal Challenges in Revenge Porn Cases in India, *JETIR* (2018).

<sup>18</sup> *BNS Section 294 - Sale, etc., of obscene books, etc.*, Devgan.in, available at: <https://devgan.in/IPC/section/292/> (last visited Jul. 22, 2025).

'perfect' community standards.<sup>19</sup> This approach cannot be used in the context of NCII because it risks shifting scrutiny away from the perpetrator and to the victim, which forces them to defend their own morality rather than thinking about receiving justice for the harm that has been done to them.<sup>20</sup> In the worst-case scenario, it may also happen that the intimate content creator is punished for creating such content consensually for a private user rather than punishing the one who had it and weaponised it against them without their knowledge or consent.

Some other related provisions of BNS are also invoked for these offences, even though they, too, fall short. These include section 75 (sexual harassment), covering showing pornography against a woman's will; Section 78 (stalking), which may be used in cases of persistent online pursuit; and **Section 80(2)** (Word, gesture, or act intended to insult the modesty of a woman).<sup>21</sup> These existing laws can capture the fragments of the surrounding harassment. Still, they cannot comprehend the deep, digital violation of a person's autonomy, privacy, and dignity caused by NCII. This damage is permanent and global in its reach. What we need today is a coherent, consent-driven legal framework that confronts the reality of digital abuse rather than a mere piecemeal reliance on laws that speak to outdated notions of morality and modesty.

B. The Information Technology Act, 2000; the obscenity-privacy conundrum.

The IT Act is India's primary legislation for cyberspace, and it includes more targeted provisions. However, it still contains a fundamental internal conflict that undermines its effectiveness in NCII cases.

Section 66 of the IT Act criminalises the intentional capture, publication, or transmission of images of a person's "private area" without their consent. It seems to offer a direct and relevant remedy.<sup>22</sup> This provision is gender neutral and also grounded in the principle of consent, which aligns it with NCII. It acknowledges that violation of privacy is not confined to one gender, and the actual harm does not lie in the content but in the unauthorised and **invasive use of intimate images**, often under deeply violating circumstances.

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<sup>19</sup> *Section 67 of IT Act, 2000: Scope, Misuse and the Striking Inadequacy*, Centre for Criminal Law Studies, NLU Jodhpur (2020).

<sup>20</sup> *Revenge Porn Prosecution under the Current Indian Legal System*, Centre for Criminal Law Studies, NLU Jodhpur (2020).

<sup>21</sup> *Legal Challenges in the Digital Age: Revenge Porn in India*, 54(1) Journal 33 (2024).

<sup>22</sup> *Punishment for violation of privacy*, The Information Technology Act, 2000, § 66E.

However, a deeper look at this provision shows that it too has its limitations in scope and enforcement and cannot be used to form a part of the broader and coherent legal response to digital sexual harms. This provision is often overshadowed by Sections 67 and 67A, which punish the publication of "obscene" or "sexually explicit" material in electronic form.<sup>23</sup> These, too, focus on public morality rather than individual rights. What is important to note is that these carry significantly heavier penalties, like imprisonment up to five or seven years, as compared to the maximum of three years under Section 66E.<sup>24</sup>

This statutory hierarchy creates a perverse incentive within the legal system. A legal Scholar, Vaishnavi Sharma, observes that the existence of broader and harsher obscenity provisions often renders the more precise, consent-based **Section 66E** effectively **infructuous**.<sup>25</sup> **Prosecutors who aim for higher punishment are drawn towards Sections 67 and 67A, which focus on obscenity rather than privacy. We saw this in the famous case of Animesh Boxi,**<sup>26</sup> **where the punishment for the obscenity charges was far more than that given under Section 66E.**<sup>27</sup> Now, what is problematic here is that the question shifts from 'was there consent?' to 'was the image obscene?' where the victim has to protect his morality, especially if the content was consensually shared in private. What should be a clear case of **non-consensual disclosure** becomes a trial of the survivor's **character and choices**.<sup>28</sup>

This structure mischaracterises the offence and re-victimises the survivor by treating them as a participant in an obscene act rather than a victim of a privacy violation. By keeping **morality over autonomy**, our current legal framework deepens the harm that it is meant to address.

### 3. THE VICTIM'S ORDEAL: SOCIO-CULTURAL SCARS AND SYSTEMATIC FAILURES

Legal categories cannot capture the extent of harm caused by non-consensual intimate imagery (NCII). This cannot be categorised as merely a digital offence as it is deeply personal with ongoing trauma. For survivors, the violation doesn't end with the act of disclosure; it recurs

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<sup>23</sup> *Punishment for publishing or transmitting obscene material in electronic form*, The Information Technology Act, 2000, § 67; *Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form*, The Information Technology Act, 2000, § 67A.

<sup>24</sup> *Supra* note 5.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Supra* note 1.

<sup>27</sup> *Supra* note 5.

<sup>28</sup> *Supra* note 19.

with every view, every share, and every silence that surrounds it. This suffering is intensified by a legal and societal response that is often indifferent, judgmental, or even complicit in their pain.

#### A. The Psychological and Social Fallout

It is deeply devastating to have one's most intimate moments weaponised and displayed for public consumption. There are severe psychological consequences like anxiety, panic attacks, debilitating depression, and an overwhelming sense of humiliation and shame.<sup>29</sup> This is not a fleeting injury; it is a perpetual trauma. The judges in *State of West Bengal v. Animesh Boxi*<sup>30</sup> coined the term; 'virtual rape' to powerfully capture the reality and describe that there is a violation every time the content is viewed online, and this goes on "till the time she lives."<sup>31</sup> This scar of non-consensual publication bleeds into each and every aspect of the victim's life. This is frequently accompanied by "doxxing," where personal details such as the victim's name, phone number, home address, and social media profiles are shared alongside the images.<sup>32</sup> This leaves them in a very exposed place where they face real-world stalking, physical threats, and targeted public harassment. The fallout from NCII is not only confined to the digital world, but it also invades every corner of a survivor's life. The professional and personal repercussions can be devastating, leading to job loss, housing insecurity, and broken family ties.<sup>33</sup> Many survivors experience profound mental health struggles, including depression and suicidal thoughts, and some of them even end their lives as a way to escape the relentless shame and emotional anguish.<sup>34</sup> In a survey conducted in Tamil Nadu, 35% of young women stated they would actually consider suicide if subjected to this form of abuse.<sup>35</sup>

What makes NCII more traumatic than others is its permanence. Unlike a physical crime that occurs at a moment in time and is dealt with retrospectively, NCII creates a digital scar that is repeatedly reopened. The image or video, once shared, is no longer a single event, and it becomes a persistent, replicating threat. The survivor lives in perpetual fear that it will be

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<sup>29</sup> *Supra* note 5.

<sup>30</sup> *Supra* note 1.

<sup>31</sup> *Supra* note 5.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> Li Qiwei, et al., "The Sociotechnical Stack: Opportunities for Social Computing Research in Non-consensual Intimate Media", *arXiv preprint arXiv:2405.03585* (2024).

<sup>35</sup> *Revenge Porn: A Peep into its Awareness among the Youth of Tamilnadu, India*, 11(3) *The International Journal of Indian Psychology* (2023).

shared again or fall into the hands of employers or loved ones.<sup>36</sup> Standard criminal justice remedies cannot address this ongoing harm. What we need here is a deeper shift in legal response that goes beyond punishment and embraces technological and remedial tools like prompt takedown mechanisms. This will help in ensuring justice, relief, dignity, and closure for the victim.

#### B. Secondary Victimization by the Justice System

We may think that the institutions that are made to provide relief to the victim are enough, but more often than not, these lead to secondary victimisation. Instead of being met with compassion, they are dismissed, judged, or even mocked. One young woman shared how, after mustering the courage to file a complaint, she was cruelly rebuked by female officers who sneered, "You go out, enjoy yourself, live shamelessly, and then come here crying the next day."<sup>37</sup> Such remarks aren't rare; they reflect a deeply broken culture where those meant to protect survivors end up reinforcing their shame. The Madras High Court itself had to step in recently, expressing outrage at police practices that required a victim to view her own intimate images again and again. The Court directed that trauma-sensitive protocols must be established. You would think that it is about a few insensitive officers. Still, it's about a justice system steeped in patriarchal values that place the burden of shame on the victim rather than the perpetrator.<sup>38</sup> In societies where "honor" is still tied to a woman's perceived purity, the mere existence of an intimate image can mark her as impure.<sup>39</sup> As a result, survivors are not seen as people who were violated, but as individuals who somehow brought shame upon themselves. A survey in Tamil Nadu found that 40% of youth blamed the victim;<sup>40</sup> this tells us how deeply this mindset is entrenched, even in the next generation. This climate of stigma and judgment silences victims, forcing them to endure the violation in isolation.

### **4. THE GATEKEEPERS' DUTY; INTERMEDIARY LIABILITY AND THE ELUSIVE 'RIGHT TO BE FORGOTTEN'**

In today's era, online platforms and search engines are the primary sources of NCII dissemination. Their legal responsibility for this harmful content has become a central battleground in the fight for justice, which has led to a significant evolution in the doctrine of

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<sup>36</sup> *Supra* note 5.

<sup>37</sup> *Supra* note 10.

<sup>38</sup> *Supra* note 35.

<sup>39</sup> *Supra* note 21.

<sup>40</sup> *Supra* note 35.

intermediary liability in India.

#### A. From 'Safe Harbour' to Active Responsibility

Behind the legal jargon of the IT Act lies a question that cuts to the heart of digital safety: when someone's most private image is stolen and shared without consent, who is responsible for helping them reclaim their dignity? Our law placed intermediaries like social media platforms, messaging apps, and service providers behind a protective wall called "safe harbour." Section 79 of the IT Act shielded them from blame for user-posted content, as long as they remained passive bystanders and followed vague guidelines called "due diligence."<sup>41</sup>

But for survivors of NCII, this passive approach feels like abandonment. The law changed in 2021 with the IT Rules, which finally recognised that intermediaries could no longer turn away from such intimate violations.<sup>42</sup> Rule 3(2)(b) marked a moment of clarity and urgency. It says that if a person reports that their nakedness, sexual act, or impersonated identity is online without consent, the platform must act within 24 hours.<sup>43</sup>

#### B. Judicial Mandates for Proactive Takedowns: The *Mrs X* Revolution

The IT Rules 2021 were definitely a step forward, but the problem of re-uploads still persisted. The Delhi High Court in *Mrs. X v. Union of India*<sup>44</sup> recognised this problem. It gave directions for the situations where the victim takes down one link only to see the emergence of ten others. I consider this a revolutionary move where the Court not only ordered the intermediaries to take down the URLs provided by the victim, but also provided automated tools, such as hash-based matching technology, to proactively identify, block, and disable access to identical or near-identical re-uploads of the offending content.<sup>45</sup> Moreover, the Court directed search engines like Google to de-index and de-reference the abusive content, ensuring it could not be easily discovered through public searches.<sup>46</sup> This judgement clearly mentioned that if an intermediary fails to do so, they could lose their safe harbour protection under section 79 and could be made liable for prosecution.<sup>47</sup>

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<sup>41</sup> *Supra* note 5.

<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.*

<sup>44</sup> *Supra* note 2.

<sup>45</sup> *Mrs. X v. Union of India*, Columbia Global Freedom of Expression, available at: <https://globalfreedomofexpression.columbia.edu/cases/mrs-x-v-union-of-india/> (last visited Jul. 22, 2025).

<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

This judgment should be considered an evolution of intermediary liability in India. It changed the 'notice and takedown' model to "notice and staydown" obligation for NCII content. The intermediaries should consider this violation at the same level as they consider an intellectual property violation. Global research has shown that standard platform reporting mechanisms for NCII are often ineffective. In contrast, copyright-based takedown requests (like those under the DMCA in the U.S.) are far more successful, mainly due to automated enforcement systems<sup>48</sup>. This sets a powerful precedent that could be extended to other categories of harmful content, such as hate speech or terrorist propaganda, pushing India's regulatory framework closer to more stringent models.

### C. The Emerging 'Right to be Forgotten' in the Indian Context

India does not have a specific statute to recognise the "right to be forgotten" RTBF yet. Still, the principles in the *Mrs. X*<sup>49</sup> judgement are its practical application. The judiciary has interpreted this right as an inherent one under the Fundamental Right to privacy under Article 21 of the Indian Constitution.<sup>50</sup> The RTBF gives survivors the power to ask for their past to be erased from the public eye when it is harmful, irrelevant, or unwanted. It allows people to reclaim their dignity, privacy, and peace.<sup>51</sup> In the case of *Mrs X*, the Court acknowledged this right in theory and also gave it real meaning. By ordering the proactive removal and de-indexing of content that had haunted the survivor online, the Court recognised that the harm of NCII is not just legal but deeply human.<sup>52</sup> In doing so, the Court gave the RTBF a heart and soul.

## 5. JUDICIAL RESPONSES: FORGING NEW PATHWAYS TO JUSTICE

Since there is an absence of a dedicated legal framework, the Indian Judiciary has stepped up for NCII. Through purposive interpretation and innovative remedies, courts have begun to fill the legislative void, creating crucial precedents for the unique and severe nature of this harm.

### A. The Animesh Boxi Precedent: Recognising virtual rape and reputational injury.

The 2018 verdict in **State of West Bengal v. Animesh Boxi**<sup>53</sup> marked a watershed moment in

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<sup>48</sup> *Supra* note 3.

<sup>49</sup> *Supra* note 2.

<sup>50</sup> *Mrs X v. Union of India Delhi High Court judgment analysis right to be forgotten*, IJLLR.

<sup>51</sup> *Supra* note 45.

<sup>52</sup> *Supra* note 50.

<sup>53</sup> *Supra* note 1.

India's reckoning with the trauma of non-consensual intimate imagery. It is called the country's first central "revenge porn" conviction. The case involved a young woman whose trust was cruelly weaponised when her partner blackmailed her and then posted her intimate photos on a pornographic site. The Court convicted him under a range of IPC and IT Act provisions (Sections 354A, 354C, 354D, 509 IPC; Sections 66C, 66E, 67, 67A IT Act), affirming that such abuse was not trivial or private<sup>54</sup>, but rather, it was criminal, scarring, and systemic.

The Court expanded the idea of "injury" in law by including broken minds and broken dignity.<sup>55</sup> It acknowledged the social exile, fear, and shame survivors endure long after the act. Most powerfully, the judge gave language to the inexpressible: calling the experience "virtual rape."<sup>56</sup> He recognised that every new view, every click, is a fresh violation. By awarding compensation and treating the survivor as akin to a rape victim,<sup>57</sup> the Court dignified the survivor's pain and validated her fight for justice.

#### *B. Protecting the Most Vulnerable: The POCSO Dimension*

When the NCII target is a minor, the violation becomes absolutely more devastating, and the law has to respond with greater urgency. The Protection of Children from Sexual Offences (POCSO) Act, 2012, is designed with the child's best interests in mind and offers a stricter and more compassionate legal framework. In a case from Madhya Pradesh, a man who had gained a minor girl's trust during online coaching betrayed it by uploading her nude photos. The POCSO court sentenced him to five years of rigorous imprisonment. It levied a fine of ₹1.5 lakh, sending a clear message that such abuse will not be treated lightly.<sup>58</sup>

The adult NCII cases often require stitching together a web of IPC and IT Act provisions, and the POCSO Act provides a focused and child-specific route to justice. Sections 13 and 14 criminalise the use of a child for pornographic purposes, while Section 15 targets even the storage or possession of such material.<sup>59</sup> These provisions reflect that children are more vulnerable, more easily coerced, and more profoundly harmed.

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<sup>54</sup> *Ibid.*

<sup>55</sup> *Supra* note 5.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*

<sup>58</sup> *Odisha court sentences man to 3-year RI for posting nude photos of girl on social media*, PTI News (2024).

<sup>59</sup> *Protection of Children from Sexual Offences Act, 2012*, available at: <https://cdnbbsr.s3waas.gov.in/s3ec030b6ace9e8971cf36f1782aa982a7/uploads/2024/09/2024092050.pdf> (last visited Jul. 22, 2025).

## 6. CONCLUSION: TOWARDS A COHERENT AND COMPASSIONATE LEGAL FRAMEWORK.

*The rise of Non-Consensual Intimate Image abuse in India explains to us how both law and society have lagged behind the cruel potential of digital spaces. Survivors are left to navigate through their trauma, are retraumatized through the process, and fail to get real closure. Though courts have occasionally carved out empathetic paths to justice, such piecemeal efforts cannot replace the need for a holistic, humane legal overhaul. A concerted, compassionate response that restores dignity to survivors and makes the internet truly safe for everyone is needed.*

There is an urgent need for dedicated legislation that explicitly addresses Non-Consensual Intimate Image (NCII) abuse. Legal scholars have consistently emphasized this gap, and judicial experiences have time and again highlighted the inadequacy of existing laws in offering meaningful redress to victims.<sup>60</sup> A comprehensive law must be framed on the inviolable rights of individuals to privacy, dignity, and bodily autonomy that is grounded in consent. The focus should no longer be on whether the content is obscene or whether the motive was revenge. Instead, the law must identify the absence of consent in dissemination as the central criminal act, regardless of the relationship between the parties involved or the manner in which the image was obtained.

One of the most essential legislative innovations would be to incorporate the kind of intermediary liability and proactive platform responsibility that was judicially crafted in the landmark case of *Mrs X v. Union of India*.<sup>61</sup> The remedies outlined in that judgment, such as immediate takedown of NCII content and the prevention of its re-upload, need to be translated into statutory obligations. Platforms must be held legally accountable for acting within a strict timeframe and using available automated technologies to take down such content across their systems. Additionally, victims should not have to navigate prolonged and costly court battles to have intimate content removed from the internet. A statutory 'Right to be Forgotten' must be established, backed by a transparent and time-bound administrative process that allows survivors to request removal and de-indexing of NCII from websites, platforms, and search engines directly.

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<sup>60</sup> *Supra* note 10.

<sup>61</sup> *Supra* note 2.

However, merely changing the laws is not enough. The larger system through which justice is delivered must also be transformed to centre the dignity, safety, and healing of victims. One of the most pressing reforms is the creation and enforcement of trauma-informed, gender-sensitive protocols for law enforcement personnel. The Madras High Court's intervention in a recent NCII case brought to light the extent to which police insensitivity can deepen the trauma experienced by victims.<sup>62</sup> Uniform guidelines are needed to train officers on how to interact with survivors with empathy, how to collect digital evidence without further harm, and how to ensure that victims are linked with necessary psychological and legal support services.

The legal process must also adopt a more holistic outlook by incorporating the philosophy of therapeutic jurisprudence. As legal scholars like Halder and Jaishankar argue, the law must be recognised as a social force that can either support or impair an individual's mental health and overall well-being.<sup>63</sup> A justice system guided by this philosophy would be oriented towards facilitating the survivor's psychological recovery. This would involve measures such as integrating mental health support into the trial process and redesigning court procedures to reduce the risk of retraumatisation.

Finally, any legal and systemic reform must be accompanied by a more profound cultural transformation. Societal attitudes towards NCII survivors continue to be shaped by victim-blaming narratives rooted in patriarchal notions of shame and honour. Public awareness campaigns spearheaded by the government, civil society organisations, and educational institutions must work to dismantle these norms. The burden of shame must be decisively shifted from the person whose consent was violated to the person who committed the violation.<sup>64</sup> It is only when society unequivocally supports survivors that they will be empowered to come forward and seek justice.

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<sup>62</sup> *Supra* note 10.

<sup>63</sup> Debarati Halder & K. Jaishankar, "Revenge Porn by Teens in the United States and India: A Socio-Legal Analysis", 51(1-2) *International Annals of Criminology* 85 (2013).

<sup>64</sup> *Supra* note 35.