



HUMAN
RIGHTS
WATCH

“My Life is Not Your Porn”

Digital Sex Crimes in South Korea

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Printed in the United States of America

ISBN: 978-1-62313-912-4

Cover design by Rafael Jimenez

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Digital Sex Crimes in South Korea

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Summary

This report, based on interviews with survivors and experts, and a survey, documents the spread and impact in South Korea of what are referred to there as “digital sex crimes.” Digital sex crimes are crimes involving non-consensual intimate images. These crimes are a form of gender-based violence, using digital images that are captured non-consensually and sometimes shared, captured with consent but shared non-consensually, or sometimes faked. These images are almost always of women and girls. This report explores how technological innovation can facilitate gender-based violence in the absence of adequate rights-based protections by government and companies.

Lee Ye-rin’s employer made romantic overtures toward her; he was married, and she was not interested. One day he bought her a clock as a gift. She put the clock in her bedroom but later moved it to a different spot in the room. Her boss—after she moved the clock—commented that if she did not want it, he would take it back. “I found it strange, so I googled the clock and found it was a special kind,” Lee Ye-rin said. The clock was a spycam. It had been streaming footage of the inside of Lee Ye-rin’s bedroom to her boss’s cell phone 24 hours a day for the previous month or month and a half. When she confronted him, he asked: “Is that the thing you stayed up all night to google?” He had been watching as she searched.

Lee Ye-rin learned that the clock was a spycam by finding it advertised online, where it was described as providing perfect footage even in the dark. She said the prosecutor who later worked on the case was amazed that she had been able to find that exact clock online, given how many models there are. While talking with Human Rights Watch, she searched in Korean for “clock hidden camera” and pulled up countless pages of different spycam clocks. The perpetrator in Lee Ye-rin’s case was sentenced to ten months imprisonment.

She faced lasting impact from the experience. “I cried all night, I couldn’t sleep, I had to take medicine to soothe myself...Even now this happens,” she said. “What happened took place in my own room—so sometimes, in regular life, in my own room, I feel terrified without reason.” A year later, she continued to take medication prescribed for depression and anxiety.

South Korea, officially the Republic of Korea, is often seen as an economic miracle, based on its rapid economic growth in the period after the Korean War (1950-1953) through the present. As part of this boom, the country became a leader in technological advances, with the world's highest rate of adult smart phone ownership, one of the world's fastest internet speeds, and 99.5 percent of households having access to the internet.

But South Korea's rapid economic and technological development has not been accompanied by similarly rapid advancement in gender equality. Traditional Confucian patriarchal values remain deeply embedded in society. Confucianism is a philosophical and ethical system, which highlights social hierarchy and harmony. A woman's position in society is lower than a man's and her reputation, which can impact her access to employment and her personal relations, depends largely on maintaining an image of "sexual purity."

In the 2021 World Economic Forum Global Gender Gap ranking, South Korea ranked 102 out of 156 countries, with the largest gap on economic participation and opportunity of any advanced economy. South Korean women do four times as much unpaid work as men and face a 32.5 percent gender pay gap. Gender-based violence is widespread, even compared to the global estimates that 1 in 3 women experience such violence; in a 2017 survey of 2,000 South Korean men, nearly 80 percent of respondents admitted to having perpetrated violence against an intimate partner. South Korea is rare globally in having a homicide rate that is equal for men and women.

In 2008, less than 4 percent of sex crimes prosecutions in South Korea involved illegal filming; by 2017 the number of these cases had increased eleven-fold, from 585 cases to 6,615, and they constituted 20 percent of sex crimes prosecutions.

Much of the public attention to digital sex crimes was initially driven by use of tiny cameras ("spycams") to covertly record footage in places like toilets, changing rooms, and hotels, with perpetrators sometimes earning money by selling the footage to websites that are able to use them to generate revenue by selling access to the photos or using them to drive advertising sales. Spycams are tiny, easily concealed, and come in different forms including disguised as an ordinary household item such as a clock, calculator, clothing hook, or coffee cup. They are inexpensive and can operate for extended periods on a battery.



A painting installed with a hidden camera on display at a spy camera shop in the port city of Incheon, South Korea, on March 22, 2019. © 2019 JUNG YEON-JE/AFP via Getty Images

The overwhelming majority of the people targeted in digital sex crimes are women—80 percent in spycam cases. The overwhelming majority of perpetrators are male; in 2016, 98 percent of perpetrators in spycam cases were men.

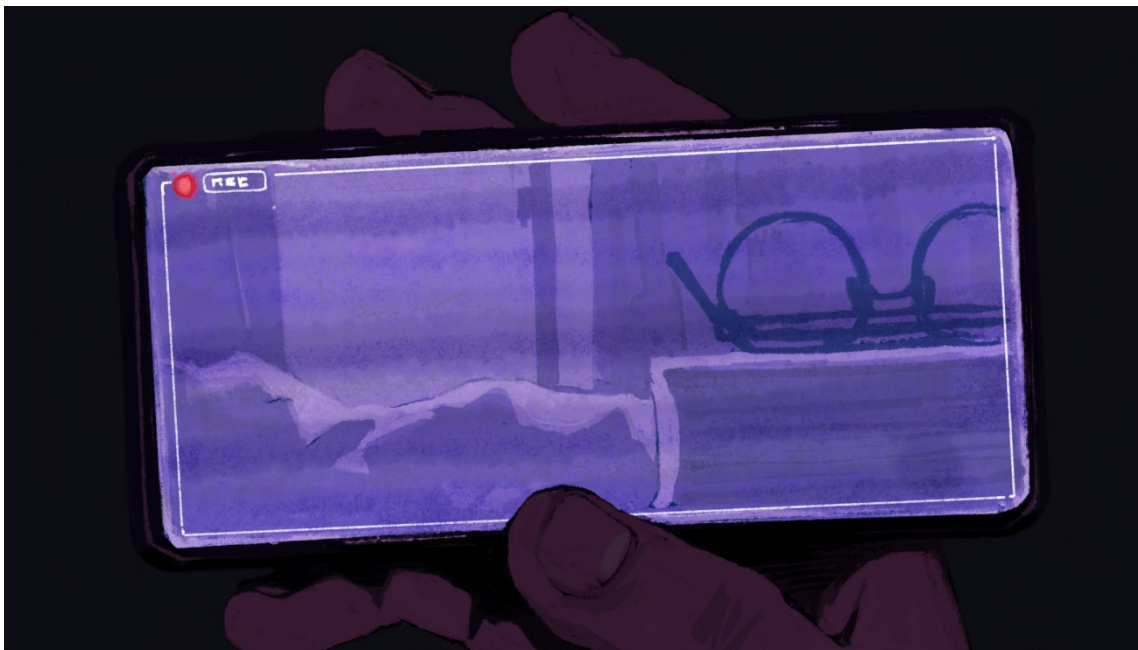
Digital sex crimes include capturing intimate images without consent, an abuse that happens not just among strangers in spaces like toilets and changing rooms, but also between people who know each other, in workplaces, at schools and universities, and between intimate partners. Cases detailed in this report include a woman who died by suicide after being filmed in her workplace changing room. Several cases discussed below involve intimate partners who captured women’s images without consent, or women who learned that a man they regarded as a friend had secretly filmed them.

Other digital sex crimes involve non-consensual sharing of images that may have been captured with consent, but were not intended to be shared, such as images taken by or sent to an intimate partner or images taken of models who consented to being photographed but did not consent to the images being shared or sold.

A third category of digital sex crimes involved faked or manipulated images, often used by perpetrators who impersonate their victim online to attack her reputation, relationships, and safety. Several survivors faced devastating harm after a perpetrator who knew them well impersonated them online, using faked or manipulated intimate images, in order to smear their reputation.

Although not documented in this report, several government officials and service providers also noted that cases of sexual violence increasingly have a digital component, where a rapist may film the crime and share or threaten to share the images online.

Anger over government inaction regarding digital sex crimes boiled over in South Korea in 2018, after a woman was jailed for posting a nude photo of a man while men usually go free in such cases. The case sparked a series of six protests, with tens of thousands of women marching through the streets of Seoul chanting slogans including, “My life is not your porn,” and “Are we not human?” The government responded with legislation to expand the range of acts punishable as digital sex crimes and to toughen penalties. It also established a center to assist survivors of digital sex crimes.



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But as this report documents, the steps the government has taken are not sufficient. At the heart of the government response is a failure to appreciate how deep the impact of digital sex crimes is on survivors. Once a non-consensual image has been shared once, or the victim simply fears it might be shared, the fear of the image appearing or reappearing hangs over the survivor indefinitely. Succeeding in having the photos removed from specific websites provides no sense of security, as anyone who has ever viewed them even for a second could have taken a screen shot and can share that screen shot any time. Any anonymous viewer can save, upload, and distribute the screenshot on any website or websites—from which it may spread uncontrollably.

Survivors of digital sex crimes grapple with trauma so deep that it at times leads to suicide, including in two cases discussed in this report. Many others consider suicide. This trauma is often worsened by retraumatizing encounters with police and justice officials, and by the expectation that survivors should gather evidence for their case and monitor the internet for new appearances of images of themselves, which leaves them immersed in the abuse. Survivors also face stigma which can harm their relationships and access to education and employment.

Women and girls who have been the target of digital sex crimes face major barriers to justice. Police often refuse to accept their complaints and behave in abusive ways, including minimizing harm, blaming them, treating images insensitively, and engaging in inappropriate interrogation.

When cases move ahead, survivors struggle to obtain information about their cases and to have their voices heard by the court. Judges also frequently impose low sentences.

Government data shows that in the majority of cases where a report is accepted, a suspect is investigated, and once a suspect is investigated that person is usually prosecuted. But available data suggests that prosecutors drop many of these cases. In 2019, prosecutors dropped 46.8 percent of sex crime cases compared to 27.7 percent of homicide cases and 19 percent of robbery cases, meanwhile prosecutors dropped 43.5 percent of digital sex crimes cases, limited to crimes of sexual violence using cameras, distributing pictures without consent and production and distribution of child and youth sexual exploitation content.

When cases move forward, they usually result in conviction; in 2020, out of 1,849 cases involving charges of capturing intimate images without consent that went to trial only 12 resulted in acquittal. But when these prosecutions result in convictions, the sentences are relatively light; in 2020, 79 percent of those convicted of capturing intimate images without consent received a suspended sentence, a fine, or a combination of the two. Fifty-two percent received only a suspended sentence. The same year, 82 percent of people convicted of distributing sexual images captured and/or distributed without consent received a suspended sentence or a fine or a combination of the two, with the most common sentence (for 53 percent of convicted defendants) being just a fine.

Between the cases where survivors are pressured to drop charges and those dropped by prosecutors and low sentences, the likelihood of any single case resulting in significant punishment is low. In 2017, out of 5,437 perpetrators who were arrested for digital sex crimes, only 119, or 2 percent, were imprisoned. Digital sex crime cases resulting in conviction are more commonly resolved with measures such as relatively low fines and mandatory classes, even in situations where there has been deep harm to the victim.

The problems survivors face in the justice system are exacerbated by a lack of women police, prosecutors, and judges. Civil remedies such as damages from the perpetrator or injunctive relief are also not effective remedies readily pursuable by the survivors because filing a complaint in civil court would require victims to indicate their names and addresses, making this information available to the public, including to the perpetrator, something few survivors are comfortable doing.

The most important gap in the government's response to digital sex crimes is its failure to take meaningful steps to prevent these crimes, by changing the deep gender inequity that normalizes consumption of non-consensual intimate images. A key part of prevention should be teaching children—and adults—about healthy and consensual sexuality and responsible digital citizenship. South Korea's system for providing sexuality education is cursory, incomplete, and riddled with sexist stereotypes.

Key Recommendations

To the Government of South Korea

- Establish a commission to examine the appropriateness of current sentences and remedies for digital sex crimes.
- Develop and fully implement an updated and comprehensive national action plan for reducing the prevalence and impact of digital sex crimes and require all relevant government institutions to make implementing the plan a priority.
- Provide sufficient funding to support services for all survivors of digital sex crimes, including help having images removed, legal assistance, and psychosocial support.
- Support legislative reforms and service provision to help survivors of digital sex crimes access civil remedies including injunctive relief and damages.
- Reduce gender inequity in society by taking urgent steps to increase women's participation in the legal and law enforcement sectors, political representation, public life, and the private sector especially at higher levels; end the gender pay gap; increase equity in care giving; reduce violence and harassment against women; and act to end sexist attitudes.

To the National Assembly

Develop and pass legislation to:

- Increase access to civil remedies and services for survivors of digital sex crimes and expand victim compensation programs to include them
- Protect survivors' privacy, including by permitting them to pursue civil litigation without their names and addresses being disclosed to defendants.
- Require comprehensive and rights-respecting education on sexuality and digital citizenship in all schools and workplaces.

To the Ministry of Education

- Reform the curriculum for and delivery of sexuality education to remove gender stereotypes, and include teaching about consent, gender-based violence, healthy relationships, and digital citizenship, including digital sex crimes.

To the National Police Agency, Supreme Prosecutor's Office and Supreme Court

- Ensure vigorous and effective investigations and prosecutions of all digital sex crimes cases.
- Train police, prosecutors and judges on the impact of digital sex crimes on victims, to assist them in appropriately weighing the severity of these crimes.
- Increase the number of women in all roles within these institutions, including in senior roles and within units that specialize in handling digital sex crimes. Strengthen policies ensuring respectful and responsive treatment of survivors of crimes, particularly of gender-based violence, and hold accountable officials who violate these policies.

Methodology

This report is based on research including 38 interviews and an online survey. The interviewees included 12 survivors of digital sex crimes, and the father of a woman who died by suicide after being the victim of a digital sex crime. Human Rights Watch also interviewed officials from the Korean Communications Commission, a former government official who worked on government policy related to digital sex crimes, a detective, and two experts from government institutes, and corresponded with the Ministry of Gender Equality and Families, and conducted 20 interviews with experts outside of government, including service providers, academics, members of the private sector, advocates, and activists.

Human Rights Watch also conducted an online survey about the experiences of survivors of digital sex crimes. The survey was in Korean. It was distributed and shared primarily via social media. It is a convenience sample and is therefore not representative of all survivors of digital sex crimes. Respondents were able to complete it anonymously and it asked questions about their experiences of digital sex crimes. In the period between November 2019, when the survey was launched, and January 2020, there were 554 responses. Some of the survivors interviewed were located through this survey.

Human Rights Watch is committed to ethical interviewing and follows procedures designed to ensure informed consent and avoid retraumatization. Interviews with survivors were conducted with careful attention to their privacy, safety, and comfort, usually with only the Human Rights Watch researcher and an interpreter present. Most interviews were conducted in Korean, through an interpreter; a few were in English. One interviewee asked to have a counselor present, one interview was conducted by videoconferencing, and one survivor who was interviewed also provided written information. Interviewees did not receive any compensation for being interviewed. Where they incurred travel expenses, we reimbursed those expenses.

The names of most of the survivors quoted mentioned are pseudonyms, at their request, to protect their privacy. The father of the woman who died asked that we refer to her as “A” as she was referred to in some media reports; we have honored this request. The names of

some experts were also withheld, at their request, as they were not authorized by their employers to speak or feared retaliation from the government.

Human Rights Watch repeatedly asked to meet with the South Korean government agencies with responsibilities relevant to digital sex crimes. The Communication Commission met with us, and the Ministry of Gender Equality and Families responded to written questions but did not agree to meet. Other government institutions, including the National Police Agency and Ministry of Justice did not agree to meet. We wrote to all the institutions to which we made recommendations on May 27 and June 2, 2021. None replied. This correspondence is in the annex.

Human Rights Watch also requested data from multiple entities within the South Korean government. Some entities provided data, and others helped us to access data from government websites. Other requests, however, did not receive a response within the government-specified time frame of 10 working days or were replied to in a nonresponsive manner.

Human Rights Watch also wrote to Google for comments regarding the average time it takes for them to respond to requests to remove non-consensual intimate images from Google search results and why images would still appear in search results when they were removed from the site where they were initially posted. Google did not respond to this inquiry.

Korean names are written with the family name first and given name second, but some people reverse the order of their names to make them more understandable to foreigners. We have tried to state interviewees' names in the format they used, which means there is variety within the report in the order in which interviewees' names are stated. South Korea has a unique system of calculating ages; we have used "international" ages.

At the time of the research, the exchange rate was about 1 US dollar equals 1,200 South Korean won, and we have used this rate for conversions in the text.

I. Digital Sex Crimes: Tech and Gender Inequity Intersect

This report, based on interviews with survivors and experts, and a survey, documents the spread and impact, in South Korea, of what are referred to there as “digital sex crimes.” Digital sex crimes are crimes involving non-consensual intimate images. These crimes are a form of gender-based violence, using digital images that are captured non-consensually and sometimes shared, captured with consent but shared non-consensually, or sometimes faked. These images are almost always of women and girls. This report explores how technological innovation can facilitate gender-based violence in the absence of adequate rights-based protections by government and companies.

South Korea is often seen as an economic miracle, based on its rapid economic growth after the Korean War (1950-1953) through the present.¹ As part of this boom, the country became a leader in technological advances, with the world’s highest rate of adult smart phone ownership (95 percent), one of the world’s fastest internet speeds, and 99.5 percent of households having access to the internet.²

But South Korea’s rapid economic and technological development has not been accompanied by similarly rapid advancement in gender equity. The country lags globally and in East Asia in protecting the rights of women and girls. Traditional Confucian patriarchal values remain deeply embedded in society.³ Confucianism is a philosophical and ethical system, which highlights social hierarchy and harmony.⁴ A woman’s position in society is lower than a man’s and her reputation, which can impact her access to

¹ For example, M. Shahid Alam, “The South Korean ‘Miracle’: Examining the Mix of Government and Markets,” *The Journal of Developing Areas*, Vol. 23, No. 2 (Jan. 1989), pp. 233-258, <https://www.jstor.org/stable/4191745?seq=1> (accessed February 5, 2021); Eun-Young Jeong, “South Korean Growth Shows Asia’s Stronger Recovery From Coronavirus,” *Wall Street Journal*, Oct. 27, 2020, <https://www.wsj.com/articles/south-korean-economy-returns-to-growth-11603800971> (accessed February 5, 2021).

² Kyle Wiggers, “Pew: Smartphone penetration ranges from 24% in India to 95% in South Korea,” *Venture Beat*, February 5, 2019, <https://venturebeat.com/2019/02/05/pew-south-korea-has-the-worlds-highest-smartphone-ownership-rate/> (accessed Feb 5, 2021); “Global Speeds December 2020,” *Speedtest Global Index*, <https://www.speedtest.net/global-index#mobile> (accessed February 5, 2021); “Internet Access,” *Organisation for Economic Co-operation and Development (OECD)*, undated, accessed February 18, 2021, <https://data.oecd.org/ict/internet-access.htm>.

³ These values were entrenched during the Chosun dynasty (1392-1910), also known as the Chosun and Joseon dynasty.

⁴ In this report, patriarchy is understood as men’s domination over women and the domination of older generations over younger generations. Korean society is also patrilineal, with age and gender hierarchies maintaining a male line of descent in family lineages.

employment and her personal relations, depends largely on maintaining an image of “sexual purity”⁵ and being naïve and obedient to those higher in hierarchy, including men.⁶

In the 2021 World Economic Forum Global Gender Gap ranking, South Korea ranked 102 out of 156 countries, with an especially large gender gap on economic participation and opportunity, where it ranked 123rd.⁷ The country ranked 134—among the worst in the world—on the percentage of legislators, senior officials, and managers who are women, with 15.7 percent of these roles filled by women.⁸ Less than 3 percent of board members at South Korea’s top 200 listed companies and less than 4 percent of top executives are women.⁹ South Korean women do more than 4 times as much unpaid work as men and face a 32.5 percent gender pay gap.¹⁰ A 2021 survey found that only 4 in 10 victims of workplace harassment came forward and of those 90 percent faced retaliation.¹¹

Gender-based violence is shockingly widespread. In 2019, the Korea Women’s Hotline estimated that a woman was murdered every 1.8 days.¹² South Korea is rare globally in having a homicide rate equal for men and women; globally, 81 percent of homicide victims are men.¹³ In 2018, the Committee on the Elimination of Discrimination against Women (CEDAW Committee), the body charged with monitoring implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), expressed concern over an increase in reported cases of domestic violence from 160,272 in 2013 to

⁵ In this context, “sexual purity” encompasses sexual abstinence and avoiding premarital and extra-marital sexual relations.

⁶ Kyung-ae Park, “Women and Social Change in South and North Korea: Marxist and Liberal Perspectives,” *Women and International Development*, Working Paper No. 231, (Michigan State University, June 1992), <https://gencen.isp.msu.edu/files/4814/5205/7066/WP231.pdf>, p. 2.

⁷ Global Gender Gap Report 2021, World Economic Forum, http://www3.weforum.org/docs/WEF_GGGR_2021.pdf (accessed February 5, 2021), pp. 10, 18, 241.

⁸ *Ibid.*, p. 209.

⁹ “Female board members comprise only 2.7% of executive directors at top 200 S. Korean companies,” *Hankyoreh*, March 15, 2020, http://english.hani.co.kr/arti/english_edition/e_business/932611.html (accessed April 15, 2021); Gyung-hwa Song, “S. Korean women comprise 3.6% of top corporate executives,” *Hankyoreh*, Oct.30, 2019, http://english.hani.co.kr/arti/english_edition/e_business/915170.html (accessed February 18, 2021).

¹⁰ Global Gender Gap Report 2021, World Economic Forum, http://www3.weforum.org/docs/WEF_GGGR_2021.pdf (accessed February 5, 2021), p. 242.

¹¹ Ock Hyun-ju, “9 in 10 workplace sexual harassment victims experience retaliation: study,” *Korean Herald*, February 1, 2021, <http://www.koreaherald.com/view.php?ud=20210201000913> (accessed April 16, 2021).

¹² Olivia Schieber, “South Korea Needs to Contend With Sexual Violence,” *Foreign Policy*, August 10, 2020, <https://foreignpolicy.com/2020/08/10/south-korea-needs-to-contend-with-sexual-violence/> (accessed February 18, 2021).

¹³ United Nations Office on Drugs and Crime, “Global Study on Homicide: Executive Summary,” 2019, p. 23, <https://www.unodc.org/documents/data-and-analysis/gsh/Booklet1.pdf> (accessed February 18, 2021).

264,528 in 2016.¹⁴ In a 2017 survey of 2,000 South Korean men by the Korean Institute of Criminology, nearly 80 percent of respondents reported they had committed violence against an intimate partner.¹⁵

A 2018 survey found that, among 3,000 male respondents in their twenties, over 50 percent had “anti-feminist” attitudes.¹⁶ The \$5 billion K-pop music industry has been criticized for promoting sexist images of women.¹⁷

Anger over gender inequity in South Korea has driven the development of radical strands of the country’s feminist movement. A feminist website, Megalia, founded in 2015 and shut down in 2017, sought to flip women’s experiences of misogyny by tactics such as re-posting misogynist comments with the gender reversed.¹⁸ Womad, an online community that split off from Megalia, proclaims “We are here to bathe in male tears.”¹⁹ In 2018, women and girls identified with a movement called “Escape the Corset” began filming themselves removing or destroying cosmetics—a reaction to expectations about women’s appearance that fuel South Korea’s \$11 billion a year beauty industry and reported status as having the highest per capita rate of plastic surgery in the world.²⁰ A related movement, the “4B Movement,” attracts women and girls who pledge not to date, marry, have sex, or have children.²¹

¹⁴ Committee on the Elimination of Discrimination against Women, “Concluding observations on the eighth periodic report of the Republic of Korea,” CEDAW/C/KOR/CO/8, March 14, 2018, para. 22(b), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/KOR/CO/8&Lang=En (accessed February 17, 2021).

¹⁵ Nicola Smith, “Almost 80% of South Korean men have abused girlfriend, study claims,” *The Telegraph*, August 24, 2017, <http://www.telegraph.co.uk/news/2017/08/24/almost-80-south-korean-men-have-abused-girlfriend-study-claims/amp/> (accessed February 18, 2021).

¹⁶ He-Suk Choi, “Half of men in 20s show anti-feminist tendencies,” *The Korea Herald*, February 5, 2019, <http://www.koreaherald.com/view.php?ud=20190131000865> (accessed February 18, 2021).

¹⁷ Isabelle Rhee, “Fallen Idols: Sexism and Suicide in the K-pop Industry,” *The Politic*, undated, <https://thepolitic.org/fallen-idols-sexism-and-suicide-in-the-k-pop-industry/> (accessed February 5, 2021).

¹⁸ Yeji (Jesse) Lee, “Megalia: South Korea’s Radical Feminist Community,” *10 Magazine*, August 2, 2016, <https://10mag.com/megalia-south-koreas-radical-feminism-community/> (accessed February 22, 2021).

¹⁹ Womad, “Notice—New Board, New Rules,” March 11, 2019, <https://womad.life/271948?page=1> (accessed February 10, 2021).

²⁰ Seulki Lee, “South Korean women ditch makeup and ‘escape the corset’ in rebellion against ideals of beauty,” *Japan Times*, February 22, 2019, <https://www.japantimes.co.jp/news/2019/02/22/asia-pacific/social-issues-asia-pacific/south-korean-women-ditch-makeup-escape-corset-rebellion-ideals-beauty/> (accessed February 10, 2021); Lucinda Shen, “Here are the vainest countries in the world,” *Business Insider*, August 13, 2015, <https://www.businessinsider.com/here-are-the-vainest-countries-in-the-world-2015-8> (accessed February 10, 2021).

²¹ “Till death do I stay single: South Korea’s #NoMarriage women,” *Straits Times*, December 6, 2019, <https://www.straitstimes.com/asia/east-asia/til-death-do-i-stay-single-south-koreas-nomarrriage-women> (accessed February 12, 2021).

In 2008, 4 percent of crimes of sexual violence in South Korea involved filming without consent.²² By 2017, the number of these cases had increased eleven-fold, from 585 cases to 6,615, and they constituted 20 percent of sexual violence cases.²³ More than 30,000 cases of filming with the use of hidden cameras were reported to police nationally between 2013 and 2018.²⁴ From 2012 to 2016, police identified 26,000 people who had been filmed illegally.²⁵

A detective working on sex crimes told Human Rights Watch in 2019 that she estimated about 30 percent of sex crimes are now fueled or enabled by technology, across all different types of cases: “For example, when you are raped, it can also be filmed, and then leaked.”²⁶ Organizations assisting survivors of gender-based violence also increasingly see tech elements in these cases. The associate director of a center assisting survivors of sexual violence estimated that about one-quarter of their cases now include an aspect related to technology. “Before we saw many cases of rape, but now we also see recordings of rape—and perpetrators use recordings to blackmail victims,” she said.²⁷

Crimes involving capturing or sharing intimate images without consent are referred to as “digital sex crimes” in South Korea. The overwhelming majority of the people targeted in digital sex crimes are women—80 percent in spycam cases—although men are also sometimes targets and gay, bisexual or transgender men are disproportionately targeted.²⁸

²² Crimes and Criminal Justice Policy in Korea (2018), Korean Institute of Criminology, August 2020, https://eng.kic.re.kr/brdthm/boardthmView.do?srch_menu_nix=q2lwo3Hq&brd_id=BDIDX_18D9tR4Yqv815ql24LoKl9&srch_mu_lang=CDIDX00023 (accessed February 18, 2021), p. 78, 121.

²³ *Ibid.*, p. 121.

²⁴ Tiffany May and Su-Hyun Lee, “Is There a Spy Camera in That Bathroom? In Seoul, 8,000 Workers Will Check,” *New York Times*, September 3, 2018, <https://www.nytimes.com/2018/09/03/world/asia/korea-toilet-camera.html> (accessed February 15, 2021).

²⁵ Michael Sullivan, “South Korean Women Face Threat of Cameras in Bathroom Stalls,” *NPR*, September 20, 2018, <https://www.npr.org/2018/09/20/649779373/south-korean-women-face-threat-of-cameras-in-bathroom-stalls> (accessed February 15, 2021).

²⁶ Human Rights Watch interview with a police detective (name withheld), Seoul, February 5, 2020.

²⁷ Human Rights Watch interview with Park Hye Young, Seoul Sunflower Center, Seoul, Sept. 17, 2019.

²⁸ Laura Bicker, “South Korea’s spy cam porn epidemic,” *BBC News*, August 2, 2018, <https://www.bbc.com/news/world-asia-45040968> (accessed February 12, 2021); Re: targeting of BGT men, see: Anastasia Powell, Adrian J Scott, Nicola Henry, “Digital harassment and abuse: Experiences of sexuality and gender minority adults,” *European Journal of Criminology*, vol. 17, issue 2, 2020, <https://journals.sagepub.com/doi/full/10.1177/1477370818788006> (accessed February 12, 2021); An attorney representing victims said she believes men may be less likely than women to report digital sex crimes. Human Rights Watch interview with Ahn Ji-Hee, Min Hyun legal services, Seoul, September 18, 2019.



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The overwhelming majority of perpetrators are also male: in 2016, the National Police Agency said 98 percent of perpetrators in spycam cases were men.²⁹

“We’ve been interested in this issue since the 1990s,” said Song Ranhee of the Korea Women’s Hotline. “We’ve watched it evolve from CDs and DVDs into the online space... Some say this is a new type of crime, but to us this is an old crime that’s reached new spaces.”³⁰ In 1999, a website, Soranet, was founded, which attracted over a million users by hosting thousands of non-consensual videos of women, until it was shut down in 2016.³¹

“I think the increase in cybercrime cases has been proportionate to the spread and advancement of smart phones,” a service provider assisting survivors said.³² The government in 2004 imposed a requirement that all cell phone cameras have an audible shutter noise, in response to concerns then emerging about the use of camera phones to

²⁹ Rachael Krishna, “Thousands of Women in South Korea Held A Historic March Against Being Filmed by Spy Cams,” *Buzzfeed*, June 11, 2018, <https://www.buzzfeednews.com/article/krishrach/this-is-why-women-in-korea-made-history-this-weekend> (accessed February 21, 2021).

³⁰ Human Rights Watch interview with Song Ranhee, Korea Women’s Hotline, Seoul, September 17, 2019.

³¹ Seulki Lee, “South Korea ‘spycam’ porn site founder’s jail term criticized as too lenient,” *Reuters*, January 10, 2019, <https://www.reuters.com/article/us-southkorea-crime-women-idUSKCN1P410C> (accessed February 12, 2021).

³² Human Rights Watch interview with Park Hye Young, Seoul Sunflower Center, Seoul, September 17, 2019.

take non-consensual images such as “upskirting.”³³ Silent camera apps can now be used to get around this.³⁴

Growing public awareness of digital sex crimes is driven by the use of tiny cameras (“spycams”) to covertly record footage—usually of women and girls—in places like toilets, changing rooms, and hotels, with perpetrators sometimes earning money by posting the footage on the internet or selling it to others for that purpose.³⁵ Spycams are tiny and easily concealed, and come in different forms including disguised as an ordinary household item such as a clock.³⁶ They are inexpensive and can operate for extended periods on a battery and have also been used to covertly film sexual conduct which has then been posted without consent from a participant.³⁷

The 2018 Protests

Anger over government inaction regarding digital sex crimes boiled over in 2018. In May, a young woman covertly took a photo of a nude male model and shared it online without consent. Within days, police arrested her, and in August 2018, she was sentenced to 10 months in prison and 40 hours of counseling on sexual violence.³⁸ The rapid response and tough sentence were in sharp contrast to how little police and courts had done to tackle digital sex crimes against women and seemed to indicate a clear double standard.

³³ Mike Masnick, “Korea Requires Camera Phone To Add Shutter Sound,” *TechDirt*, November 11, 2003, <https://www.techdirt.com/articles/20031111/099242.shtml> (accessed February 24, 2021).

³⁴ Kashmir Hill, “The iPhone App Your Boss May Be Using To Take Upskirt Photos Of You,” *Forbes*, May 15, 2012, <https://www.forbes.com/sites/kashmirhill/2012/05/15/the-iphone-app-your-boss-may-be-using-to-take-upskirt-photos-of-you/?sh=327ed93c166f> (accessed February 21, 2021).

³⁵ For example, Dell Cameron, “Spy-Cam Ring Recorded 1,600 Hotel Guests for a Subscription Porn Site,” *Gizmodo*, March 20, 2019, <https://gizmodo.com/spy-cam-ring-recorded-1-600-hotel-guests-for-a-subscrip-1833446406> (accessed February 12, 2019). In its effort to combat digital sex crimes, the South Korean government has explored the option of trying to regulate the sale of spycams, for example by creating a registry of purchasers or limiting purchase to people who can provide a justification for their use. This effort appears to have been abandoned as unfeasible. Human Rights Watch interview with Lee Won-up, director, Spy-Zone, Seoul, September 19, 2019.

³⁶ Francis Navarro, “10 types of spy cameras that could be watching you now, #6 is shocking,” *Komando*, November 19, 2017, <https://www.komando.com/privacy/10-types-of-spy-cameras-that-could-be-watching-you-right-now/356644/> (accessed February 19, 2021).

³⁷ Gavin Stoker, “The best spy cameras you can buy in 2021,” *Digital Camera World*, December 9, 2020, <https://www.digitalcameraworld.com/buying-guides/best-spy-cameras> (accessed February 19, 2021); For example, Park Chan-kyong, “South Korean K-pop and TV star Jung Joon-young ‘sorry’ for sharing sex videos filmed without women’s consent,” *South China Morning Post*, March 13, 2019, <https://www.scmp.com/news/asia/east-asia/article/3001437/south-korean-k-pop-and-tv-star-jung-joon-young-sorry-sharing> (accessed February 12, 2019).

³⁸ Maya Oppenheim, “Backlash after South Korean Woman Jailed for Secretly Photographing Naked Man,” *The Independent*, August 14, 2018, <https://www.independent.co.uk/news/world/asia/south-korea-naked-photo-man-nude-woman-jail-protests-prison-a8491416.html> (accessed June 17, 2019).

The case sparked a series of six protests, with tens of thousands of women marching through the streets of Seoul. One protester later explained: “We were told it is too hard to catch anyone and we believed that, and we were just trying to be careful on the bus, not to meet the wrong man. And then it happened to a man and they could do something. And that was the moment our anger just exploded—it was the red pill in the system.”³⁹

The protesters chanted slogans including, “My life is not your porn,” and “Are we not human?”⁴⁰ “The largest message we wanted to express was that the government was not treating women as people. There has been so much technological advancement, but no advancement on the rights of women,” a protester said later.⁴¹ One of the protests, on June 9, 2018, drew an estimated 30,000 women, making it the largest women-led protest in the country’s history.⁴² The protests were organized by an anonymous collective titled “Courage to be Uncomfortable,” formed through Twitter.⁴³

Several survivors described the protests as a galvanizing moment. “Women came from all over the country,” one said. “I thought if it weren’t for this protest no one would have been interested in my case. I was so grateful to all those women. I was almost crying.”⁴⁴ A former government official said politicians were forced to take notice. “The protests made the nation consider the issue more,” she said. “Fifty thousand women protested. It was so unprecedented and so big—the government could not ignore the voices of women.”⁴⁵

³⁹ Human Rights Watch interview with participants in the 2018 protests, names withheld, Seoul, September 16, 2019.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Hope Lenamon, “Mobilizing Against Molka: Exploring South Korea’s Largest-Ever Women-Led Protest,” *Ms. Magazine*, July 12, 2018, <https://msmagazine.com/2018/07/12/mobilizing-against-molka-exploring-south-koreas-largest-ever-women-led-protest/> (accessed February 12, 2021).

⁴³ Human Rights Watch interview with participants in the 2018 protests, names withheld, Seoul, September 16, 2020; see also video: “Leave Korea Right Now,” Youtube, December 26, 2018, <https://www.youtube.com/watch?v=vqfOzewjEB8> (accessed February 21, 2021).

⁴⁴ Human Rights Watch interview with Jieun Choi, Seoul, September 17, 2019.

⁴⁵ Human Rights Watch interview with expert formerly involved in government response to digital sex crimes (name withheld), Seoul, February 6, 2020.



South Korean women protest against non-consensual filming and sharing of intimate images on August 4, 2018 in Seoul, South Korea. © 2018 Jean Chung/Getty Images

The protests helped drive important steps by the government, including legal reforms and the establishment of a government-run service center specifically for the purpose of assisting victims of digital sex crimes—an innovation perhaps unique in the world. But the reforms have not been adequate to prevent abuses and to protect victims from harm and provide them with redress. One expert said that in her opinion the government had followed through on about 60 percent of the reforms it promised after the protests. “This has been a big issue for three years, and illegal footage is still circulating on the web, and victims still say the infrastructure to support them doesn’t exist and they are still having difficulties. So seeing this—again and again—makes me feel the government needs to do more.”⁴⁶

⁴⁶ Human Rights Watch interview with representatives of Korea Cyber Sexual Violence Response Center, Seoul, September 19, 2019.

II. Types of Digital Sex Crimes

“It’s not sexual pleasure. It’s more about controlling the other person and showing his presence—his power. ‘You are nothing to me. You are just boobs. And nothing.’”

— Survivor on why she thinks a male former friend filmed up her skirt.⁴⁷

Digital sex crimes involve images captured and shared in a variety of ways. Some images are captured covertly by strangers. Others are captured by an acquaintance, colleague, friend, or intimate partner without consent. Some survivors agreed to an image of them being captured, or took images of themselves, but did not consent to the images being shared. Some images are faked or manipulated. Other are captured during the course of a sexual assault.

Perpetrators use images in different ways. Some sell them online and make money. Others use them to threaten and humiliate someone, sometimes by impersonating their target, with the intention of destroying the victim’s relationships, access to education or employment, or even personal safety. Some perpetrators are voyeurs, hoarding non-consensual images for their own purposes.

The Korean Women’s Development Institute, a government institute, analyzed 360 criminal prosecutions brought under article 14(1) of the Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes (the “Sex Crimes Act”) in which a first court decision was issued in 2017.⁴⁸ In these cases, the most common location where the crime occurred was the subway (55 percent of cases), followed by 11 percent of cases on the street, suggesting that most of these cases involved crimes by perpetrators who were strangers to the women they targeted.⁴⁹

⁴⁷ Human Rights Watch interview with Shin Yun-jeong, Seoul, February 7, 2020.

⁴⁸ Deuk-kyoung Yoon et al., “Actual Condition of Victimization from Online Sexual Violence and Measures to Protect Victims,” Korean Women’s Development Institute, 2019, <https://eng.kwdi.re.kr/publications/reportView.do?p=1&idx=102448> (accessed September 17, 2020).

⁴⁹ Ibid. p. 10.

Dahye Chang, a researcher studying digital sex crimes, said women and girls filmed by strangers may be less afraid to report the crime to police as they face less stigma than women or girls filmed by someone they know.⁵⁰ Survivors may also fear, when an image was captured without consent by someone they know, that police will not believe that they did not consent, or may believe the woman was in part to blame if the crime occurred in the context of a sexual relationship.

A police detective investigating sex crimes said many of her cases do involve survivors and perpetrators who know each other, however, and that these cases are also increasing in number. “Most happen between people close to each other,” she said. “They meet, and date or live together. They sometimes take pictures or videos and when they break up the man uploads those or threatens to...The number is skyrocketing each year.”⁵¹

When the perpetrator and the victim know each other, including as intimate partners, digital sex crimes may be part of a broader set of abusive behaviors. Several survivors interviewed for this report had also experienced other forms of abuse from people who perpetrated digital sex crimes against them. In one case, the perpetrator was a former partner who had also physically assaulted her.⁵² A survivor saw on CCTV cameras the perpetrator, her ex-boyfriend, physically surveilling her house, including stealing her garbage, at the same time that he was engaging in online abuse against her.⁵³ A woman was filmed at university by a man who had also touched her breast without consent; she later learned the same perpetrator showed friends a video of himself having sex with a previous girlfriend, which appeared to have been filmed and shared without her consent.⁵⁴

Several interviewees had experienced other forms of psychological abuse from perpetrators who engaged in digital sex crimes.⁵⁵ An expert described a case handled where a husband filmed himself and his wife having sex with the wife’s consent. He later

⁵⁰ Human Rights Watch interview with Dahye Chang, Seoul, September 18, 2019.

⁵¹ Human Rights Watch interview with a police detective (name withheld), Seoul, February 5, 2020.

⁵² Human Rights Watch interview with Park Ji-young, Seoul, February 6, 2020.

⁵³ Human Rights Watch interview with Kang Yu-jin, Seoul, February 7, 2020.

⁵⁴ Human Rights Watch interview with Shin Yun-jeong, Seoul, February 7, 2020.

⁵⁵ For example, Human Rights Watch interview with Park Ji-young, Seoul, February 6, 2020; Human Rights Watch interview with Kang Yu-jin, Seoul, February 7, 2020.

became abusive and sought to control her by threatening to upload the video or show it to their families and friends.⁵⁶

New forms of digital sex crimes evolve quickly, at a rate legislators and law enforcement are failing to keep up with. An activist explained: “[Police] don’t understand how new technology is immediately adopted for misogyny.”⁵⁷

Non-Consensual Capturing of Images

By Strangers

“I wondered—why do Korean males want to watch the scene of women going to the toilet? What they do in there is pee or poo. Why do they want to watch someone doing that thing?”

— Survivor of digital sex crime⁵⁸

In 2018, the Seoul government announced that it would begin inspecting each of its 20,554 public toilets every day—up from monthly in most cases—and to achieve this would increase the number of municipal employees responsible for these inspections from 50 to 8,000.⁵⁹ This huge commitment of human resources was indicative of just how out of control the problem of people filming and trying to film intimate images of women and girls in public toilets—and other public locations—had become.

Crimes committed using hidden spycams are sometimes referred to in South Korea as “*molka*.” Several experts told Human Rights Watch they dislike this term and believe it is revealing of harmful social attitudes toward digital sex crimes. “The term ‘*molka*’ [literally “hidden camera” in Korean] comes from comedy,” a counselor working with victims of digital sex crimes said. “It means to play a prank on someone.”⁶⁰

⁵⁶ Human Rights Watch interview with expert formerly involved in government response to digital sex crimes (name withheld), Seoul, February 6, 2020.

⁵⁷ Human Rights Watch interview with Baek Ga Eul, activist, Seoul, Sept. 16, 2019.

⁵⁸ Human Rights Watch video interview with Sohn Ji-won, Feb 8, 2020.

⁵⁹ Tiffany May and Su-Hyun Lee, “Is There a Spy Camera in That Bathroom? In Seoul, 8,000 Workers Will Check,” *New York Times*, Sept. 3, 2018, <https://www.nytimes.com/2018/09/03/world/asia/korea-toilet-camera.html> (accessed February 15, 2021).

⁶⁰ Human Rights Watch interview with a counselor assisting victims of digital sex crimes (name withheld), Seoul, February 3, 2020.



A hidden-camera search squad, consisting of student and citizen volunteers, scan a restroom near a public pool in Changwon, South Korea on July 25, 2018. © 2018 Min Joo Kim/ The Washington Post via Getty Images

Some perpetrators choose their targets randomly, and women and girls filmed in this way may never know whether their image was captured and if so what the content of the images was or who may have viewed them. “When I heard that they found hidden cameras in the restroom at school that I had just used, I was so scared, felt so ashamed, and wanted to kill Korean men,” a survey respondent said.⁶¹

Case of Jieun Choi

It was 1 a.m. in 2018 and Jieun Choi was trying to sleep when her doorbell began ringing repeatedly. When she answered the door, she found a police officer who informed her that a man had been filming her, through her window, from the roof of a nearby building. The man told police he had been filming her for two weeks. When police obtained a warrant and seized the perpetrator’s electronic equipment, they found he had collected images of seven other women, and Jieun later learned that he had also been charged with the same offense several years earlier.

⁶¹ Quote from respondent, survey on digital sex crimes launched November 25, 2019, on file with Human Rights Watch.

She expressed frustration with the criminal legal system. She said the police told her that her case could be prosecuted because a perpetrator filmed her naked—but no charges could be brought with regard to other women he had filmed who were clothed—an accurate description of the current law as discussed below. Jieun found this outcome to be troubling, saying the perpetrator was “taking pleasure in robbing them of their privacy. That’s why the law doesn’t work—it’s not just about sexual stimulation.”

“The law still says footage has to be exciting and humiliating, which is very victim-blaming. It should just be lack of consent,” she said. She also disagreed with the severity of the punishment—in her case the perpetrator received a suspended sentence. “No jail, no fine—he’s been able to continue living what his life was before.” She believes he will continue to commit these crimes “because he’s never been punished.”

“People take [crimes committed with] cams lightly because there is no physical contact, but don’t appreciate how terrorized victims are,” said Jieun Choi. “With the protests, women saw that it’s a group problem, but lots of men still don’t get it.”

She said sensationalistic media coverage had added to the harm she experienced, describing a male journalist who yelled at her and said she was overreacting when she spoke critically of her experience with police. Another journalist created a sexualized image of her. “There are problematic discussions of this issue in the South Korean media all the time,” she said. “The Korean media is notorious for slut shaming and sexualizing women.”

Jieun Choi continued to face trauma even after moving to a new house. “I was very paranoid being at home—I didn’t feel safe. I thought that maybe someone installed a camera while I was out or was watching me from nearby. I was very scared on the walk from the elevator...I felt so paranoid and afraid in public places.”⁶²

By Colleagues or Acquaintances

There have been repeated incidents of illegal filming of women at universities. Shin Yun-jeong was filmed without her knowledge by a university classmate who at that time was a

⁶² Human Rights Watch interview with Jieun Choi, Seoul, September 17, 2019.

close friend. The perpetrator was caught after his male friends saw CDs in his room labelled with the names of female classmates. They became suspicious and notified authorities. The six CDs contained a separate folder for each of at least 16 victims. The folder assigned to Shin Yun-jeong contained more than 10 clips: “During the class, during the lecture, in a café, a restaurant, in a bar [he was filming] ...In the copy room...his phone was filming under my skirt...In the subway, he filmed me...While I was going upstairs he was behind me—filming me.”⁶³

Case of A

Some cases of illegal filming occur in the workplace. A young woman referred to as “A” was a lab technician at a hospital. A colleague of hers, a clinical pathologist, was arrested in August 2019, and found to have filmed several colleagues, including A, in a changing room at the hospital.⁶⁴ In September 2019, A, whose wedding was planned for January 2020, died by suicide.⁶⁵

Non-consensual capturing of images is deeply harmful even when the images are not shared. For victims, knowing that an intimate image exists and is in the hands of someone who has already behaved maliciously raises the possibility that the image could be shared at any time. A’s father told Human Rights Watch:

We live in the countryside—everyone knows everyone. She worried: “What if someone has seen it?” Every time she got a phone call... Even though he didn’t spread it, she thought he might have shared it among friends... I think she just worried so much. And also, I think she must have felt worse because it was not done by a stranger—she knew him.

The perpetrator was sentenced to 10 months in prison; the prosecutor had requested 2 years. A’s father, Lee Young-tae, felt 2 years was “far too short,” let alone 10 months. “Most of all, the law should be stronger,” he said. “Harsher than it is now.”⁶⁶

⁶³ Human Rights Watch interview with Shin Yun-jeong, Seoul, February 7, 2020.

⁶⁴ Josh Taylor, “South Korea: woman reportedly kills herself after being secretly filmed by doctor,” *Guardian*, October 2, 2019, <https://www.theguardian.com/world/2019/oct/02/south-korea-woman-kills-herself-after-being-secretly-filmed-by-doctor-reports> (accessed Sept. 17, 2020).

⁶⁵ Jung Min-ho, “Spycam victim found dead in apparent suicide - three months before wedding,” *Korea Times*, October 2, 2019, https://www.koreatimes.co.kr/www/nation/2019/10/251_276504.html (accessed Sept. 17, 2020).

⁶⁶ Human Rights Watch interview with Lee Young-tae, South Korea, February 5, 2020.

Case of Lee Ye-rin

Lee Ye-rin’s employer made romantic overtures toward her; he was married, and she was not interested. One day he bought her a clock as a gift. She put the clock in her bedroom but later moved it to a different spot in the room. Her boss—after she moved the clock—commented that if she did not want it, he would take it back. “I found it strange, so I Googled the clock and found it was a special kind,” Lee Ye-rin said. The clock was a spycam. It had been streaming footage of the inside of Lee Ye-rin’s bedroom to her boss’s cell phone 24 hours a day for the previous month or month and a half. When she confronted him, he asked: “Is that the thing you stayed up all night to Google?” He had been watching as she searched.

Lee Ye-rin learned that the clock was a spycam by finding it advertised online, where it was described as providing perfect footage even in the dark. She said a prosecutor who later worked on the case was amazed that she had been able to find that exact clock online, given how many models there are. While talking with Human Rights Watch, she searched in Korean for “clock hidden camera” and pulled up endless pages of different spycam clocks.



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After she reported the case to police, a male officer interrogated Lee Ye-rin for four hours demanding to know in detail what she had been doing in her bedroom during a period that was filmed, but afterwards she struggled to find out the status of the case. “Victims of that kind of case are not informed when a hearing or ruling will happen. You never know. You are not informed, and you are not invited either,” Lee Ye-rin said.

Two different prosecutors worked on Lee Ye-rin’s case—one before trial and one during the trial. The first was in touch with her, requesting evidence and information from her, and sometimes sharing information about the status of the case. But once the case was ready for trial, he told Lee Ye-rin it was no longer his case so he could not help with anything. The new prosecutor never contacted Lee Ye-rin:

I kept looking at the court website every day to check whether there is an update about the date [of my case] and I followed it. I was there every time there was a hearing...I tried to listen to every word from the mouth of the lawyer and I did everything I could to write a formal petition...I was never invited to court but I went anyway. I always asked for a chance to testify but I never had a chance to testify...No one ever talked to me about what would happen with the case—the potential sentence, etc.

The perpetrator was convicted and sentenced to ten months’ imprisonment, a sentence he was appealing at the time that Human Rights Watch interviewed Lee Ye-rin. She faced lasting impact from these experiences. “I cried all night, I couldn’t sleep, I had to take medicine to soothe myself...Even now this happens,” she said. “What happened took place in my own room—so sometimes, in regular life, in my own room, I feel terrified without reason.” A year later, she continued to take medication prescribed for depression and anxiety.⁶⁷

By Partners

Intimate partners have opportunities to capture images illegally. “I met a casual partner through a dating app. He filmed me while we were having sex,” a respondent to the Human

⁶⁷ Human Rights Watch interview with Lee Ye-rin, Seoul, February 6, 2020.

Rights Watch survey said. “I noticed that and made him delete the file but couldn’t confirm that the file was safely deleted.”⁶⁸

Case of Park Ji-young

Park Ji-young was looking through her boyfriend’s phone when she saw that it contained photos of women that appeared to have been taken covertly in public—up their skirts, or of their buttocks. She later gained access to his cloud storage where she found 40-50 intimate images that seemed to be of sexual partners, including 4 of her. The photos of her were of her in underwear—they had been taken without her knowledge or consent, on two occasions early in their relationship.

The other photos were of two women Park Ji-young did not know, but who she assumed were ex-girlfriends; they had been photographed nude, while sleeping. “Some of the photos were without heads, and some were with the face,” Park Ji-young said. “What I found was he made some kind of collection of pictures of naked women, because I saw many similar pictures in there—not just of me or of ex-girlfriends.”

After discovering the images, Park Ji-young decided to search for the other women in the photos. She posted a note in a chat group at her university describing how she had found the images and seeking the women who were in them. “My intention was to find the other victims and gather the evidence and then go to the police.” When her now ex-boyfriend—who, she said, had also been physically and emotionally abusive during the relationship—saw her message, he threatened her. “If you don’t undo your posting by midnight, I will spread—upload—your picture,” Park Ji-young said he told her.

She went to the police. But a lawyer assigned to help her repeatedly urged her to drop the case, cautioning that if the case went forward she could face criminal defamation charges because she had told others about the photos, and might also be accused of accessing his files without consent. She switched to a different lawyer but said before the case was sent to the prosecutor the detective called and warned her to drop the case, saying if she did not agree to an out-of-court resolution the perpetrator’s lawyer would seek prosecution of her for defamation and accessing the perpetrator’s files.

⁶⁸ Quote from respondent, survey on digital sex crimes launched November 25, 2019, on file with Human Rights Watch.

Park Ji-young was the target of months of pressure from her ex-boyfriend and his family after she reported him to the police. “Since then, his family kind of constantly harass me,” she said. “They keep contacting me again and again...They wanted to make some kind of agreement.” She said the perpetrator’s mother and sister claimed he was bedridden with illness, and deeply regretful. But he was still at university with Ji-young and she saw him there often. “It was to get my sympathy,” she said. “But what I witnessed at university was that he was just hanging out, as he used to do.” When Park Ji-young did not drop the case, they escalated their efforts, even visiting her mother at her workplace.

After Park Ji-young posted in a chat group at her university, seeking the women her ex-boyfriend—who also photographed her without consent—had non-consensually photographed while they were sleeping, one member of the group replied to all saying, “Let it go 😊.” “That was hard for me,” Park Ji-young said, explaining that the chat group members are people she knows, and she had expected they would rally to support her. She said her ex-boyfriend’s social life at university seemed unchanged after he was convicted and sentenced to pay a fine of 3 million won (USD\$2,500), while some mutual acquaintances believed she had lied about him.⁶⁹

Non-Consensual Sharing of Images, and Threats to Do So

“We had a bad breakup, and it was his revenge.”

—Survey respondent describing an experience of a digital sex crime.⁷⁰

Individuals who have taken intimate photos of themselves, or agreed to others taking such photos, may live with fear that these photos could be shared at any time, and that they could be vulnerable to blackmail and coercion by people in possession of the images.

The question of whether a person consented to an image being taken is not always clear. For example, when the person depicted in the image is a child under the age of 18, a perpetrator requesting an intimate photo may be committing a crime regardless of whether the child agrees. In some cases, a perpetrator obtains an image or images consensually but then uses the threat of sharing those images to blackmail the person in the photo. This blackmail can take the form of demanding more sexually explicit images.

⁶⁹ Human Rights Watch interview with Park Ji-young, Seoul, February 6, 2020.

⁷⁰ Quote from respondent, survey on digital sex crimes launched November 25, 2019, on file with Human Rights Watch.

There is growing awareness in South Korea about the use of intimate images to blackmail and coerce women and girls in the wake of the so-called “Nth Room case.” This case involved a network of Telegram chat rooms where a man named Cho Joo-bin and several accomplices shared videos of sexual violence they inflicted on women and girls under threat of blackmail.

They recruited victims by posting fake advertisements seeking models. Applicants would provide their personal information, including addresses and identification numbers, and photos of themselves. Once “hired,” they were asked to provide more revealing photos, and perpetrators used the threat of posting those photos online along with their personal details to blackmail them into other acts including providing more extreme sexual images, some of which involved rape and other acts designed to humiliate the victims.⁷¹

There were at least 103 victims, including 26 children.⁷² Chat room members paid to view the images; officials estimate there were about 260,000 members.⁷³ In September 2019, 124 suspects were arrested, including 18 accused of operating the chat rooms, Cho Joo-bin among them.⁷⁴ In November 2020, Cho Joo-bin was sentenced to 40 years in prison.⁷⁵

The Nth Room case is an example of a broader and dangerous trend. A lawyer representing survivors said she sees cases where the victim and the perpetrator have met on platforms that match people randomly to chat with each other. “The victims are often underage girls

⁷¹ “Reporters Reveal Horrific Details, Gruesome Acts of ‘Nth Room’ Perpetrators to Victims,” *Kpopstarz*, March 24, 2020, <https://www.kpopstarz.com/articles/292122/20200324/reporters-reveal-horrific-details-gruesome-acts-of-nth-room-perpetrators-to-victims.htm> (accessed February 16, 2021); Yoonjung Seo, “Dozens of young women in South Korea were allegedly forced into sexual slavery on an encrypted messaging app,” *CNN*, March 28, 2020, <https://edition.cnn.com/2020/03/27/asia/south-korea-telegram-sex-rooms-intl-hnk/index.html> (accessed February 16, 2021).

⁷² “Ruling party, gov’t push for abolishing statute of limitations for child sex crime,” *Yonhap News Agency*, April 6, 2020, <https://en.yna.co.kr/view/AEN20200406002200315> (accessed February 16, 2021).

⁷³ Yoonjung Seo, “Dozens of young women in South Korea were allegedly forced into sexual slavery on an encrypted messaging app,” *CNN*, March 28, 2020, <https://edition.cnn.com/2020/03/27/asia/south-korea-telegram-sex-rooms-intl-hnk/index.html> (accessed February 16, 2021).

⁷⁴ Justin McCurry, “Outrage in South Korea over Telegram sexual abuse ring blackmailing women and girls,” *Guardian*, March 25, 2020, <https://www.theguardian.com/world/2020/mar/25/outrage-in-south-korea-over-telegram-sexual-abuse-ring-blackmailing-women-and-girls> (accessed February 16, 2021).

⁷⁵ Choe Sang-Hun, “South Korean Mastermind of Exploitation Chat Rooms Gets 40 Years in Prison,” *New York Times*, November 26, 2020, <https://www.nytimes.com/2020/11/26/world/asia/south-korea-video-sexual-exploitation.html> (accessed February 16, 2021).

who consent to sending an [intimate] image,” she said. “Then the perpetrator uses the photo to blackmail the victim and coerce her into sex in real life.”⁷⁶

Case of Sohn Ji-won

Sohn Ji-won was 16 years old when she met someone online through a website that connects people randomly to chat. “I was having hard time, so maybe I needed someone I could depend on,” she said. He said he was 24 years old, and pursued correspondence with her outside the chat program, then demanded sexual images from her.

She sent them but regretted it later, and when she tried to delete the images from their chat, he became angry and abusive. “At the time I couldn’t even think about reporting it to the police. Now, I realize that I was stupid and dumb and I’m angry,” she said. She said she had also communicated with other men, on Telegram, who pressured her into sending intimate photos, while promising to delete them immediately—only for her to later find one of the photos posted in a chat group. She does not know whether the perpetrators shared or uploaded the images, but she fears they did. “I’m sure some images of mine are on some kind of website, and I’m so afraid to look,” she said.⁷⁷

Faked Images and Impersonation

When the goal of a perpetrator is to harm their victim, they sometimes post faked images online. “An image that shows my face with the body of an actress with a revealing dress in an obscene pose was posted on the internet,” a survey respondent said.⁷⁸

Intimate images are sometimes used by someone impersonating the person they are targeting. A service provider assisting survivors of violence said that one type of abuse her center increasingly sees is identity theft, “borrowing someone’s profile to sexually humiliate them.”⁷⁹ The images may be faked or of another person who resembles the victim deployed in a way that makes viewers believe that the image depicts the victim.

⁷⁶ Human Rights Watch interview with Ahn Ji-Hee, Min Hyun legal services, Seoul, September 18, 2019.

⁷⁷ Human Rights Watch video interview with Sohn Ji-won, February 8, 2020.

⁷⁸ Quote from respondent, survey on digital sex crimes launched November 25, 2019, on file with Human Rights Watch.

⁷⁹ Human Rights Watch interview with Song Ranhee, Korea Women’s Hotline, Seoul, September 17, 2019.

Case of Kang Yu-jin

Two months after Kang Yu-jin ended a four-year relationship, she began receiving messages from strangers. One man “seemed worried about me,” she said. He sent her an image from Tumblr. “It was a picture of my room, my car, my address, a picture of my face, and a photo of some underwear (that was not mine). The information included my address, the school where I had studied, the name of my job, the address of my job, and a photo of the exterior of the building where I lived.” Kang Yu-jin was horrified and convinced that her ex was responsible. She went to the police but was told to return the next day. She went to see her ex, who several days later confessed that he was responsible and apologized, saying he had been angry and wanted to make it harder for her to meet a new partner.

Kang Yu-jin was initially reassured, but the abuse continued and escalated. “When he found out I was dating others he started posting dirty things,” she said. He posted increasingly explicit sexual content, all while impersonating her, including faked images of her face merged with a semi-nude photo of another woman, photos of genitals and nude women, and footage of a woman and man having sex where the woman so closely resembled Kang Yu-jin that she initially thought it was her, as did people who knew her, she said.

With the images, he posted contact details for Kang Yu-jin, at work and at home, and for her parents, plus hashtags to draw the attention of people in her neighborhood. He wrote messages suggesting that she had and was seeking multiple sexual partners, such as one saying, “I’m going out in my car to find a new man to have sex.”

The posts—hundreds of them, over several months—appeared on sites including Tumblr, Twitter, Facebook, Torrent, YouTube, Instagram, Naver Blog, Naver Cafe, Daum blog, Daum cafe, and Google photos. One day, two strange men showed up at Kang Yu-jin’s office, looking for her, drawn by the posts. There were men who wanted to contact me at the church where my parents attended...and there were men who sent me a message to have sex,” she said. “There were also men who came to my home and work after seeing the address written by the perpetrator.” Kang Yu-jin said at that moment, “I realized this is very serious.” She was forced to quit her job and fled her home permanently.

“One of the most difficult things during the cybercrime was that I had to delete the numerous posts...It was a very painful and difficult job,” Kang Yu-jin said, describing how

she made over a thousand take-down requests herself, to most major social media platforms, before finding help through a nongovernmental organization (NGO). In her case there were hundreds of images posted by her ex-partner, with more appearing all the time. She said all the platforms she dealt with required a separate, time-consuming request for each image, involving completing a form, with the link to the image and a justification for why it should be removed, and each request took her 10-20 minutes:

I had to directly capture the posts posted by the perpetrators as evidence, and request deletion of each post one by one for each site. It was not possible to delete multiple posts at once and having to do it one by one was a very painful labor, both in terms of time and mentally...At the early stages, when I quit my job and did not have work, I did that thing—deleting, asking for deleting... And I found myself so devastated and mentally unhealthy because it is facing every day comments criticizing me, male strangers swearing at me, some sexual comments. It was torture... In the first two months, I think that is the only thing I did for the whole day.

She said some platforms respond quickly but Google was especially slow, taking several days or up to a week to remove abusive images. Even when she succeeded in having images removed from platforms like Instagram or Twitter, thumbnails of the image remained accessible through Google. After images were removed, she said they sometimes reappeared weeks later, even when it appeared no one had reposted them.

“The perpetrators should have an obligation to remove the postings that the perpetrators have written and spread, within a deadline. It is difficult enough for victims to be so victimized—it doesn’t make sense that the victim should be left to deal with it.” Even after trial, the problem continued. “Several months after the perpetrator was prosecuted, and after a ruling, there were still too many articles and images posted by the perpetrator on various sites on the internet. It was still the victim's problem to seek deletion.”

Kang Yu-jin’s ex-boyfriend was eventually convicted of digital sex crimes and sentenced to a suspended jail sentence and community service. “This crime... is the same as the social and mental killing of a person,” she said, expressing the view that the crime be seriously

punished. “Without a change in the law, even if you go to the appeal court, there is no good way to solve or ease my suffering.”⁸⁰

Social Attitudes Toward Digital Sex Crimes

“They think about it like fun gossip...They’re just having fun: ‘Have you got the picture? I want it too—send it to me!’”

— Survivor of digital sex crimes describing overhearing young men in a café discussing non-consensually shared images.⁸¹

One of the shocking things about digital sex crimes is the extent to which interviewees described sharing and consumption of non-consensual images as being socially accepted among some men, without regard for how the person in the image is affected. Dahye Chang, a research fellow at the Korean Institute of Criminology, described an online “private male collective culture” and said, “Objectification of women is central to the maintenance of this culture... Women are objectified to strengthen male relationships.”⁸²

“I think it’s a very strange thing... why they want to peep at a stranger’s body,” a sex crimes detective said. “Maybe they feel pleasure when they share [non-consensual images] with others, or maybe they feel their masculinity is recognized by their peers. One perpetrator told me he felt when he did this he was recognized as a real man.”⁸³ A survivor echoed this: “After hearing what my perpetrator had to say to a journalist it seemed like filming women without consent gave him some sense of power.”⁸⁴

A journalist covering digital sex crimes drew a link between South Korea’s broad prohibition of pornography (discussed below) and the prevalence of digital sex crimes. “Everything is illegal—so who cares that digital sex crimes material is illegal?” she said.⁸⁵

“What is now considered a crime and abuse was for so long part of entertainment culture,” said Song Ranhee from Korea Women’s Hotline. “A lot of men feel this label of ‘crime’ for

⁸⁰ Human Rights Watch interview with Kang Yu-jin, Seoul, February 7, 2020.

⁸¹ Human Rights Watch interview with Shin Yun-jeong, Seoul, February 7, 2020.

⁸² Human Rights Watch interview with Dahye Chang, Seoul, September 18, 2019.

⁸³ Human Rights Watch interview with a police detective (name withheld), Seoul, February 5, 2020.

⁸⁴ Human Rights Watch interview with Jieun Choi, Seoul, September 17, 2019.

⁸⁵ Human Rights Watch interview with Yoon So-yeon, journalist, Seoul, September 20, 2019.

this is unfair. When someone is caught, they see him as unlucky, because it is so widespread—they know many others not being caught.”⁸⁶

Non-consensual images are often shared in chat groups among men. High profile male entertainers have faced scandals including allegations of digital sex crimes.⁸⁷ There has also been a string of cases of public officials, including from the justice sector and politicians, who have been implicated in digital sex crimes.⁸⁸ Because digital sex crimes have been to some degree normalized, survivors often feel even more isolated.

Schools and universities do little to ensure appropriate conduct regarding sexual images. One survivor described how, when she was in middle school, someone played on the screen in the classroom a video of a classmate having sexual intercourse. “She was ostracized by the experience,” she said of the girl in the video. “But we thought that it was her fault, so we didn’t do anything... She tried to [commit] suicide, and people didn’t talk to her, including myself. And I still feel guilty, but I just had prejudice against her, because we didn’t know how to act or react.”⁸⁹

Monetization of Non-Consensual Images

“It is very shocking that it is so easy to sell and make and buy this kind of product in this country.”

— Survivor of a digital sex crime⁹⁰

One of the challenges of tackling digital sex crimes is that many perpetrators reap financial rewards. “Digital sex crimes are not limited to a problem between individuals—it is a societal problem, because it has become an industry,” a service provider said. “The government has a responsibility to control this illegal industry.”⁹¹

⁸⁶ Human Rights Watch interview with Song Ranhee, Korea Women’s Hotline, Seoul, September 17, 2019.

⁸⁷ Hakyung Kate Lee, “Sex scandal sweeps through South Korean music industry,” *ABC News*, March 14, 2019, <https://abcnews.go.com/International/south-korean-tv-celebrity-admits-sex-video-charges/story?id=61654165> (accessed February 23, 2021); “Text message scandal: Handsome stars’ dirty little secrets?,” *Korea Times*, January 16, 2020, https://www.koreatimes.co.kr/www/art/2020/09/398_282045.html (accessed September 9, 2020).

⁸⁸ Jenna Gibson, “Will South Korea Finally Have Its Reckoning on Sex Crimes?” *The Diplomat*, August 14, 2020, <https://thediplomat.com/2020/08/will-south-korea-finally-have-its-reckoning-on-sex-crimes/> (accessed February 23, 2021).

⁸⁹ Human Rights Watch interview with Kim Eun-hye, Seoul, February 3, 2020.

⁹⁰ Human Rights Watch interview with Lee Ye-rin, Seoul, February 6, 2020.

⁹¹ Human Rights Watch interview with representatives of Korea Cyber Sexual Violence Response Center, Seoul, September 19, 2019.

“There are two kinds of perpetrators,” the director of a company that detects spycams explained. The first type, he said, commits digital sex crimes for personal reasons. “The other is motivated by profit—made by exchange with people who buy footage. They can sell the footage, or earn money through ads, or both.” He described an industry of freelancers: “Most are initially motivated by sexual gratification and once they upload a community is formed around that material. And then they might be recruited [by a platform to provide more material].”⁹²

He cited a market price of 5 million won (\$4,167) for a gigabyte, or about one and a half hours, of footage.⁹³ The head of a similar company said an hour of footage can sell for 2 to 3 million won (\$1,667 to \$2,500) and explained that some platforms pay upfront for footage and earn back their investment from advertisements, other websites linking to the footage, and membership fees. He said it is very easy to find a buyer: “Just a search on Google will give you various options—search in any language. ... There’s a high demand for this footage, so the black market can only grow,” said the head of a company detecting spycams.⁹⁴

“Someone that I know recently got secretly filmed at a restroom in a study café,” a survey respondent wrote. “She caught a middle school kid who was taking molka films and took him to the police. He said he did it to make money to buy the newest iPhone.”⁹⁵

⁹² Human Rights Watch interview with Son Haeyoung, director, Seoyeon Security, Seoul, September 19, 2019.

⁹³ Human Rights Watch interview with Lee Won-up, director, Spy-Zone, Seoul, Sept. 19, 2019; see also Se Eun Gong & Michael Sullivan, “South Korean Women Fight Back Against Spy Cams In Public Bathrooms,” *National Public Radio*, October 19, 2018, <https://www.npr.org/2018/10/19/648720360/south-korean-women-fight-back-against-spy-cams-in-public-bathrooms> (accessed February 21, 2021).

⁹⁴ Human Rights Watch interview with Son Haeyoung, director, Seoyeon Security, Seoul, September 19, 2019.

⁹⁵ Quote from respondent, survey on digital sex crimes launched November 25, 2019, on file with Human Rights Watch.

III. Impact of Digital Sex Crimes

“It’s like a murder, even though he didn’t use a knife or a weapon. It’s like a murder to someone’s identity or mentality.”

— Survivor of digital sex crimes.⁹⁶

Growing awareness of the prevalence of digital sex crimes has affected even women and girls who have not, to their knowledge, been the target of abuses. “The most common case that I had was victims expressing fear that an ex has sexual materials she had sent in the past,” a counselor assisting survivors of sexual violence said. “Many express fears related to the national discussion on this.”⁹⁷



A “No Hidden Camera” sign at a subway station on August 4, 2018 in Seoul, South Korea. © 2018 Chung Sung-Jun/Getty Images

⁹⁶ Human Rights Watch interview with Kang Yu-jin, Seoul, February 7, 2020.

⁹⁷ Human Rights Watch interview with Shina Kim and Yoo Hojeong, Korea Sexual Violence Relief Center, Seoul, September 17, 2019.

Perpetrators, such as those filming in toilets, sometimes choose their victims randomly. The impact of these random crimes is to make many women and girls feel deeply uncomfortable in, and excluded from, public spaces. As one survey respondent wrote:

I'm afraid of using bathrooms when I'm outside. If I have to use one, I spend several minutes to check for cameras on the toilet, the gaps between walls, the bathroom door, hinges, etc. Even after making sure there is no camera, I still feel nervous and worried that I may be being filmed. Sometimes I feel a sudden attack of fear that there might be photos or images of me being circulated that I'm not aware of. I went to a restroom at Dongdaegu train station a few days ago and found that almost every stall had at least one hole that had been plugged by other women. My anxiety wasn't groundless. It's horrible.⁹⁸

Digital sex crimes have an even deeper impact on survivors. Once a non-consensual image has been shared, or the victim simply worries it might be shared, the fear of the image appearing or reappearing hangs over the survivor indefinitely. Succeeding in having the photos removed from specific websites provides no sense of security, as anyone who has ever viewed them could have taken a screen shot and can share that screen shot any time, on any websites, from which it may spread uncontrollably. "I got one deleted and ten more posts would come," a survivor said.⁹⁹

"Right after you upload it, it is spread around the world... it is widespread in a second," an expert explained. "There is no way to stop an image completely—that doesn't exist. There is no certain thing, like total deletion or deleting an image for good. That is the most difficult part regarding digital sex crimes."¹⁰⁰ The press statement announcing establishment of the government's center for survivors acknowledged this: "Unlike other sexual assault, digital sexual crimes can persist and further expand."¹⁰¹

⁹⁸ Quote from respondent, survey on digital sex crimes launched November 25, 2019, on file with Human Rights Watch.

⁹⁹ Human Rights Watch interview with Kang Yu-jin, Seoul, February 7, 2020.

¹⁰⁰ Human Rights Watch interview with expert formerly involved in government response to digital sex crimes (name withheld), Seoul, February 6, 2020.

¹⁰¹ "Launching 'Comprehensive support services for digital sexual crime victims,'" MOGEF News, May 24, 2018, http://www.mogef.go.kr/eng/pr/eng_pr_s101d.do?mid=eng001&bbtSn=705663 (accessed Oct 23, 2020).

Survivors of digital sex crimes grapple with trauma so deep that it can lead to suicide. This trauma is often worsened by retraumatizing encounters with police and other justice officials, and by the expectation, discussed below, that they should gather evidence for their case, and monitor the internet for new appearances of images of themselves, which leaves them immersed in the abuse. They also face stigma which can harm their relationships and access to education and employment.

Police, prosecutors, judges, and legislators—not to mention perpetrators—often seem not to comprehend the extent of the harm caused by digital sex crimes. “Men think it’s not really harming women,” a journalist covering digital sex crimes said. “They think what happens there [online] is not real. When women hear about a suicide related to digital sex crimes, they cry. And men say, ‘Why would you kill yourself over that?’”¹⁰²

Stigma, Reputational Harm, and Harm to Education and Employment

“After the criminals get caught, they do not lose their job. They do not lose their reputation. They do their normal life, and only the victims hide in the darkness.”

— Survivor of digital sex crimes¹⁰³

Survivors often face stigma and blame, especially if intimate images were taken with their consent or depict the survivor engaging in sexual conduct.¹⁰⁴ This stigma can harm women and girls’ access to education and employment, as well as their personal relationships. “There are harsh double standards about sexuality in this society,” an expert explained. “So, they don’t see the victim from the perspective of the victim. Rather when that kind of thing happens, they see a woman as a dirty slut, and tend to criticize her.”¹⁰⁵

As images spread, they can reach everyone the survivor knows. One woman described how photos of her appeared first for sale on websites before spreading to a chat group, then to

¹⁰² Human Rights Watch interview with Yoon So-yeon, journalist, Seoul, Sept. 20, 2019.

¹⁰³ Human Rights Watch interview with Shin Yun-jeong, Seoul, February 7, 2020.

¹⁰⁴ “Women Look to Break out of Their Digital Prison: Providing Options to Victims of Illegally Distributed Sex Tapes,” *Korea JoongAng Daily*, October 10, 2017, <http://koreajoongangdaily.joins.com/news/article/article.aspx?aid=3039240> (accessed June 15, 2019).

¹⁰⁵ Human Rights Watch interview with expert formerly involved in government response to digital sex crimes (name withheld), Seoul, February 6, 2020.

students at the university in her hometown. They had not yet reached her family, but she feared they soon could. “That would really hurt,” she said.¹⁰⁶

Even when women and girls are filmed without their knowledge or consent, they sometimes face stigma. Shin Yun-jeong was among over a dozen women filmed—up their skirts and in other intrusive and sexualized ways—by a university classmate without their knowledge or consent. She said that one of the women targeted panicked trying to avoid her parents finding out. “If my parents know about it, they will blame me or blame my short skirts,” she said to Shin Yun-jeong, who added: “When people hear about something like this, they imagine, ‘Well the girl maybe wore her short skirt or was doing something, giving opportunity.’”¹⁰⁷

Stigma encourages survivors to blame themselves. An interviewee who faced abuse from an ex-partner reflected while being interviewed that perhaps she put herself at risk by meeting a man online.¹⁰⁸ A counselor working with survivors described a client:

When I first met her, even though she is a victim, she said she shouldn’t have done it, she shouldn’t have taken those pictures. She did something wrong—that is what she thought when I met her. So, I told her that it’s not your fault—it’s the fault of those bastards that took the pictures, that spread the pictures, who uploaded the pictures, who enjoyed the pictures.¹⁰⁹

Because stigma is so strong, disclosure of survivors’ identities can be especially harmful. Police sometimes release details specific enough to allow people to identify survivors, which can further harm them.¹¹⁰ A survivor said she felt her university failed to protect her confidentiality in ways that could lead to stigma, and retaliation by the perpetrator.¹¹¹

¹⁰⁶ Human Rights Watch interview with Jeong Hye-jin, Seoul, February 3, 2020.

¹⁰⁷ Human Rights Watch interview with Shin Yun-jeong, Seoul, February 7, 2020.

¹⁰⁸ Human Rights Watch interview with Kang Yu-jin, Seoul, February 7, 2020.

¹⁰⁹ Human Rights Watch interview with a counselor assisting victims of digital sex crimes (name withheld), Seoul, February 3, 2020.

¹¹⁰ For example, Human Rights Watch interview with Baek Su-yeon, Seoul, February 7, 2020.

¹¹¹ Human Rights Watch interview with Shin Yun-jeong, Seoul, February 7, 2020.

Trauma

“Public restrooms, subway stations, wherever I go, Korean men are watching me, and my photos are being circulated somewhere. This is hell.”

—Survey respondent¹¹²

Survivors of digital sex crimes often find the experience leaves a pervasive impact on many aspects of their lives. “I don’t wear short skirts anymore—ever,” said Hana, whose classmate filmed up her skirt. “I didn’t even have shorts or pants before because I didn’t like it, but after that incident I bought a lot of pants. And only long dresses.” She said she also could no longer tolerate her photo being taken except by people very close to her.¹¹³

“I do not go to public toilets,” another survivor filmed without consent said, describing the impact of the experience. She said when she cannot avoid using a bathroom outside her home, she looks for one in a reputable building with CCTV.¹¹⁴

“I started to dislike males, hate males, keep distant from males,” a survivor said. “Because the police were male, and even though it is not identified it is almost 100 percent sure that [the perpetrator] is male, and my ex-boyfriend is male. So, it’s like I started to hate males.”¹¹⁵

Digital sex crimes can also drive women and girls off the internet, in an era, especially once the Covid-19 pandemic hit, when the online world is increasingly essential for education, employment and social connection. “Since then, I hide myself, so that doesn’t happen,” a survivor said. “I blocked all of my information from my account.”¹¹⁶

Survivors who knew they had been filmed or photographed without consent but who did not see the images taken of them sometimes found this more difficult than peers who had seen the images and had a full understanding of what had—or had not—been captured.¹¹⁷

¹¹² Quote from respondent, survey on digital sex crimes launched November 25, 2019, on file with Human Rights Watch.

¹¹³ Human Rights Watch interview with Hana, Seoul, February 7, 2020.

¹¹⁴ Human Rights Watch interview with Shin Yun-jeong, Seoul, February 7, 2020.

¹¹⁵ Human Rights Watch interview with Lim Ye-ji, Seoul, February 4, 2020.

¹¹⁶ Human Rights Watch interview with Lim Ye-ji, Seoul, February 4, 2020.

¹¹⁷ Human Rights Watch interview with Hana, Seoul, February 7, 2020.

Women targeted by someone they know—or someone whose identity is unknown but who they believe must know them—are often particularly traumatized. “From that moment, I cannot trust anybody, and I feel terrified,” a survivor impersonated online by someone who clearly knew her personal details and close relationships said.¹¹⁸

The director of a company that detects spycams described his experience of clients “who ignore everything else in their lives as they try to find proof” that they are being filmed. He said footage of one of his clients in her home in underwear circulated five years earlier, and she had never figured out who had taken it. She was so afraid of it happening again that she had moved repeatedly but, still feeling unsafe, lived inside a tent within her house and refused to use electricity. He said it was common for his clients to try to block any space in their home where a camera could be hidden, and to block all the windows.¹¹⁹ The expectation—discussed below—from police and prosecutors that survivors take the lead in gathering evidence compounds the trauma for many survivors.

“Searching for my name on the internet was so terrifying that even browsing the internet created breathtaking stress for me,” one survivor said, adding that she had developed post-traumatic stress and was very suicidal. “You have to turn on the computer to collect the evidence. But at the same time, I was so frightened and afraid. Even turning on the computer was very hard for me. So I was so terrified and I wanted to die.” She said as she searched for images of herself, she saw many images of other women that appeared to be non-consensual, and viewing this material also compounded her trauma.¹²⁰

The justice process is also often traumatic, in ways that discourage survivors from coming forward. “Having to prove whether illegal footage involved consent can cause a lot of problems for victims,” said a lawyer representing survivors. “During the investigation, the footage is seen and reviewed by all of the investigators—this causes secondary damage to the victim. Then the court reviews the footage—the judge looks at did she say something suggesting consent, is she looking at the camera? All of this brings a lot of secondary damage to the victim. If she didn’t bring the charge, none of this would happen.”¹²¹

¹¹⁸ Human Rights Watch interview with Lim Ye-ji, Seoul, February 4, 2020.

¹¹⁹ Human Rights Watch interview with Lee Won-up, director, Spy-Zone, Seoul, September 19, 2019.

¹²⁰ Human Rights Watch correspondence with Kang Yu-jin, October 2019.

¹²¹ Human Rights Watch interview with Ahn Ji-Hee, Min Hyun legal services, Seoul, September 18, 2019.

“What makes me afraid the most is if there are pictures and images of me in that [camera] then everyone involved, including policemen, judge, and the prosecutors can see them, all of them,” a survivor said. “That terrified me—because it is endless.”¹²²

When digital sex crimes are covered in the media, sensationalist coverage can add to survivors’ trauma. Because stigma is so strong, disclosure of survivors’ identities can be especially harmful, which can further harm them.¹²³

Suicide

The impact of digital sex crimes is so devastating that many victims consider suicide and some die by suicide. The CEO of a company that seeks to have content removed estimated that each year about four of his clients who are seeking help with having non-consensual intimate images removed die by suicide.¹²⁴



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¹²² Human Rights Watch interview with Lee Ye-rin, Seoul, February 6, 2020.

¹²³ For example, Human Rights Watch interview with Baek Su-yeon, Seoul, February 7, 2020.

¹²⁴ Human Rights Watch interview with Jin-Ho, CEO, Santa Cruise, Seoul, September 18, 2019.

“When I was counseling victims, they mentioned many times that they wanted to die,” an expert in services for survivors of digital sex crimes explained. “When I ask them, ‘Why do you want to die?’ then they say, ‘Because it is so unstoppable. It is so spreading—even though you try so hard, it keeps spreading.’”¹²⁵

There have been several widely reported cases of victims of digital sex crimes dying by suicide recently. Goo Hara, a famous singer and actor, died by suicide at age 28 in November 2019.¹²⁶ Goo Hara’s ex-boyfriend had been prosecuted for abuses against her, including threatening to leak a video he had made without her consent of the two of them having sex. He was found guilty of several offenses in August 2019 but received a suspended jail sentence. The court found him not guilty of filming without consent because Goo Hara had remained in the relationship.¹²⁷ Three months later, Hara was dead.

Many survivors of digital sex crimes interviewed for this report described considering suicide.

Leaving the Country

Several survivors had decided to leave South Korea for reasons including their experience of digital sex crimes. “Living in this country as a woman is hurting my dignity,” a survivor, 21, said. “So I’m planning to go abroad—have a job in another country. I think the government is not doing anything... I don’t see any changes. I’m afraid that I cannot bear it anymore. I think that I have to survive in another country.”¹²⁸

“One of the main reasons that I decided to go abroad to study is because of this,” a survivor said. “I don’t want to stay here.” She said she hoped the country she was moving to would have stronger laws and enforcement of laws, and she would look for ways to stay there permanently. “I don’t want to come back.”¹²⁹

¹²⁵ Human Rights Watch interview with expert formerly involved in government response to digital sex crimes (name withheld), Seoul, February 6, 2020.

¹²⁶ Johnny Diaz, “Goo Hara, K-Pop Star of the Group Kara, Is Found Dead,” *New York Times*, November 24, 2019, <https://www.nytimes.com/2019/11/24/arts/goo-hara-dead.html> (accessed Sept. 17, 2020).

¹²⁷ Laura Bicker, “Goo Hara and the trauma of South Korea’s spy cam victims,” *BBC*, November 28, 2020, <https://www.bbc.com/news/world-asia-50582338> (accessed September 17, 2020).

¹²⁸ Human Rights Watch video interview with Sohn Ji-won, February 8, 2020.

¹²⁹ Human Rights Watch interview with Lim Ye-ji, Seoul, February 4, 2020.

A police detective described the experience of a woman she had met. She said the woman was a university student when her boyfriend filmed them having sex. The footage was uploaded, tagged with her name and university, and spread widely. “So she quit her university and she went to the US and studied in the US,” the detective said “But then Koreans there recognized her, so she came back to Korea. She had plastic surgery to change her face. But she said even after surgery she couldn’t go out at all because she felt she would be recognized.”¹³⁰

The head of a company that detects spycams said he often consults by phone with Korean female clients who have left the country, but still fear being surveilled, and he has traveled overseas several times to do searches of their homes for them in the countries where they have relocated. “It’s so sad—they can’t feel safe in their homes even abroad,” he said.¹³¹

Altered Life Choices

Some survivors decide they will not engage in the future in any romantic or sexual relationships. “I became asexual after those kinds of experiences,” one survivor said. “I blamed myself all the time,” she said. “But now I know I am not the problem and I see things differently. So I feel sex and sexual intercourse is disgusting at this point... I quit all the sexual relationships, that is my personal solution.”¹³²

This response—swearing off relationships—is common enough to help drive the “4B movement”; adherents are women and girls who swear off dating, sex, marriage, and children.¹³³ “I learned that in this country if you are not male you cannot survive peacefully with your own sexual identity,” a 21-year-old survivor who identifies with 4B said. “So, I chose—I will not have any relationship with men. I will not meet them. I will not marry them. I will not have any kind of relationship at all with a male.”

She said there are about 200 members of the movement in her province who gather sometimes. “There is a growing anti-dating movement,” she said. She added that given

¹³⁰ Human Rights Watch interview with a police detective (name withheld), Seoul, February 5, 2020.

¹³¹ Human Rights Watch interview with Lee Won-up, director, Spy-Zone, Seoul, September 19, 2019.

¹³² Human Rights Watch interview with Kim Eun-hye, Seoul, February 3, 2020.

¹³³ “4B is the feminist movement persuading South Korean women to turn their backs on sex, marriage and children,” *South China Morning Post*, December 7, 2019, <https://www.scmp.com/news/asia/east-asia/article/3041058/why-south-korean-women-are-turning-their-backs-sex-marriage-and> (accessed February 24, 2021).

the high rates of murder and assault of women, by men, in South Korea, “I feel kind of lucky because I happen to know what they really are at the very early stage of my life before I become a victim of a more horrendous situation.”¹³⁴

¹³⁴ Human Rights Watch video interview with Sohn Ji-won, February 8, 2020.

IV. Government Responses to Digital Sex Crimes

Even though the government announced comprehensive measures and created a cybercrime task force, victims still say they face the same problems—police are not prepared, and they still can’t get help.

— Song Ranhee, Korea Women’s Hotline

The South Korean government has taken some steps to assist survivors of digital sex crimes. Some of these steps—especially the creation of a center to assist survivors—are positive models for other countries.¹³⁵ But the problem is far from solved, and survivors are still denied an effective remedy and struggle to access services. “The government was kind of slow to make an action plan,” a former government official said. She said the government struggled to figure out solutions and focused on deleting images, without understanding that images could re-appear at any time and broader measures were needed.¹³⁶

“Policies [on digital sex crimes] are being developed by men who are 40 to 60 years old,” an activist said. “They don’t understand this issue, or the experience of netizens... Real solutions require more representation by women in STEM [science, technology, engineering, and mathematics] and a more active role by women in policy making.”¹³⁷

Legislative Framework

The internet community—or internet society—is a kind of public space where you have to put some governance.

—Former government official¹³⁸

¹³⁵ UN Special Rapporteur on the Right to Privacy, Professor Joseph Cannataci, Visit to the Republic of Korea, July 15-26, 2019, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24860&LangID=E> (accessed February 24, 2021).

¹³⁶ Human Rights Watch interview with expert formerly involved in government response to digital sex crimes (name withheld), Seoul, February 6, 2020.

¹³⁷ Human Rights Watch interview with Baek Ga Eul, activist, Seoul, September 16, 2019.

¹³⁸ Human Rights Watch interview with expert formerly involved in government response to digital sex crimes (name withheld), Seoul, February 6, 2020.

The South Korean government has revised legislation repeatedly in recent years to address digital sex crimes, but important gaps remain. The government's actions include 2018 and 2020 revisions to provisions of the country's 2010 Sex Crimes Act that make illegal filming and distribution a crime, broadening the scope of offenses prohibited under the act and increasing punishments.¹³⁹ The 2020 revisions, in response to the Nth Room case, included tougher sentences, and making it a crime to possess, purchase, store or watch images captured non-consensually or to coerce or threaten someone using images.

Scope of Image-Based Abuses that are Criminalized

Many of the experts Human Rights Watch interviewed highlighted what they saw as remaining gaps in what is considered a crime under the law. “The criminals always come up with a new breed of crime,” an expert with the government explained. “Digital sex crimes are a new form of crime. They are fast to evolve while the law is a little bit slower to prevent or punish. You make a law regarding crime A, they invent crime B... We will always be slower, but we are making efforts.”¹⁴⁰

A former government official said when they contact a website and request removal of non-consensual images, whether the website agrees to remove them or not often hinges on whether the website operator perceives the content as illegal—so decisions about criminal law provisions affect not only whether people can be prosecuted, but also whether survivors can successfully request suppression of content. “It is important how you categorize—how you define—what is a digital sex crime,” she said. “We even talk about this—if there is no law to make [an act] a crime, how can we call it a digital sex crime?”¹⁴¹

Chief among the concerns experts raised about the current law was the language of article 14(1) of the Sex Crimes Act, which makes it a crime when a person “takes photographs or videos of a person's body that may cause sexual stimulus or humiliation (referred hereinafter simply as “Photos” or “Videos”) without the victim's consent, by means of using a camera or other devices with similar functions.”¹⁴² This standard excludes other

¹³⁹ Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes (“Sex Crimes Act”), hereinafter Sex Crimes Act, 2010.

¹⁴⁰ Human Rights Watch interview with Deuk-kyoung Yoon, Research Fellow, Korean Women's Development Institute, Seoul, February 5, 2020.

¹⁴¹ Human Rights Watch interview with expert formerly involved in government response to digital sex crimes (name withheld), Seoul, February 6, 2020.

¹⁴² Sex Crimes Act, art. 14(1).

abuses, such as someone filming another without consent—for example in her home—when there is not nude or sexual content.

Whether something causes sexual stimulus or shame is also a subjective standard; a service provider assisting survivors explained that “If an image is illegal or violent but not seen as pornography or sexual enough, police can refuse to investigate, and judges can dismiss the case.”¹⁴³

“Victims are often frustrated because what they experience as harm is labelled as ‘not sexual enough’” to be prosecuted under the law, explained Dahye Chang. She argues for separating digital sex crimes from the issue of obscenity and regulating them through laws that focus on preventing invasion of privacy. “As long as policies and legislation see harm to victims in relation to porn and degrees of porn, policies will never address the harm... We need to shift to a women’s rights perspective as a starting point,” she said.¹⁴⁴

Experts raised concern that the law does not criminalize audio recordings made without consent (including of sex), or impersonation of another person. In cases reviewed by Human Rights Watch, perpetrators sometimes seemed to carefully take advantage of the limits of the law, using innuendo to skirt defamation laws, and posting images that resembled their victims but were not actually them.¹⁴⁵

Experts also argued that the law should add greater nuance—for example, treating a defendant who shares a photo with one or several acquaintances differently from one who uploads, monetizes, and mass distributes images. They highlighted the need for a more nuanced approach to consent, including, for example, the ability of a survivor to withdraw consent and demand that someone return and delete images, even if the survivor previously consented to the images being created and in the other person’s possession.

¹⁴³ Human Rights Watch interview with representatives of Korea Cyber Sexual Violence Response Center, Seoul, September 19, 2019.

¹⁴⁴ Human Rights Watch interview with Dahye Chang, research fellow at the Korea Institute of Criminology, Seoul, September 18, 2019.

¹⁴⁵ For example, Human Rights Watch correspondence with Kang Yu-jin, October 2019.

Lack of Civil Remedies

There are many ways civil remedies could—and should—assist survivors of digital sex crimes. They could also deter digital sex crimes by, for example, imposing financial consequences on perpetrators. “We also should get back all the money they get from that illegal photography sharing or videos,” one survivor said.¹⁴⁶

Survivors of digital sex crimes often face financial harms resulting from lost employment, being forced to move, or having to pay for services to seek removal of images or detect spycams. Judges can fine perpetrators but even when a perpetrator is forced to pay a fine, that money does not go to the victim.

Civil remedies could be an important complement, and in some cases an alternative, to criminal prosecutions of digital sex crimes. An effective system of civil remedies—and assistance to survivors in seeking them—could allow a survivor to sue someone who committed a digital sex crime against her. She could seek a court order requiring that the perpetrator or others in possession of non-consensual images cease circulating them and delete them. She could ask the court to order a perpetrator to take personal and financial responsibility for seeking removal of images from the internet, including by paying a company to provide this service. She could seek monetary damages from a perpetrator for harm such as emotional distress, lost wages, costs for having images removed or searching for spycams, security costs, or having to move house. She could also bring suit against internet platforms that refused to remove non-consensual images.

But these remedies are not in practice available to survivors in South Korea, who very rarely bring civil suits. When a civil claim is brought based on facts that are also the subject of a criminal prosecution in South Korea, it is common practice to defer the civil action until conclusion of the criminal case. This means survivors cannot seek injunctive relief or financial compensation during the time when it may be most needed. Survivors are typically too exhausted and traumatized by the end of a criminal trial—and sometimes multiple appeals, over the course of several years—to initiate a new proceeding in civil court, even if the criminal case has established facts that would support such a case.

¹⁴⁶ Human Rights Watch interview with Kim Eun-hye, Seoul, February 3, 2020.

If a criminal case is dropped or the defendant is acquitted, a lawyer would typically not see it as feasible to bring a civil case.¹⁴⁷ Survivors are also often deterred from seeking civil relief by the need to provide their real name and address on documents that are then shared with the defendant.¹⁴⁸

Internet Censorship

The South Korean government imposes censorship and barriers to human rights online, including a broad effort to block pornography.¹⁴⁹ This has included blocking women from access to information about abortion and suppressing alternative pornography websites targeted to women.¹⁵⁰ While some have argued for greater control over internet content as a means to respond to digital sex crimes, use of such mechanisms in the response to digital sex crimes risks further harming free speech without providing meaningful relief to survivors.

Freedom House, in its 2020 “Freedom on the Net” assessment, scored South Korea 66 out of 100 countries globally, deeming it “partly free.” Freedom House raised concerns about lack of protection of free speech, content restrictions, and the country’s criminal defamation law, and wrote that South Korea was “criticized for its inadequate response to newer, digitally mediated forms of violence against women, girls, and children.”¹⁵¹

South Korean law sets out types of content that no one may circulate through an information and communications network.¹⁵² This prohibited content includes “obscene content,” which is not otherwise defined under the law.¹⁵³ Providers of information and communication services can be ordered to reject, suspend or restrict information found to

¹⁴⁷ Human Rights Watch interview with Ahn Ji-Hee, Min Hyun legal services, Seoul, September 18, 2019.

¹⁴⁸ “성폭행 피해자 주소지가 가해자에게 전달’...민사소송 주저하는 이유” YTN, Nov. 9, 2020, https://www.ytn.co.kr/_ln/0101_202011090541115615 (accessed February 18, 2021).

¹⁴⁹ H. M. Kang, “South Korea Bans Access to Porn Sites,” *Korea Bizwire*, February 20, 2019, <http://koreabizwire.com/south-korea-bans-access-to-porn-sites/132882> (accessed February 24, 2021).

¹⁵⁰ “Women on Web website is blocked?” Women on Waves, accessed February 18, 2021, <https://www.womenonwaves.org/en/page/4599/women-on-web-website-is-blocked>; Human Rights Watch interview with Jiwon Sohn and Jiyoun Choe, Open Net, Seoul, September 16, 2019.

¹⁵¹ “Freedom on the Net 2020: South Korea,” Freedom House, accessed February 9, 2021, <https://freedomhouse.org/country/south-korea/freedom-net/2020>.

¹⁵² Act on the Promotion of Information and Communications Network Utilization and Information Protection, Etc, art. 44-7.

¹⁵³ The law also prohibits content “harmful to youth” which is defined in greater detail, including a prohibition on content that “is lewd or obscene to arouse youth’s sexual desire.” Content designated as “harmful to youth” is subject to restrictions including the duty to label it and to verify the viewer’s age. Youth Protection Act, art. 9; Act on the Promotion of Information and Communications Network Utilization and Information Protection, Etc, art. 44-7(1)(5).

be in violation of this law.¹⁵⁴ Freedom of expression experts contend that the provisions of this law are, or have been interpreted to be, overly broad, and have been invoked to curtail speech opposing government policies or insulting the government.¹⁵⁵

The bodies responsible for enforcing restrictions are the Korean Communications Commission (KCC) and the Korean Communication Standards Commission (KCSC).¹⁵⁶ The KCC is responsible for regulating broadcasting and telecommunications activities and setting standards. The KCSC, with a staff of about 170 people, has responsibility for reviewing content online to identify and order the removal of illegal content.¹⁵⁷ It responds primarily to complaints but can also act on its own initiative.¹⁵⁸ In 2019, the KCSC established a 16-member team to search for, block, and seek removal of non-consensual intimate images.¹⁵⁹ The team sometimes receives request for help from victims of digital sex crimes, but search for material on their own initiative.¹⁶⁰

Jiwon Sohn of Open Net said entities receiving takedown requests rarely fight because the language of the law is so broad that success is unlikely.¹⁶¹ When a website outside South Korea is determined by the KCSC to have impermissible content, the government blocks it.¹⁶² “It’s really serious,” Sohn said. “On average 20,000 posts and sites are deleted each year. Eighty percent of those are websites; twenty percent are posts. Eighty percent of censorship is blocking and ordering internet service providers to block these websites.”¹⁶³

¹⁵⁴ Act on the Promotion of Information and Communications Network Utilization and Information Protection, Etc, art. 44-7(2)-(4).

¹⁵⁵ For example, Human Rights Watch interview with Oh Byoung-il, president of Jinbonet, Seoul, September 16, 2019.

¹⁵⁶ The Act on the Establishment and Operation of Korea Communications Commission, 2008.

¹⁵⁷ Human Rights Watch interview with Chung Se-min and Jang Jwa Young of the internet ethics division of the KCC, Seoul, September 19, 2019.

¹⁵⁸ Ibid.

¹⁵⁹ “South Korean regulators watch porn all day - to find illicit spycam videos,” *Straits Times*, November 20, 2019, <https://www.straitstimes.com/asia/east-asia/south-korean-regulators-in-constant-search-for-porn> (accessed February 24, 2021).

¹⁶⁰ Ibid.

¹⁶¹ Human Rights Watch interview with Jiwon Sohn and Jiyoun Choe, Open Net, Seoul, September 16, 2019.

¹⁶² Human Rights Watch interview with Chung Se-min and Jang Jwa Young of the internet ethics division of the KCC, Seoul, September 19, 2019.

¹⁶³ Human Rights Watch interview with Jiwon Sohn and Jiyoun Choe, Open Net, Seoul, September 16, 2019.



The office of the Korea Communications Standards Commission (KCSC) in Seoul tasked with hunting down and removing internet sex videos posted without consent, on November 8, 2019. © 2019 ED JONES/AFP via Getty Images

Experts raised concerns that the KCSC’s jurisdiction is overly broad and undefined. “We have been fighting government censorship for 20 years,” said Oh Byoung-il, president of Jinbonet. “The main issue with content regulation is that there is a body that unilaterally decides what content to regulate or ban.”¹⁶⁴

Criminal Defamation

South Korean criminal law includes broad provisions making defamation a criminal offense, including in some situations criminalizing speech that is factually true.¹⁶⁵ The UN Special Rapporteur on the right to freedom of expression has called for the removal of the offense of defamation from South Korea’s criminal law.¹⁶⁶

¹⁶⁴ Human Rights Watch interview with Oh Byoung-il, president of Jinbonet, Seoul, September 16, 2019.

¹⁶⁵ Criminal Act, arts. 307 (1). See also: Human Rights Watch, “South Korea: Stop Using Criminal Defamation Laws,” December 14, 2014, <https://www.hrw.org/news/2014/12/14/south-korea-stop-using-criminal-defamation-laws> (accessed April 16, 2021).

¹⁶⁶ UN Human Rights Council, Report of the Special Rapporteur on the situation of human

Laws permitting civil causes of action in cases of defamation can be a helpful tool for survivors of digital sex crimes. A lawyer representing survivors of digital sex crimes said she has brought defamation claims on behalf of survivors who suffered secondary trauma due to their cases being widely publicized, leading to abuse against them.¹⁶⁷ The CEO of a company that works on behalf of clients to remove online content related to digital sex crimes cited defamation laws as a tool his staff use in convincing platforms to remove images.¹⁶⁸

Human Rights Watch opposes all criminal defamation laws, which chill freedom of expression, as a disproportionate and unnecessary response to the need to protect reputations. Criminal defamation laws can also harm survivors and block them from accessing justice. Several survivors described being told by police that they should not seek a criminal investigation because they could be accused of defamation.

Criminal Legal System Responses to Digital Sex Crimes

Often you get hurt more from the way police respond than from the offense itself.

—Survey respondent¹⁶⁹

South Korea's justice system has not handled digital sex crime cases effectively or humanely. In 2018, the CEDAW Committee expressed concern over the low rate of prosecutions of perpetrators of digital sex crimes despite the increase in reported cases, as well as the leniency of punishments.¹⁷⁰ In response to the Nth Room case, the Ministry

rights defenders, Margaret Sekaggya, Visit to the Republic of Korea, A/HRC/25/55/Add.1, December 23, 2013, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/191/02/PDF/G1319102.pdf?OpenElement> (accessed February 24, 2021).

¹⁶⁷ Human Rights Watch interview with Ahn Ji-Hee, Min Hyun legal services, Seoul, September 18, 2019.

¹⁶⁸ Human Rights Watch interview with Jin-Ho, CEO, Santa Cruise, Seoul, September 18, 2019.

¹⁶⁹ Quote from respondent, survey on digital sex crimes launched November 25, 2019, on file with Human Rights Watch.

¹⁷⁰ Committee on the Elimination of Discrimination against Women, "Concluding observations on the eighth periodic report of the Republic of Korea," CEDAW/C/KOR/CO/8, March 14, 2018, para. 22(d), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/KOR/CO/8&Lang=En (accessed February 17, 2021).

of Justice in a 2020 press statement apologized for its historically “lukewarm response” to digital sex crimes and promised tougher efforts.¹⁷¹

Representatives of an organization assisting survivors said over 63 percent of cases in which they assist women do not result in any legal action. Often it is because the survivor knows the punishment is very light and thinks the stress of going ahead with the case is not worth the likely outcome, or because the police refuse to investigate or behave in ways that retraumatize the survivor. “Victims are often told that an investigation can’t happen because it is too difficult, and that is one of the main reasons they give up,” said a service provider assisting survivors.¹⁷²

Survivors seeking justice encounter barriers at every step of the process. One of the fundamental problems is that law enforcement officials—the vast majority of whom are men—often do not understand the severity of these crimes, and their impact. “People take [crimes committed with] cams lightly because there is no physical contact, but don’t appreciate how terrorized victims are,” said Jieun Choi. “With the protests, women saw that it’s a group problem, but lots of men still don’t get it.”¹⁷³

Another factor discouraging survivors from seeking justice is that once a case is under investigation, law enforcement officials send updates via mail to their address, and this likely leads to people the survivor lives with becoming aware of the situation. “They don’t want to be exposed that way,” a worker assisting survivors said.¹⁷⁴

A lawyer assisting survivors said another problem survivors face is the slowness of the process. “If a case is resolved in one year, that’s seen as quick,” she said, adding that survivors struggle to move on while the process continues. “The fact that the case is still pending really prevents the victim from returning to economic or social engagement.”¹⁷⁵

¹⁷¹ Minji Lee, “Police release name of digital sex criminal suspect following public outrage,” *Yonhap News Agency*, March 24, 2020, <https://en.yna.co.kr/view/AEN20200324006951315> (accessed February 24, 2021).

¹⁷² Human Rights Watch interview with representatives of Korea Cyber Sexual Violence Response Center, Seoul, September 19, 2019.

¹⁷³ Human Rights Watch interview with Jieun Choi, Seoul, September 17, 2019.

¹⁷⁴ Human Rights Watch interview with representatives of Korea Cyber Sexual Violence Response Center, Seoul, September 19, 2019.

¹⁷⁵ Human Rights Watch interview with Goh Yi gyeong, legal advisor, Digital Sex Crimes Out, Seoul, September 20, 2019.

Survivors' confidence in the justice system has been severely damaged by the perception that justice officials may themselves be perpetrators of digital sex crimes. "Currently, you see, in Korean society, male prosecutors, male judges, male policemen, male teachers—all caught by [laws against digital sex crimes]," a survivor who did not report the crime explained. "There are several cases like that, [of justice officials] who were caught while doing the spycamming. So it's going to be hard to change things in the short term."¹⁷⁶ Another survivor described hearing about a judge who was caught photographing women illegally on his way to work but kept his job.¹⁷⁷

A survivor, Lim Ye-ji, said while she was waiting to hear from police about her case, news outlets reported that an officer at the same police station and same unit she had sought help from—the department for women and juveniles—had been caught taking spycam images of women in public. "So, I could not trust anyone," she said. "Even my friends advised me: 'Who would you trust when even a police officer got caught doing molka?'"¹⁷⁸

Level of Punishment for Digital Sex Crimes

Do you still want to do that [go forward with a prosecution], knowing that he could be punished with a fine of less than \$500?

—A prosecutor, advising a digital sex crime survivor¹⁷⁹

A fundamental problem with the criminal law response is that the punishments imposed are usually not proportionate to the harm inflicted on survivors of digital sex crimes. There was a consensus among the experts and survivors interviewed for this report that the sentences most convicted defendants receive are so low as to discourage survivors from reporting crimes and leave a sense of impunity even when the perpetrator was successfully prosecuted.

Capturing intimate images without consent, and distributing sexual images captured and/or distributed without consent, are both crimes under the Sex Crimes Act. Both crimes are punishable by up to seven years' imprisonment or a fine of up to 50 million won

¹⁷⁶ Human Rights Watch video interview with Sohn Ji-won, February 8, 2020.

¹⁷⁷ Human Rights Watch interview with Kim Eun-hye, Seoul, February 3, 2020.

¹⁷⁸ Human Rights Watch interview with Lim Ye-ji, Seoul, February 4, 2020.

¹⁷⁹ Human Rights Watch interview with Kang Yu-jin, Seoul, February 7, 2020.

(\$41,667).¹⁸⁰ Faking images or audio of another person for the purpose of distributing to cause sexual stimulus or shame, or distributing such faked materials, can be punished by imprisonment of up to five years or a fine of up to 50 million won (\$41,667).¹⁸¹ A person who possesses, purchases, stores, or watches sexual images that have been captured or distributed without consent can face punishment of up to three years' imprisonment or a fine of up to 30 million won (\$25,000).¹⁸² People convicted of digital sex crimes under the Sex Crimes Act are also required to provide their personal information to law enforcement and this information is publicly disclosed.¹⁸³

But judges can, and usually do, let convicted offenders off with a fine, often a small one, sometimes with the addition of counseling or community service.

Government data shows that in the majority of cases where a report is accepted, a perpetrator is apprehended, and once a perpetrator is apprehended that person is usually prosecuted.¹⁸⁴ But many of these prosecutions seem to get dropped. In 2019, prosecutors dropped 46.8 percent of sex crime cases compared to 27.7 percent of homicide cases and 19 percent of robbery cases, meanwhile prosecutors dropped 43.5 percent of sexual digital crimes cases, limited to crimes of sexual violence using cameras, distributing pictures without consent and production and distribution of child and youth sexual exploitation content.

When cases move forward, they usually result in conviction; in 2020, out of 1,849 cases involving charges of capturing intimate images without consent that went to trial only 12 resulted in acquittal.¹⁸⁵ But when prosecutions result in convictions, the sentences are relatively light. The data from 2020 indicates while almost all of the 1,849 people who went to trial on charges of capturing intimate images without consent were convicted, 79

¹⁸⁰ Sex Crimes Act, art. 14(1) and (2).

¹⁸¹ *Ibid.*

¹⁸² *Ibid.*, art. 14(4).

¹⁸³ *Ibid.*, art. 47.

¹⁸⁴ Korean Statistical Information Service (KOSIS), National Police Agency crimes statistics 2011-2019, https://kosis.kr/statHtml/statHtml.do?orgId=132&tblId=DT_13204_2011_211&conn_path=13 (accessed May 10, 2021).

¹⁸⁵ Data on sentencing for digital sex crimes, provided to Human Rights Watch by the Supreme Court on May 28, 2021, on file with Human Rights Watch.

percent of those who were convicted received a suspended sentence, a fine, or a combination of the two. Fifty-three percent received only a suspended sentence.¹⁸⁶

For 2020 cases involving charges of distributing sexual images captured and/or distributed without consent, the proportion of cases resulting in imprisonment was even lower. A total of 338 cases went to trial on these charges; 303 resulted in convictions. Of these, 82 percent of the people convicted received a suspended sentence or a fine or a combination of the two, with the most common sentence (for 53 percent of convicted defendants) being just a fine.¹⁸⁷

Between the cases where survivors are pressured to drop charges and those dropped by prosecutors and low sentences, the likelihood of any single case resulting in significant punishment is low. In 2017, out of 5,437 perpetrators who were arrested, only 119, or 2 percent, were imprisoned.¹⁸⁸ “If you report a perpetrator the likelihood for him to be punished is much less than 10 percent,” a police detective said. “When you know the possibility is this low, and you know that when you report you will experience another form of abuse from the police, so—the reporting rate for digital sex crimes is very low.”¹⁸⁹

In December 2020, the Sentencing Commission adopted new sentencing guidelines for digital sex crimes, setting out criteria judges should apply when determining the length of imprisonment to impose.¹⁹⁰ There is evidence that in South Korea sentencing guidelines result in: (1) the imposition of a higher sentencing range, (2) a decrease in sentencing disparity between jurisdictions, (3) a decrease in the probation rate, and (4) a more detailed review of mitigating and aggravating factors by the individual judges.¹⁹¹ Sentencing guidelines do not, however, prevent judges from imposing fines rather than imprisonment when permitted by law, and judges imposing imprisonment can depart from the guidelines if they provide an explanation of the justification for doing so.

¹⁸⁶ Ibid.

¹⁸⁷ Ibid.

¹⁸⁸ Laura Bicker, “South Korea’s spy cam porn epidemic,” *BBC*, August 2, 2018, <https://www.bbc.com/news/world-asia-45040968> (accessed February 17, 2021).

¹⁸⁹ Human Rights Watch interview with a police detective (name withheld), Seoul, February 5, 2020.

¹⁹⁰ Sentencing Commission, “Digital Sex Offense Criteria,”

https://sc.scourt.go.kr/sc/krsc/criterion/criterion_56/digital_sexual_01.jsp (accessed February 17, 2021).

¹⁹¹ Park Seong-Hoon and Choi Yi-moon, “Impact of sentencing guidelines on sentencing practices in sexual assault and robbery cases at South Korea” *Korean Criminological Review*, vol. 27 (2016): 3.

Low sentences can make perpetrators feel they can commit further crimes with impunity even when they are known, and easily identified to law enforcement, by the women they target. A survivor targeted by her ex-partner said: “People all know that the punishment is so light, so they don’t have to control themselves, because there is no restriction. [The perpetrator who targeted me] felt that there is no accountability, so he realized he is okay, and he even enjoyed that.”¹⁹²

Low sentences for digital sex crimes are in the context of a broader problem of low sentences and legislative gaps for gender-based violence in South Korea. In 2018, the CEDAW Committee expressed concern because in South Korea in 2015 over 43 percent of cases involving protection orders did not lead to criminal punishment and that violation of protection orders incurred only an administrative fine. The Committee criticized the country’s rape laws for requiring proof of “means of violence or intimidation” rather than simply lack of consent, and that marital rape is criminalized through case law but not by statute. The Committee also raised concern about “social stigma attached to, and the institutional prejudice against, victims of sexual violence.”¹⁹³ The minimum sentence for rape is three years’ imprisonment, and judges sometimes see circumstances such as the perpetrator’s inebriation as mitigating.¹⁹⁴ South Korea’s first conviction for marital rape was in 2013.¹⁹⁵

Several survivors mentioned low punishments for rape in South Korea, explaining they did not expect the digital sex crimes they experienced to be taken seriously when rape is also disregarded. “Perpetrators should be properly punished for any form of violence against women, including cybercrimes, domestic violence, date violence, sexual violence,” Song Ranhee from Korea Women’s Hotline said. “None are being dealt with properly.”¹⁹⁶

¹⁹² Human Rights Watch interview with Kang Yu-jin, Seoul, February 7, 2020.

¹⁹³ Committee on the Elimination of Discrimination against Women, “Concluding observations on the eighth periodic report of the Republic of Korea,” CEDAW/C/KOR/CO/8, March 14, 2018, para. 22, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/KOR/CO/8&Lang=En (accessed February 17, 2021).

¹⁹⁴ Criminal Act, art. 297; “South Korea: Child rapist’s release sparks demand for change,” *BBC*, January 5, 2009, <https://www.bbc.com/news/world-asia-55465099> (accessed February 18, 2021).

¹⁹⁵ “Man found guilty of marital rape,” *JoongAng Daily*, May 16, 2013, <https://koreajoongangdaily.joins.com/news/article/article.aspx?aid=2971710> (accessed February 18, 2021).

¹⁹⁶ Human Rights Watch interview with Song Ranhee, Korea Women’s Hotline, Seoul, September 17, 2019.

Survivors often contrasted what they saw as minimal punishments their perpetrators had received with the deep harm they had experienced.

Lack of Women in Law Enforcement and the Criminal Legal System

Organizations that women should contact—police, etcetera—are very male dominated so it is hard for women to go there. And even if they go there, they are criticized: “Why did you do that?” So we need these systems to be more feminist so women can use them more

— Expert formerly involved in government response¹⁹⁷

The proportion of women in South Korea’s justice sector is low, and this is a major barrier to survivors of digital sex crimes seeking to access justice. The number of female police officers is so low that President Moon Jae-in pledged by the end of his term to increase the number to a dismal 15 percent.¹⁹⁸ “I was told that I had to wait for three to seven days to get a female officer,” a survey respondent said, describing her effort to report a digital sex crime.¹⁹⁹

One reason why there are so few women police officers is that women face barriers to thriving within the police force. A female detective told Human Rights Watch that she felt isolated, lonely, and passed over for promotions. “That’s why I’m always pissed off—I really want to stop working here,” she said.²⁰⁰

Allegations by a female prosecutor about sexual assault and discrimination within the Supreme Prosecutor’s Office helped drive the #MeToo movement in South Korea.²⁰¹ Women are 30 percent of judges, but that number shrinks among senior judges to 20 percent in the lower courts and 4 percent in the high courts.²⁰²

¹⁹⁷ Human Rights Watch interview with expert formerly involved in government response to digital sex crimes (name withheld), Seoul, February 6, 2020.

¹⁹⁸ “Questions arising over role of women in police force,” *Korea Times*, May 19, 2019, https://www.koreatimes.co.kr/www/nation/2019/05/251_269107.html (accessed February 18, 2021).

¹⁹⁹ Quote from respondent, survey on digital sex crimes launched November 25, 2019, on file with Human Rights Watch.

²⁰⁰ Human Rights Watch interview with a police detective (name withheld), Seoul, February 5, 2020.

²⁰¹ Jake Kwon & James Griffiths, “South Korean prosecutor jailed in major #MeToo case,” *CNN*, January 24, 2019, <https://edition.cnn.com/2019/01/23/asia/south-korea-metoo-intl/index.html> (accessed February 18, 2021).

²⁰² “When justice systems fail to protect women,” *Korea Times*, December 4, 2019, http://www.koreatimes.co.kr/www/nation/2019/12/251_279802.html?fbclid=IwARoFRzRicBO3JazcA6BEgd-qWfTV5ny5SZokT1wBzQtSmf3OEMAmNsYTnAo (accessed February 18, 2021).

Survivors of digital sex crimes often cited the lack of women in the criminal legal system, especially among police, as a factor in them feeling unable to access justice.²⁰³ “The police are male-dominated—just telling them to be sensitive does not help,” one survivor said.²⁰⁴ During the 2018 protests women chanted, “We want more women in the police.”²⁰⁵

“Police and investigative agencies are complicit in this crime,” the representative of a feminist publishing company said:

It is a male-dominated institution, so it’s run by misogyny... Just increasing the sentences is not enough. Many police are guilty of this crime, so you need a structural change. Reforms of criminal investigation are not the whole issue, because the culture of using women’s bodies as objects is so deep in this country and all sectors that unless the institutions are filled with women, they will not have the power to deal with these issues.²⁰⁶

Although the victims of digital sex crimes are overwhelmingly female, both sex crimes and cybercrime units within the police are overwhelmingly male. Some survivors encountered all-male units.²⁰⁷ When they asked for a female officer, they were sometimes referred to a different police station, or to another unit that did not have the expertise to take on their case.²⁰⁸

Sex crimes detectives work in teams of eight, with one female detective per team, but the number of female police is so low that they struggle to comply with a requirement that there should be a woman assigned to every sex crimes case.²⁰⁹ “It is hard to have more than 10 percent women in any unit, because there are so few women,” a female detective said.²¹⁰

²⁰³ For example, Human Rights Watch interview with Lim Ye-ji, Seoul, February 4, 2020.

²⁰⁴ Human Rights Watch interview with Jieun Choi, Seoul, September 17, 2019.

²⁰⁵ Ibid.

²⁰⁶ Human Rights Watch interview with Lee Doo Roo, editor, Woo Yunigai, designer, and Lee Min Gyeong, representative, Baume à Lâme, Seoul, September 20, 2019.

²⁰⁷ For example, Human Rights Watch interview with Lim Ye-ji, Seoul, February 4, 2020; Human Rights Watch interview with Jeong Hye-jin, Seoul, February 3, 2020.

²⁰⁸ Human Rights Watch interview with Lim Ye-ji, Seoul, February 4, 2020; Human Rights Watch interview with Jeong Hye-jin, Seoul, February 3, 2020.

²⁰⁹ Human Rights Watch interview with a police detective (name withheld), Seoul, February 5, 2020.

²¹⁰ Ibid.

Police

Police don't handle this the right way. They don't appreciate the fear and terror victims go through.

—Jieun Choi, survivor of a digital sex crime²¹¹

Survivors who sought help from police often described negative, and sometimes traumatic, experiences. A lawyer assisting survivors cited abusive conduct by police as a major factor in women choosing not to seek justice. “Even if the victim knows the law she hesitates because of fear of a slow, difficult process,” she said. “There is the problem of secondary trauma. Investigators watch footage in front of the victim. They ask questions that are sexual harassment. For example, ‘The woman in the video has a mole on her breast—I need to see if you have one on yours’ and ‘Have other genitals been inside your vagina?’”²¹² A police detective echoed this, saying it is common for officers to pass non-consensual images among themselves and laugh at them.²¹³

Police often discourage survivors from filing cases, or refuse to accept cases, arguing that the survivor could face defamation charges, the sentence is very low, or it is impossible to solve a case involving a platform outside of South Korea. Lim Ye-ji became so frustrated with inaction by the cybercrime unit at her local police station that she asked the head of the unit, “Do you want to act only if I get physical damage from this?” She said he replied yes.²¹⁴

Even survivors who were eventually able to get police to investigate often had to seek help repeatedly and were turned away at first—and abuses often continued during the period when they were trying to convince the police to act, compounding their trauma.

Interrogations may be lengthy and intrusive, and some survivors described police taking an abusive tone. When Lim Ye-ji reported a digital sex crime, she said one of the officers read out an abusive message suggesting that she was selling sex five times, loudly, in front of a room full of his all-male colleagues.²¹⁵ Interrogations also often happen with little

²¹¹ Human Rights Watch interview with Jieun Choi, Seoul, September 17, 2019.

²¹² Human Rights Watch interview with Goh Yi gyeong, legal advisor, Digital Sex Crimes Out, Seoul, September 20, 2019.

²¹³ Human Rights Watch interview with a police detective (name withheld), Seoul, February 5, 2020.

²¹⁴ Human Rights Watch interview with Lim Ye-ji, Seoul, February 4, 2020.

²¹⁵ Ibid.

privacy. “We advised on making interrogation rooms more private and doing more to protect victims,” an expert working with police said.²¹⁶

Local police departments often feel they are not able to handle digital sex crimes cases, because of their complexity, and transfer the case to a district police station.²¹⁷ This may lead to a more competent investigation, but can also create delays, including delays in images being removed from the internet, and compel victims to re-tell their stories in a way that may increase their trauma.²¹⁸

A journalist covering digital sex crimes said police are reluctant to accept digital sex crime cases because they are difficult and time consuming to solve and failure to solve them or delays in solving them will harm an officer’s performance evaluation. She said this is a reason officers sometimes refuse to take a case unless “it’s already solved.”²¹⁹

Police typically tell victims to search for evidence—usually abusive images of themselves—and often make this a pre-condition for acting. Several survivors described being told by police that if they wanted anything done about their case, they needed to come back with stronger evidence.²²⁰ This is so common that a counselor said she advises clients on how to download a program to save information with a verified date and time code.²²¹

Victims are under particular pressure to provide proof in cases involving an image that was created with their consent. “The burden is on the victims. They have to prove whether they consented to the material being distributed, and that the defendant did distribute it,” a lawyer explained. “The defendant can claim hacking, or that he lost his phone. The victim needs proof like an email from him—solid proof.”²²²

²¹⁶ Human Rights Watch interview with Deuk-kyoung Yoon, Research Fellow, Korean Women’s Development Institute, Seoul, February 5, 2020.

²¹⁷ Human Rights Watch interview with a counselor assisting victims of digital sex crimes (name withheld), Seoul, February 3, 2020.

²¹⁸ Human Rights Watch interview with Jeong Hye-jin, Seoul, February 3, 2020.

²¹⁹ Human Rights Watch interview with Yoon So-yeon, journalist, Seoul, September 20, 2019.

²²⁰ For example, Human Rights Watch interview with Lim Ye-ji, Seoul, February 4, 2020; Human Rights Watch interview with Jeong Hye-jin, Seoul, February 3, 2020.

²²¹ Human Rights Watch interview with a counselor assisting victims of digital sex crimes (name withheld), Seoul, February 3, 2020.

²²² Human Rights Watch interview with Ahn Ji-Hee, Min Hyun legal services, Seoul, September 18, 2019.



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Searching for images and documenting evidence of the crimes deepened the trauma that many survivors experienced, as they were forced to view these images repeatedly and spend much of their time immersed in thinking about the abuse. Searching for images of themselves often exposed them not only to those images, but also to non-consensual images of other women and other materials they found upsetting, including images of violence against women.

Another problem is that while seeking to protect themselves, survivors may inadvertently destroy evidence. Several survivors said their first reaction on seeing an abusive image of themselves—for example sent to their phone or in the phone or storage of a perpetrator—was to delete it. Others sought to have images removed by internet platforms and succeeded only to be later told by police that they had destroyed the evidence necessary to support criminal charges.²²³ This problem could be partially avoided with better public information and advice to people experiencing digital sex crimes, and a more proactive approach by police to gathering evidence including from platforms.

Another common complaint from survivors who had sought help from the police was that police did not follow up with them about how or whether the case was moving forward.

²²³ For example, Human Rights Watch interview with Park Ji-young, Seoul, February 6, 2020.

In 2018, the government established a specialized task force to work on cyber/sex crimes in each district police agency, as well as a national team to support these teams.²²⁴ Prior to this, these cases were investigated by police who specialized in sex crimes, with support from a separate cybercrime task force that worked online, and survivors sometimes faced a situation where they were stuck between officers who knew about gender or sex crimes but not tech, and cyber experts who were not knowledgeable or sensitive about sex crimes.²²⁵

The new task force is no panacea, though. It is also overwhelmingly male, and according to an expert who assists survivors, often retraumatizes survivors despite training on gender sensitivity.²²⁶ A lawyer assisting survivors said that in her view the task force was just a cybercrime task force, without the expertise needed to work effectively and sensitively on sex crimes. From the perspective of a survivor, she said, “it makes sense to go with the cyber team, but they are not gender sensitive.”²²⁷ The national task force also has limited impact because survivors’ first contact is usually with her local police station, where the interaction often discourages her from proceeding further.²²⁸

Prosecutors

Survivors of digital sex crimes encounter some similar challenges with prosecutors, including difficulty being believed, sexist conduct, and a lack of support and information as cases move ahead. Lee Jieun, a lawyer with the People’s Solidarity for Participatory Democracy, said she believes a barrier to justice for survivors of digital sex crimes is the unusually powerful role of prosecutors in South Korea.²²⁹ She explained: “The reason sexual violence is not dealt with properly is that the prosecutor decides what to prosecute, and it is areas they see as important, and sexual violence is not one of them.” Lee Jieun

²²⁴ Human Rights Watch interview with Dahye Chang, research fellow at the Korea Institute of Criminology, Seoul, September 18, 2019.

²²⁵ Ibid.; Human Rights Watch interview with representatives of Korea Cyber Sexual Violence Response Center, Seoul, September 19, 2019.

²²⁶ Human Rights Watch interview with representatives of Korea Cyber Sexual Violence Response Center, Seoul, September 19, 2019.

²²⁷ Human Rights Watch interview with Goh Yi gyeong, legal advisor, Digital Sex Crimes Out, Seoul, September. 20, 2019.

²²⁸ Human Rights Watch interview with representatives of Korea Cyber Sexual Violence Response Center, Seoul, September 19, 2019.

²²⁹ For example, see Mitch Shin, “South Korea’s Government and Top Prosecutor Clash Once Again,” *Diplomat*, November 16, 2020, <https://thediplomat.com/2020/11/south-koreas-government-and-top-prosecutor-clash-once-again/> (accessed February 24, 2021); Dae-Hyun Choe, “Prosecutors’ role and their relationship with the police in South Korea: In a comparative perspective,” *International Journal of Law Crime and Justice* 55, October 2018, accessed February 24, 2021, doi: 10.1016/j.ijlcrj.2018.10.003.

also emphasized that prosecutors in South Korea are overwhelmingly male.²³⁰ As of September 2020, 32 percent of prosecutors were female.²³¹

A lawyer assisting survivors said: “In these cases, the prosecutors often act like a judge themselves and decline to proceed.”²³² South Korea’s prosecutors are unusually powerful, having the ability to indict suspects and to launch and conduct investigations.²³³ “There are lots of cases where the prosecutor doesn’t trust the victim,” the lawyer explained. “So, I help the victim to convince the prosecutor to go ahead.” She said convincing prosecutors requires steps such as having the survivor undergo a lie detector test and making the prosecutor aware of similar cases that are relevant precedents, as well as helping to organize the survivor’s testimony and gather and organize evidence.²³⁴

As previously noted, data for 2019 indicates that prosecutors dropped a high percentage (43.5 percent) of digital sex crimes cases. A lawyer assisting survivors said digital sex crimes are handled by a specialized department within the prosecutor’s office, and some prosecutors choose to join that department and are motivated to handle these cases, but others are assigned and serve reluctantly and sometimes approach cases in a way reflecting that reluctance.²³⁵

Another lawyer said female prosecutors had complained to her that colleagues frequently put non-consensual images that are evidence on a big screen in the office for everyone to see. She said the goal was “to show off the evidence they got to other prosecutors and investigators. They sit around and joke about it and rate the content—or the victims.” She said her friend worried for victims that male prosecutors would leak the footage. “She said if she was a victim, she would be so scared to hand over evidence to the police or prosecutor.”²³⁶

²³⁰ Human Rights Watch interview with Lee Jieun, Coordinator, Public Interest Law Center, People’s Solidarity for Participatory Democracy, Seoul, September 20, 2019. Ms. Lee has asked that we clarify that her remarks represent her own personal views, not those of her employer.

²³¹ Hwang Hee jin, “Prosecutors’ Office Reform Committee ‘female prosecutors rate 32 %, female director level prosecutor 5%,” Maeil Daily, September 3, 2020, <https://news.imaeil.com/SocietyAll/2020092118001463122> (accessed May 10, 2021).

²³² Human Rights Watch interview with Ahn Ji-Hee, Min Hyun legal services, Seoul, September 18, 2019.

²³³ Elliot Waldman, “Can South Korea’s Embattled Moon Secure His Legacy?” World Politics Review, January 28, 2021, <https://www.worldpoliticsreview.com/trend-lines/29388/in-south-korea-president-moon-fights-to-secure-his-legacy> (accessed May 5, 2021).

²³⁴ Human Rights Watch interview with Ahn Ji-Hee, Min Hyun legal services, Seoul, September 18, 2019.

²³⁵ Ibid.

²³⁶ Human Rights Watch interview with Goh Yi gyeong, legal advisor, Digital Sex Crimes Out, Seoul, September 20, 2019.

Prosecutors often fail to keep survivors informed about the court process, leaving them struggling to access information about what is going on and feeling disempowered. Lim Ye-ji struggled to convince the police to act on her complaint. She finally convinced police to refer the case to the prosecutor, then heard nothing until four months later when she received an email from the prosecutor's office referring her to a website. The website informed her that the case had been dismissed because they could not identify the perpetrator, although Lim Ye-ji had a suspicion about who the perpetrator was and had shared this information with police. According to Lim Ye-ji, the Instagram account impersonating and abusing her online was still active at the time of interview.²³⁷

Survivors often struggle to even find out when court dates on the case involving them will take place. One survivor described being frustrated after finding out too late that she had missed the trial.²³⁸

Pressure on Survivors to Withdraw Charges

Survivors of digital sex crimes often face pressure not to go to the police, or to drop a case, when the perpetrator and victim know each other. Police, prosecutors, and judges often seem eager to avoid charges if survivors will agree. Defense attorneys representing perpetrators can directly contact victims to pressure them to withdraw the case or agree to an out-of-court settlement. One of Human Rights Watch's interviews was interrupted by a call the interviewee said was the defense attorney for the perpetrator calling to pressure her to settle.²³⁹

Baek Su-yeon was among over a dozen young women filmed non-consensually by a university classmate; after he was arrested, his father called victims begging them to drop the charges. "His father came to me and just apologized," she said. "Now I think I made a silly decision, but I signed the letter of settlement." She said the father tried repeatedly to give her money after she signed, but she refused to accept it.²⁴⁰

²³⁷ Human Rights Watch interview with Lim Ye-ji, Seoul, February 4, 2020.

²³⁸ Human Rights Watch interview with Jieun Choi, Seoul, September 17, 2019.

²³⁹ Human Rights Watch interview with Lee Ye-rin, Seoul, February 6, 2020.

²⁴⁰ Human Rights Watch interview with Baek Su-yeon, Seoul, February 7, 2020.

Courts and Judges

Survivors and others who spoke to Human Rights Watch said that judges often seem more sympathetic to defendants' arguments for leniency than to survivors' arguments about the harm they suffered. "Even if there is evidence that a perpetrator distributed illegal footage, if he forcefully denies it, he might just get probation," a lawyer representing survivors explained. "If it is a first-time offender, and a student or has a job, he is likely to get probation."²⁴¹

"[M]y ex-boyfriend got very minimal punishment because the court considered his young age. It was the first time for him [being charged with a crime], and he has a bright future, kind of," said a survivor who fought for a year and a half to pursue charges against her ex-boyfriend who had photographed her and other women without consent. He was fined 3 million won (\$2,500) after conviction. "So they minimized the sentences because of that... Perpetrators—especially someone like him, who are rich—for them punishment with a fine is almost nothing."²⁴²

"The biggest problem is with the judges, because they deny that this is a real problem," a journalist covering digital sex crimes said, citing the low sentences imposed in digital sex crimes cases. "This is giving the message to men that this is forgivable. It gives the message that women complaining is the problem."²⁴³

Survivors also encountered sexist attitudes from judges. A detective said while it is often easy to identify and arrest a perpetrator when the victim and perpetrator know each other, it is hard to get a conviction. "If a woman is not a virgin, they see her as not pure and not a victim," she said of judges. "If it is a couple, they see her as not a victim. They often say, 'You must have done it because you like it.' Digital sex crimes are hard... Prosecuting them is harder than making an arrest, and to get justice [from a judge] is the hardest part... Jail is only for repeat offenders. The problem is not just with the law, but with the judges."²⁴⁴

²⁴¹ Human Rights Watch interview with Ahn Ji-Hee, Min Hyun legal services, Seoul, September 18, 2019.

²⁴² Human Rights Watch interview with Park Ji-young, Seoul, February 6, 2020.

²⁴³ Human Rights Watch interview with Yoon So-yeon, journalist, Seoul, September 20, 2019.

²⁴⁴ Human Rights Watch interview with a police detective (name withheld), Seoul, February 5, 2020.

A government expert shared the view that judges disregard harm. “Judges should use a larger range of punishments in digital sex crimes cases and better understand the impact on victims. We need more training for judges and prosecutors,” she said.²⁴⁵

The trial process is often painful for survivors, and there is little or no support from the court to help survivors understand what will happen and how they can participate and feel safe during the proceedings. Some victims were offered the option of using a pseudonym to protect their privacy, but they sometimes were not aware of options to be present while minimizing contact with the perpetrator.²⁴⁶ Another concern is that court records may divulge the victim’s contact information to the perpetrator. One survivor described waiting to register her new address until her court case was finished out of fear that the court judgment would inform the perpetrator, who had engaged in stalking behavior, of her whereabouts.²⁴⁷

In Jieun Choi’s case, the perpetrator “was given one year, suspended for three years, with some sex education. The judge was a man. He said in his final statement that it was very hard to come to a decision because [the defendant] had a job and had recently married and is very apologetic, so he decided on a suspended sentence.” Jieun said the judge also noted, as mitigating factors, that the footage was blurry, and that police had not found evidence that the perpetrator had distributed it. Jieun Choi felt the police had acted so slowly that the perpetrator had time to destroy evidence, including of distribution.

Victims in criminal prosecutions can submit written petitions to the court, and survivors whose cases reached court often described writing such petitions.²⁴⁸ Jieun had written such a statement to the court. “I wrote a two-page letter saying I felt so scared,” she said. She said she felt unsafe in her own home and frightened of all men similar in age to the perpetrator. “In the judge’s decision my statement was reduced to one sentence—the decision was about the convenience of the defendant. There was one phrase: ‘The victim didn’t forgive him,’” she said. “The worst part of the trial was that I had no voice—and the

²⁴⁵ Human Rights Watch interview with Deuk-kyoung Yoon, Research Fellow, Korean Women’s Development Institute, Seoul, February 5, 2020.

²⁴⁶ For example, Human Rights Watch interview with Jieun Choi, Seoul, September 17, 2019.

²⁴⁷ Human Rights Watch correspondence with Kang Yu-jin, October 2019.

²⁴⁸ For example, Human Rights Watch interview with Lee Ye-rin, Seoul, February 6, 2020.

perpetrator got to explain and tell his story even though none of this would have happened if he hadn't broken the law.”²⁴⁹

Lee Ye-rin described an assumption that survivors will not want to be present in court:

The justice system is focused on the defendant, not the victim. Of course, victims can see the court when the ruling is going on. But it was more like, “Do you really want to come?” That is what I felt from the court, because they argue that victims of sex crimes will not want a moment face to face with their assaulter; they think that’s a good thing for the victim. But I was different. I think [the absence of victims in court] is one reason why victims have to face mild sentences for the perpetrators...I hope victims [could] have a right to participate and decide whether to participate or not. And I want victims to be informed regarding what will happen in court—otherwise victims will become victims again.

In Lee Ye-rin’s case, the perpetrator was sentenced to 10 months’ imprisonment, and he appealed the sentence. Because Lee Ye-rin believed her presence in court was an important factor in the perpetrator being sentenced to imprisonment, she was determined to attend the first appeal, and a potential second appeal, even though it has made it harder for her to put the case behind her. “I will fight until I die,” she said.

Lee Ye-rin had an opportunity to talk directly with the judge, because she was accompanied by a lawyer who asked that she be allowed to speak. But when she did so, the judge urged her to drop the case. “The judge said, ‘Why don’t you make a settlement? If the court case goes on it can be not good for you,’” she said. “How dare the judge ask for a settlement from the victim? How on earth can a judge do that?”²⁵⁰

²⁴⁹ Human Rights Watch interview with Jieun Choi, Seoul, September 17, 2019.

²⁵⁰ Human Rights Watch interview with Lee Ye-rin, Seoul, February 6, 2020.

Survivors' Need for Services

I think I might be dead by now.

—A survivor on what would have happened if she had not found help from an NGO with legal assistance, the police, and deleting images²⁵¹

Survivors of digital sex crimes have an urgent need for services. Legal assistance can be essential for overcoming the barriers survivors face in gaining assistance from the police; several survivors said they received help from police only due to the intervention of an NGO.²⁵² Survivors in crisis urgently need psychosocial support to handle trauma, as discussed earlier in this report. They also are often desperate for help to remove abusive images from the internet.

Legal Assistance

Legal assistance is of urgent importance to survivors of digital sex crimes because the justice system is so often hostile to them. An attorney assisting survivors explained that her role in these cases is to “handle cases where the prosecutor won’t help the victim because the evidence is unclear.”²⁵³

Victims in digital sex crime cases can access legal assistance through the government’s Digital Sex Crimes Victim Support Center (DSCVSC) and some other organizations that assist victims of gender-based violence.²⁵⁴ A set maximum amount of funding (5 million won [\$4,167]) is allocated per case for legal assistance to victims of sexual violence; their attorneys can request additional funds depending on the complexity of the case.²⁵⁵

A lawyer with an organization assisting survivors said lawyers assigned through this system often provide only a phone consultation. She said the quality of the assistance survivors receive through this system is uneven, with many of the lawyers very inexperienced, some in this role as part of their mandatory military service, and none

²⁵¹ Human Rights Watch interview with Kang Yu-jin, Seoul, February 7, 2020.

²⁵² For example, Human Rights Watch interview with Lee Ye-rin, Seoul, February 6, 2020.

²⁵³ Human Rights Watch interview with Ahn Ji-Hee, Min Hyun legal services, Seoul, September 18, 2019.

²⁵⁴ Ibid.

²⁵⁵ Ibid.

having necessarily dealt with similar cases in the past—and that the rates paid to lawyers are too low to make it attractive to more experienced lawyers.²⁵⁶

Removing and Blocking Images

One of the practical things to help victims in cybercrime is that such contents are completely deleted and no longer appear. After that, I think that I can work comfortably as a member of society or interact with people again.

—Survivor of digital sex crimes.²⁵⁷

The first priority for many survivors is having images removed from the internet before they spread further. “When there is evidence on the web, counseling is not enough to help, because the evidence is still there and the victims continue to be affected again and again,” a service provider said.²⁵⁸

Police sometimes tell victims not to seek to have images removed, because they want evidence to remain in place. Although the government now assists with requesting removal of images and other criminal content, many survivors do not find their way to these services and are left to try to manage this task alone.

An important reform could be to compel perpetrators to pay for and assist with efforts to remove harmful material they have posted. This could be done as part of sentencing in a criminal case and through decisions in civil suits.

Government’s Digital Sex Crime Victim Support Center

In April 2018, the government launched the Digital Sexual Crime Victim Support Center (DSCVSC), announcing that it would “provide comprehensive services such as counseling, deleting support, investigative support, litigation support, and post-monitoring.”²⁵⁹ The DSCVRC is a valuable and innovative service, and a model for other countries grappling

²⁵⁶ Human Rights Watch interview with Goh Yi gyeong, legal advisor, Digital Sex Crimes Out, Seoul, September 20, 2019.

²⁵⁷ Human Rights Watch correspondence with Kang Yu-jin, October 2019.

²⁵⁸ Human Rights Watch interview with Park Hye Young, Seoul Sunflower Center, Seoul, September 17, 2019.

²⁵⁹ Launching ‘Comprehensive support services for digital sexual crime victims,’ MOGEF News, May 24, 2018, http://www.mogef.go.kr/eng/pr/eng_pr_s101d.do?mid=eng001&bbtSn=705663 (accessed Oct 23, 2020).

with similar problems. Survivors who had used the services of the DSCVSC were very grateful for the help they received.²⁶⁰

But the center has limitations. It has one office in Seoul, limiting its ability to assist survivors in other regions.²⁶¹ “There is a huge gap between the capital and everywhere else,” a lawyer explained.²⁶² It also faces difficulty because many of its employees are temporary, leading to high turnover, loss of expertise, and staff shortages.²⁶³ A service provider who refers clients to the DSCVSC valued the work done by the center, but felt it needed to do more to build the expertise and capacity of the center’s staff, including through longer-term contracts for staff members and stable and adequate funding for the center.²⁶⁴

The government does not appear to have published data on the number of people assisted by the DSCVSC, but a former government official said they were shocked by the high demand for the center’s services, which she attributed to large unmet need for help having images deleted.²⁶⁵ The DSCVSC should expand its capacity, to fully meet the need for its services, nationwide. It should do more outreach to ensure wide awareness that it exists and how to access assistance, as survivors often seemed to struggle to learn of it. As one survivor said: “I was really lucky. My close friend accidentally called the [DSCVSC] to help me... I was wandering because I didn't know where to ask for help.”²⁶⁶

In South Korea, there are few options for NGOs to obtain funding except through the government. Several NGOs focused on assisting survivors of digital sex crimes were set up by activists and led the way in developing services prior to the establishment of the DSCVSC, sometimes with government funding. With the establishment of the DSCVSC, some funds were reallocated to support the work of the DSCVSC, leaving NGOs struggling to sustain their work.²⁶⁷ While the DSCVSC is an important resource, survivors would

²⁶⁰ For example, Human Rights Watch correspondence with Kang Yu-jin, October 2019.

²⁶¹ Human Rights Watch interview with representatives of Korea Cyber Sexual Violence Response Center, Seoul, September 19, 2019.

²⁶² Human Rights Watch interview with Goh Yi gyeong, legal advisor, Digital Sex Crimes Out, Seoul, September 20, 2019.

²⁶³ Ibid.

²⁶⁴ Human Rights Watch interview with Song Ranhee, Korea Women’s Hotline, Seoul, September 17, 2019.

²⁶⁵ Human Rights Watch interview with expert formerly involved in government response to digital sex crimes (name withheld), Seoul, February 6, 2020.

²⁶⁶ Human Rights Watch correspondence with Kang Yu-jin, October 2019.

²⁶⁷ Human Rights Watch interview with Baek Ga Eul, activist, Seoul, September 16, 2019.

benefit from having multiple options in seeking help, and NGOs could complement the work of the DSCVSC by doing additional outreach, increasing the availability of services especially outside Seoul, developing innovative services, and advocating for reform.

Survivors Paying for Private Services to Mitigate Harm

It's important to clean cyberspace.

—CEO of a “digital undertaking” business²⁶⁸

In the absence of effective civil remedies and adequate levels of government assistance, many survivors are compelled to seek help from companies that have grown up to meet this demand, which include companies that remove non-consensual images, and companies that search for and remove spycams.

Four or five companies that assist customers in having content removed from the internet now operate in South Korea.²⁶⁹ The CEO of one described their work as “online reputation management.” He said that while the company also handles clients such as businesses seeking removal of unfavorable reviews, over 60 percent of their cases involve nude or sexual material. Of their approximately 3,000 clients per year, 70 percent are women, and 65 percent are in their teens. The company convinces platforms to remove content through strategies such as invoking the law in the jurisdiction where the platform is based, reporting or threatening to report the website to the KCSC, and threatening legal action such as copyright or defamation suits. They charge clients 2 million won (\$1,200) a month and advise that removing content takes three to six months.²⁷⁰

Companies providing this service can be a lifeline for people in crisis, but relying on the private sector imposes steep costs on survivors for someone else's crime.²⁷¹ The government's announcement of the establishment of the DSCVSC acknowledged this:

[V]ictims had to search for their own videos and photographs and directly contact the websites to delete them or asking the “digital funeral companies” to help them delete at their own expense, which caused

²⁶⁸ Human Rights Watch interview with Jin-Ho, CEO, Santa Cruise, Seoul, September 18, 2019.

²⁶⁹ Ibid.

²⁷⁰ Ibid.

²⁷¹ For example, Human Rights Watch interview with Baek Ga Eul, activist, Seoul, September 16, 2019.

psychological pain and financial burden for victims. Therefore, the Digital Crime Victim Support Center will focus on providing deletion support services that are most needed from the victims of digital sexual crimes.²⁷²

Another business benefiting from the prevalence of digital sex crimes is companies that detect and remove spycams. About five companies in Seoul specialize in this task.²⁷³ The director of one said his company receives inquiries from 100 to 150 new individual clients a month, and charges 500,000 to 1 million won to search an apartment for spycams [\$417 to \$833].²⁷⁴ The head of another company said his individual clients are 80 percent women.²⁷⁵

²⁷² Launching ‘Comprehensive support services for digital sexual crime victims,’ MOGEF News, May 24, 2018, http://www.mogef.go.kr/eng/pr/eng_pr_s1o1d.do?mid=engoo1&bbtSn=7o5663 (accessed Oct 23, 2020).

²⁷³ Human Rights Watch interview with Son Haeyoung, director, Seoyeon Security, Seoul, September 19, 2019.

²⁷⁴ Ibid.

²⁷⁵ Human Rights Watch interview with Lee Won-up, director, Spy-Zone, Seoul, September 19, 2019.

V. Need for Comprehensive Sexuality and Digital Citizenship Education

Sex education in Korea is telling girls not to be alone with guys.

—Expert on digital sex crimes²⁷⁶

The South Korean government has made significant efforts to tackle digital sex crimes through measures like legal reform, establishment of the DSCVSC, and searching for cameras. But the most fundamental solutions involve changing social attitudes that tolerate and even encourage abusive conduct toward women and girls, and the government has yet to meaningfully take on this challenge. One important way to change social attitudes is through comprehensive education on both sexuality—including gender equality, consent, and healthy relationships—and on responsible digital citizenship.

From elementary school throughout high school, students receive 15 hours of sexuality education per year.²⁷⁷ The national sexual education curriculum, issued by the Ministry of Education in early 2015, has been widely criticized.²⁷⁸ Criticisms include the omission of lesbian, gay, bisexual and transgender (LGBT) issues; the curriculum’s focus on encouraging abstinence rather than providing scientifically accurate information;²⁷⁹ and ways in which the curriculum perpetuates harmful gender stereotypes.²⁸⁰ Although it was revised a little over a year after publication, the curriculum remains problematic.²⁸¹ In one example of problematic language, the high school manual released in 2015 said that “from the perspective of a man who spends a lot of money on dates, it is natural that he would

²⁷⁶ Human Rights Watch interview with Baek Ga Eul, activist, Seoul, September 16, 2019.

²⁷⁷ Zoë Schlanger, “South Korea’s sexist sex-ed curriculum is spurring a private sex-ed industry,” *Quartz*, December 29, 2018, <https://qz.com/1511349/south-koreas-problematic-sex-ed-spurs-private-sex-ed-industry/> (accessed February 24, 2021).

²⁷⁸ Kyle Knight, “South Korea Backslides on Sex Education,” commentary, Human Rights Watch Dispatch, February 17, 2017, <https://www.hrw.org/news/2017/02/17/south-korea-backslides-sex-education>.

²⁷⁹ Human Rights Watch interview with Baek Ga Eul, activist, Seoul, September 16, 2019.[2]

²⁸⁰ “Sex education in schools: Guideline contains wrong information, biases,” *Korea Herald*, August 27, 2015, <http://www.koreaherald.com/view.php?ud=20150827001012> (accessed February 24, 2021).

²⁸¹ Min-ji Jin, “Growing calls in Korea for better sex education,” *Korea JoongAng Daily*, March 6, 2018, <http://koreajoongangdaily.joins.com/news/article/article.aspx?aid=3045301> (accessed February 24, 2021).

want a commensurate compensation from the woman. In such conditions, unwanted date rape can occur.”²⁸²

In 2019, the UN Committee on the Rights of the Child, the body charged with interpreting the UN Convention on the Rights of the Child, urged South Korea to revise its sexuality education curriculum, and “provide age-appropriate sexual education, giving special attention to preventing adolescent pregnancies and HIV/AIDS and adequately covering sexual orientation and gender identity; and remove discriminatory and gender stereotypical language from the National Standard on School Sexual Education.”²⁸³

Comprehensive sexuality education should be combined with education on digital citizenship. “Law is not enough to control [digital sex crimes]—you need to train and educate the people from the beginning to get their own citizenship in the digital world, to raise digital citizenship,” a former government official said.²⁸⁴ The Korean Institute for Criminology in 2018 advised “[s]trengthening cyber ethics education and education for bystanders of cyber violence” as a means of combatting cyber violence by young people.²⁸⁵

Deuk-kyoung Yoon, a research fellow with a government institute, said, “We advise that from early grades in elementary school information should be provided regarding sexuality and digital citizenship because we saw kids from very early ages taking and sharing images without realizing it is a crime... There is a lack of education on how to use technology properly—the focus is on how to use it, not how to use it properly.”²⁸⁶

²⁸² “Sex education in schools: Guideline contains wrong information, biases,” *Korea Herald*, August 27, 2015, <http://www.koreaherald.com/view.php?ud=20150827001012> (accessed February 24, 2021).

²⁸³ Committee on the Rights of the Child, Concluding observations on the combined fifth and sixth periodic reports of the Republic of Korea, CRC/C/KOR/CO/5-6, September 27, 2019, https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/KOR/CRC_C_KOR_CO_5-6_37303_E.pdf (accessed February 24, 2021), art. 42(f).

²⁸⁴ Human Rights Watch interview with expert formerly involved in government response to digital sex crimes (name withheld), Seoul, February 6, 2020.

²⁸⁵ “Trends & Policies in Criminal Justice: Types and Countermeasures of Youth Cyber Violence,” Korean Institute of Criminology, March 26, 2018, https://eng.kic.re.kr/brdartcl/boardarticleView.do?srch_menu_nix=22aRhjam&brd_id=BDIDX_ek4y99SS1134u12HtsN8jg&srch_mu_lang=CDIDX00023 (accessed February 18, 2021).

²⁸⁶ Human Rights Watch interview with Deuk-kyoung Yoon, Research Fellow, Korean Women’s Development Institute, Seoul, February 5, 2020.

The government has pledged to update the curricula for sexuality education, including digital citizenship.²⁸⁷ A group of organizations and activists came together in 2018 to push for these reforms.²⁸⁸ Experts working with the government are urging that the education start in preschool and be mandatory in every school—views the government has not yet accepted.²⁸⁹ “Even though this government claims to be a feminist administration, when it comes to sex education it is very conservative,” a former government official said.²⁹⁰

Providing education on sexuality and digital citizenship to children, from an early age, is urgently important, but adults, including those in all workplaces, including in the law enforcement and justice sectors, also need this education. “Gender equality education should be mandatory in public education and for all public figures,” said Song Ranhee of the Korea Women’s Hotline.²⁹¹

²⁸⁷ Human Rights Watch interview with Deuk-kyoung Yoon, Research Fellow, Korean Women’s Development Institute, Seoul, February 5, 2020.

²⁸⁸ Interview with Shina Kim and Yoo Hojeong, Korea Sexual Violence Relief Center, Seoul, September 17, 2020.

²⁸⁹ Human Rights Watch interview with Deuk-kyoung Yoon, Research Fellow, Korean Women’s Development Institute, Seoul, February 5, 2020.

²⁹⁰ Human Rights Watch interview with expert formerly involved in government response to digital sex crimes (name withheld), Seoul, February 6, 2020.

²⁹¹ Human Rights Watch interview with Song Ranhee, Korea Women’s Hotline, Seoul, September 17, 2019.

VI. Role of the Private Sector in Digital Sex Crimes

Private sector actors have a huge role in digital sex crimes, sometimes profiting from them, sometimes helping to fight them, and sometimes both. When digital sex crimes involve sharing—and often monetizing—abusive images, internet platforms are directly involved. An essential task for internet platforms is providing an easy-to-use, quick, and responsive mechanism for people facing abuse using illegal images to have those images removed, blocked, and prevented from being re-uploaded.

Internet platforms also hold evidence of digital sex crimes and may have information law enforcement needs about who the perpetrators are. They craft policies making it harder, or easier, for perpetrators to use their platforms in the commission of crimes through how and whether they moderate content, and options for downloading.²⁹²



Shin Jang-jin, CEO of spy camera company Damoacam, during an interview with AFP at his shop in the port city of Incheon, South Korea, on March 22, 2019. © 2019 JUNG YEON-JE/AFP via Getty Images

²⁹² For example, E.J. Dickson, “Pornhub Upended the Porn Industry. Now New Changes Could Destroy Sex Workers’ Livelihoods,” *Rolling Stone*, Dec. 11, 2020, <https://www.rollingstone.com/culture/culture-news/pornhub-visa-mastercard-nicholas-kristof-sex-work-1102150/> (accessed February 22, 2021).

There are multiple categories of companies involved. The most relevant to digital sex crimes in South Korea are social media platforms that host user-generated content. These platforms may or may not have policies that prohibit non-consensual intimate images. A challenge in dealing with these companies is that they don't always enforce their policies (when they exist) and may not give access to data needed in prosecutions. The gap between policy and enforcement tends to widen when dealing with languages and jurisdictions different from where the company is based.

A second category of websites are those that knowingly host non-consensually filmed and shared images, refuse to take them down and change their domains/email addresses to avoid contact and accountability.

Finally, there are search engines that may link to non-consensual images hosted on another website. They can remove the images from search results but not remove the content itself or provide data for prosecution.

Engaging companies is complicated by the global and trans-jurisdictional nature of the problem. A company based, for example, in North America may hold evidence needed by police in Seoul. "What we are fighting against is a borderless crime. Much of what needs to happen is overseas," the representative of an organization assisting survivors said.²⁹³

Upload, Download and Take-down Policies

Survivors, and those helping them, struggle to obtain help from platforms in removing and blocking abusive images, especially when the platform operates outside South Korea. "When the platforms are overseas, it's hard and will require endless resources, except when the content is illegal in the jurisdiction of the overseas platform," said a representative of an organization assisting survivors.²⁹⁴ A lawyer with an NGO said their take-down requests on behalf of clients to foreign companies were usually unsuccessful, even when companies have offices in South Korea. Their requests to Korean offices of social media companies and their headquarters were ignored, according to the lawyer.

²⁹³ Human Rights Watch interview with representatives of Korea Cyber Sexual Violence Response Center, Seoul, September 19, 2019.

²⁹⁴ Ibid.

An expert familiar with the DSCVSC said it also faces difficulties securing cooperation from foreign platforms: “If a victim comes to the center, when they get their counseling, if the site is in South Korea then of course we can approach it. But internet society is borderless.” She said when materials are on a foreign platform, the platforms often do not respond to takedown requests or promise to remove or block material but do not do so. She said in some cases, after repeated requests, platforms even change their domain name or email address to cut off contact.

The expert said they usually receive quick responses in cases involving abuse of a child, but when the victim is an adult, platforms often say material is consensual—even when the victim is making the request and confirms that images were captured and/or shared non-consensually. When an image was made consensually, but shared non-consensually, the expert said platforms sometimes conflate the two and say that the image is a consensual one and permissible under their guidelines.

“When it comes to a sexual crime against an adult you have no right to reach the server or the contents,” she said, explaining that because many countries have specific laws prohibiting child sexual exploitation materials, allegations involving sexual images of children receive a much more vigorous response from platforms. “So, it was very difficult for us to convince them we need a response not just for the child but for others, especially women. We also need some kind of consensus in the international field. We have to share a common consensus about digital sex crimes and also, we have to globalize digital citizenship. Not only international law is needed but also international consensus about the issue.”²⁹⁵

Websites sometimes ask people seeking to have images blocked to provide copies of the images so that the platform can assign them a hash (a digital fingerprint) which they include in a database to prevent further reposting. Facebook, in 2017, announced a plan to do this.²⁹⁶ While this can be a legitimate means of blocking a harmful image, it also demands that victims, already struggling with exposure and trauma, take an active role in further spreading intimate images of themselves that have already been shared without

²⁹⁵ Human Rights Watch interview with expert formerly involved in government response to digital sex crimes (name withheld), Seoul, February 6, 2020.

²⁹⁶ Aja Romano, “Facebook’s plan to stop revenge porn may be even creepier than revenge porn,” *Vox*, May 2, 2018, <https://www.vox.com/2018/5/23/17382024/facebook-revenge-porn-prevention> (accessed February 22, 2021).

their consent. Internet platforms should ensure that the images shared by survivors in order to stop their proliferation are kept confidential and handled respectfully, in privacy-maximizing processes.

Cooperation with Law Enforcement

A major challenge for survivors and South Korean law enforcement is the difficulty they face engaging with companies that may operate, or may be registered, far away.

A sex crimes detective said they face great difficulty getting cooperation from platforms overseas. “The owners of those websites won’t give us personal information [of perpetrators],” she said. “We issue a warrant and ask for the personal information for a [user] ID but companies say they won’t share this information or that they don’t have it. Most sites won’t help.” She said in cases where the victim does not know the perpetrator, she sees arrests in fewer than 10 percent of cases, something she attributed in part to difficulty getting information from foreign platforms.²⁹⁷ It is difficult to know whether police are complying with, or able to comply with, requirements imposed by foreign companies, which vary from company to company, and may include reannert order. A lawyer assisting survivors echoed this concern, saying that it was almost impossible to secure cooperation from platforms outside of South Korea, and inability to secure evidence in the possession of these platforms was a major factor in some survivors being denied justice.²⁹⁸

²⁹⁷ Human Rights Watch interview with a police detective (name withheld), Seoul, February 5, 2020.

²⁹⁸ Human Rights Watch interview with Ahn Ji-Hee, Min Hyun legal services, Seoul, September 18, 2019.

VII. Applicable International Human Rights Law

South Korea faces significant gaps in fulfilling its international human rights obligations with regard to digital sex crimes. Companies also have international human rights responsibilities that many fail to meet with regard to digital sex crimes.

Right to Live Free from Gender-Based Violence

South Korea is a party to core international human rights treaties, including the Convention on the Elimination of Discrimination against Women (CEDAW), that protect the right to live free from gender-based violence, including in online and virtual spaces, and outline state obligations to fulfill that right.²⁹⁹ CEDAW and other treaties require South Korea to show due diligence in preventing violation of rights by private actors and to investigate and punish acts of violence.³⁰⁰ A state's consistent failure to do so when women are disproportionately impacted amounts to unequal and discriminatory treatment and a violation of its obligation to guarantee women equal protection of the law.³⁰¹

The CEDAW Committee, which monitors the implementation of CEDAW, articulated states' obligations in its General Recommendations Nos. 19 and 35, saying states are obligated to: prevent, and protect women and girls from, gender-based violence and provide an effective remedy for such violence, including by ensuring effective complaint and investigation mechanisms and the availability of proportionate criminal penalties and civil compensation.³⁰² General Recommendation No. 35 specifically references "contemporary forms of violence occurring in the Internet and digital spaces."³⁰³ The general

²⁹⁹ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981, ratified by South Korea on February 27, 2001. Resolution adopted by the General Assembly on 19 December 2016, A/RES/71/199; The promotion, protection and enjoyment of human rights on the Internet, July 18, 2016, A/HRC/RES/32/13.

³⁰⁰ CEDAW, art. 2(3); General Comment no. 35

³⁰¹ CEDAW, art. 15, and International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by South Korea on April 10, 1990, art. 26.

³⁰² CEDAW Committee, General Recommendation No. 19: Violence against Women (1992), para. 24, U.N. Doc.

HRI/GEN/1/Rev.1 (July 29, 1994), pp. 84-85; CEDAW Committee, General Recommendation No. 35 on Gender-Based Violence against Women, U.N. Doc. CEDAW/C/GC/35 (July 26, 2017), paras. 29-33.

³⁰³ *Ibid.*, para 20.

recommendations also outline steps states should take, including incorporating gender equality into school curricula at all ages, providing comprehensive sexuality education, and ensuring meaningful access to justice including through legal aid,³⁰⁴ gender-sensitive court procedures,³⁰⁵ and systemic disaggregated data collection.³⁰⁶

In 2018, in its concluding observations on South Korea, the CEDAW Committee highlighted the rise of online gender-based violence, including digital sex crimes, as a significant concern, recommending that the government strengthen preventive measures, including considering imposing financial penalties on internet platforms and distributors that fail to delete abusive images, and swiftly ensure that the Korea Communications Standards Commission delete and block such criminal content, including upon the request of victims. The CEDAW Committee also recommended the Ministry of Education revise guidelines to “[eliminate] discriminatory stereotypes and [provide] information on sexual and reproductive health and rights in an age-appropriate, evidence-based and scientifically accurate manner.”³⁰⁷ While the South Korean government has taken steps towards fulfilling its obligations, many gaps highlighted by the CEDAW Committee remain. There has been little progress on prevention or effective access to civil compensation, and there are significant obstacles to accountability for digital sex crimes.

Right to Non-Discrimination

By failing to fulfill its obligation to ensure women and girls can live free from gender-based violence, the South Korean government is preventing women and girls from enjoying their human rights fully, including the right to non-discrimination. The UN special rapporteur on violence against women has written that “[w]omen’s access to [information communications technology] is... necessary for the fulfilment of other basic human rights, such as the rights to participate in political decision-making and to non-discrimination.”³⁰⁸

³⁰⁴ Ibid., para. 40(c).

³⁰⁵ Ibid., para. 40(a).

³⁰⁶ Ibid., para. 49.

³⁰⁷ UN Committee on the Elimination of Discrimination against Women, Concluding observations on the eighth periodic report of the Republic of Korea, CEDAW/C/KOR/8, February 22, 2018, paras. 22(d), 23(d), para. 37, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhgIff%2fiaZrVw%2bcyfdY9GxZ7mBisKJhkzo8NDJG2gRkXizWkcs2fNL8aB%2fcGTqY2FJ1LoX9524rsYS5kzCgNbbmcWzknBiv5YPR2BmHwHszK> (accessed February 24, 2021).

³⁰⁸ Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective, para. 53.

The special rapporteur has also highlighted the economic harm resulting from online image-based abuses:

Economic harm can be done when the explicit image of a victim of cyberabuse covers several pages of search engine results, making it difficult for the victim to find employment, or even preventing the victim from even attempting to find employment because of the shame and fear of potential employers discovering the images.³⁰⁹

Right to Privacy

Interrelated with the right to live free from online gender-based violence is the right to privacy. The International Covenant on Civil and Political Rights describes the right to privacy as a person's right to live free from "arbitrary or unlawful interference with his or her privacy, family, home or correspondence."³¹⁰ Both the UN General Assembly and Human Rights Council have recognized the impact of violations of the right to privacy in the digital age for women, and emphasized the need for states to further develop preventive measures and access to remedies for violations of the right to privacy.³¹¹ In 2019, the UN special rapporteur on the right to privacy identified deletion support as critical to the recovery of victims.³¹² While there is the DSCVSC in Seoul, its services are not adequately publicized or accessible to survivors across the country.

Moreover, the right to privacy extends to the justice process. In General Recommendation No. 33, the CEDAW Committee outlines states parties' obligations, which include guaranteeing that, where necessary to protect women's privacy, safety, and rights, there

³⁰⁹ Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective, A/HRC/38/47, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/184/58/PDF/G1818458.pdf?OpenElement>, para. 27.

³¹⁰ [International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by South Korea on April 10, 1990, art. 17.]. The right to privacy is also recognized under the Universal Declaration of Human Rights. See Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), art. 17.

³¹¹ UN General Assembly, Resolution adopted by the General Assembly on 19 December 2016, A/RES/71/199, January 25, 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/455/32/PDF/N1645532.pdf?OpenElement> (accessed February 24, 2021).

³¹² UN Special Rapporteur on the Right to Privacy, Prof. Joseph Cannataci, Visit the Republic of Korea, July 15-26, 2019, para. 44, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24860&LangID=E> (accessed February 24, 2021).

are measures—in a manner consistent with due process and fair proceedings—to hold legal proceedings in private in whole or in part, regulate who has access to testimony and evidence, permitting the use of pseudonyms, and otherwise protect women’s identities.³¹³

Right to Freedom of Expression

The right to freedom of expression, which is protected under international human rights law, intersects with digital sex crimes in multiple ways.³¹⁴ In a joint statement, the UN special rapporteurs on the promotion of freedom of expression and on violence against women underscored how online gender-based violence negatively impacts women’s right to freedom of expression.³¹⁵ By allowing the internet to remain a hostile place for women, state inaction and inefficacy pushes women offline, directly affecting their ability to express themselves freely online and to participate in digital spaces. Given this impact, the UN Special Rapporteur on Violence against Women has stated it is essential that online gender-based violence “be addressed through legislative and any other measures necessary to combat and prevent such violence.”³¹⁶

At the same time, while restricting speech may be a legitimate measure to safeguard the rights of others, such measures should be consistent with the right to freedom of expression, and respect “principles of necessity and proportionality.”³¹⁷ The South Korean

³¹³ Committee on the Elimination of Discrimination against Women, General recommendation on women’s access to justice, CEDAW/C/GC/33, July 23, 2015, para. 18(f), https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_33_7767_E.pdf (accessed February 24, 2021).

³¹⁴ Universal Declaration of Human Rights (article 19), International Covenant on Civil and Political Rights (ICCPR) (article 19), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (article 5), Convention on the Elimination of All Forms of Discrimination against Women (article 7)

³¹⁵ “UN experts urge States and companies to address online gender-based abuse but warn against censorship,” OHCHR, March 8, 2017, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21317#:~:text=%E2%80%9CEnsuring%20an%20internet%20free%20from,is%20integral%20to%20women's%20empowerment.%E2%80%9D> (accessed February 24, 2021).

³¹⁶ Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective, A/HRC/38/47, para. 20.

³¹⁷ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, A/HRC/17/27, para. 24. See also “UN experts urge States and companies to address online gender-based abuse but warn against censorship,” OHCHR, March 8, 2017, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21317#:~:text=%E2%80%9CEnsuring%20an%20internet%20free%20from,is%20integral%20to%20women's%20empowerment.%E2%80%9D> (accessed February 24, 2021).

government’s approach to restricting internet content has been criticized for practices that violate the right to free speech.

Responsibility of Companies

The CEDAW Committee and special rapporteurs on the promotion of freedom of expression and violence against women have identified private companies—including internet platforms—as essential partners in eliminating online violence against women. Companies can play a key role in helping to fulfill state obligations to provide victims and survivors transparent and fast responses and effective remedies, such as content deletion in a timely manner.³¹⁸

The UN Guiding Principles on Business and Human Rights state that businesses have a responsibility to “seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.”³¹⁹ In the case of digital sex crimes, this means internet platforms need to help prevent online spaces from becoming hostile for women. While some platforms have been cooperative with content deletion requests, many requests are ignored or rejected, which runs contrary to survivors’ rights to privacy and an effective remedy.

³¹⁸ Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective, A/HRC/38/47, para. 52.

³¹⁹ UN Guiding Principles on Business and Human Rights.

Recommendations

To the Government of South Korea

- Establish a commission to examine the appropriateness of current sentences and remedies for digital sex crimes, with a specific time frame and power to make public findings and recommendations on issues including the following: a) adequacy of the current criminal and civil legal frameworks; and b) adequacy of how current legal frameworks are being applied in cases of digital sex crimes, with specific reference to whether criminal penalties are proportionate to the harm experienced by victims and whether civil remedies are sufficiently available and accessible to victims. The commission should include survivors of digital sex crimes and their advocates, as well as experts on free speech and on the rights of criminal defendants.
- Collect and publish in a user-friendly format detailed gender-disaggregated data on crimes including digital sex crimes, including recording the following by category of crime: number of cases reported to the police, referred to prosecutors, and sent to trial, number of convictions, and breakdown of sentences.
- Develop and fully implement an updated and comprehensive national action plan for reducing the prevalence and impact of digital sex crimes and require all relevant government institutions to make implementing the plan a priority.
- Provide sufficient funding to support services for all survivors of digital sex crimes, including help having images removed, legal assistance, and psychosocial support.
- Support legislative reforms and service provision to help survivors of digital sex crimes access civil remedies, including injunctive relief and damages, hold perpetrators accountable, and ensure effective and simple processes are in place to promptly and clearly communicate with platforms about requests to remove illegal content.
- Reduce gender inequity in society by taking urgent steps to increase women's participation in the legal and law enforcement sectors, political representation, public life, and the private sector especially at higher levels, end the gender pay gap, increase equity in care giving, reduce violence and harassment against women, and act to end sexist attitudes.

To the National Assembly

Develop and pass legislation to:

- Expand access to civil remedies for survivors of digital sex crimes by permitting survivors to pursue civil remedies, including the following:
 - injunctive relief to compel a person in possession of non-consensual intimate images to delete and refrain from distributing them
 - injunctive relief to compel an internet platform to remove and permanently block specific non-consensual intimate images;
 - specific provision of an order compelling a perpetrator to pay profits gained from a digital sex crime to the victim of that crime;
 - permitting civil suit for damages from a perpetrator to compensate a survivor for harm experienced and including provisions providing guidance to judges on damages amounts proportionate, or parameters for how they should determine and fix damages amounts in a manner proportionate, to the gravity of the conduct and harm; and
 - permitting civil suit requiring a perpetrator to pay for services needed by the survivor due to the perpetrator's actions, including removal of materials from the internet or detection of spycams.
- Pass legislation that would:
 - withhold the names of victims of sex crimes, and any other identifying information about them, from all publicly available court documents, including any final judgment made public;
 - permit a civil litigant, on application to the court showing good cause, to proceed with litigation as a plaintiff without having her or his personal information (name, address, etc) disclosed to the defendant in the proceeding, while also ensuring that the plaintiff is reasonably available, with her attorney present, for any pretrial deposition or similar questioning; and
 - allow courts to make other orders to protect plaintiffs' identity and privacy, including sanctions for violations of these orders.
- Increase access to services for survivors of digital sex crimes, including legal services that will help survivors be able to pursue civil remedies and the availability of skilled and gender-sensitive counseling services.

- Expand programs providing compensation to crime victims to make this assistance available to survivors of digital sex crimes.
- Ensure the DSCVSC has the resources to adequately fulfill its mandate, including hiring staff on long term contracts, expanding to additional locations to meet the needs of survivors across the country, and doing regular and widespread outreach.
- Require comprehensive and rights-respecting education on sexuality and digital citizenship in all schools and workplaces.
- Remove criminal defamation from the Criminal Act.
- Strengthen measures to prohibit perpetrators or their representatives from intimidating or pressuring victims to seek withdrawal of criminal charges.
- Commission a study on the impact of the prohibition of pornography, examining the extent to which the current legal framework achieves legitimate government goals and what unintended consequences it has, including blurring the lines between pornography and digital sex crimes.

To the Ministry of Gender Equality and Families

- Collect and publish detailed data on the number of people assisted by the DSCVSC, including gender and age of the survivors, type of abuse experienced, services requested, and services provided, while protecting their privacy.
- Support NGOs that assist survivors of digital sex crimes and work to prevent digital sex crimes.
- Improve the capacity of hotlines assisting crime victims to handle cases of gender-based violence with sensitivity and advocate for victims.
- Urge and assist other government institutions to undertake reforms to prevent and respond to digital sex crimes, including reforming or replacing the current sexuality education manual, providing comprehensive education on sexuality and digital citizenship, expanding access to civil remedies and damages for survivors of digital sex crimes, reforming police responses to digital sex crimes, and expanding the presence of women in law enforcement bodies and the judiciary.
- Encourage media outlets to avoid perpetuating sexist attitudes and promote greater gender sensitivity in media coverage.

To the Ministry of Education

- In collaboration with the Ministry of Gender Equality and Families and Ministry of Health and Welfare, reform curricula for, and delivery of, sexuality education to:
 - remove gender stereotypes, and ensure that the curriculum includes information about the rights and circumstances of LGBT people; and
 - include teaching about consent, gender equity, gender-based violence, healthy relationships, and digital citizenship, including digital sex crimes.
- Require and assist educational institutions, at all levels, to develop policies for handling situations involving digital sex crimes, including raising awareness, providing assistance to students or staff members who have been personally affected by digital sex crimes, and responding appropriately when digital sex crimes occur within their institutions.

To the National Police Agency, Supreme Prosecutor's Office, and Supreme Court

- Strengthen policies ensuring respectful and responsive treatment of survivors of crimes, particularly of gender-based violence, and hold accountable officials who violate these policies.
- Train all staff, up to the most senior levels, about gender-based violence, including digital sex crimes.
- Provide effective complaint mechanisms for people who believe they have been mistreated to make complaints and hold accountable officials who have acted inappropriately.
- Increase the number of women in all roles within these institutions, including in senior roles and within units that specialize in handling digital sex crimes.
- Strengthen mechanisms to ensure that female employees do not face harassment and discrimination, and that effective remedies are available to women who face these abuses.
- Ensure that clear evidence collection procedures and secure archival systems are in place to promptly and sensitively collect evidence. Treat all evidence including images related to digital sex crimes respectfully and confidentially, with access limited to those with a legitimate need to see the evidence. Hold accountable any staff member who violates these procedures.

To the National Police Agency and the Supreme Prosecutor's Office

- Ensure vigorous and effective investigations and prosecutions of all digital sex crimes cases.
- Train police and prosecutors on the impact of digital sex crimes on victims, to assist them in appropriately weighing the severity of these crimes.
- Ensure that female police officers and prosecutors who are experts in digital sex crimes are available immediately to be the point of contact with all women and girls seeking help in response to a digital sex crime.
- Provide incentives to ensure that all police officers and prosecutors assigned to work on digital sex crimes have chosen this role.
- Ensure that procedures are in place to require police and prosecution offices communicate regularly, in a sensitive manner and through a designated liaison, with crime victims including survivors of digital sex crimes, to keep them apprised of progress on their case, including all upcoming court dates, and their options for engaging with the process.
- Establish procedures for investigating digital sex crimes cases that minimize the demands placed on survivors during the investigation process and have police take the lead on gathering evidence, to avoid retraumatization of survivors.
- Ensure that all victims in digital sex crimes cases are connected with services through the DSCVSC and, if appropriate, additional services.

To the Supreme Prosecutor's Office

- Ensure that all prosecutors carry out their functions impartially and avoid all forms of discrimination including gender discrimination.
- Consider the views and concerns of victims when their personal interests are affected and ensure that victims are informed of their rights.
- Keep matters in their possession confidential, unless the performance of duty or the needs of justice require otherwise.
- Provide support to survivors of digital sex crimes including in attending court dates and preparing statements to the court.
- Improve protections for survivors including ensuring that they do not face intimidation from defendants, and that they are fully aware of and can utilize options to appear in court without having contact with the defendant.

To the National Police Agency

- Train all police in gender sensitivity and retraumatization and hold accountable police who mistreat members of the public, including those reporting gender-based violence.
- Provide clear guidelines on how digital sex crimes should be handled, from the initial contact with a victim or witness. Ensure that police have incentives to accept complex digital sex crimes cases and hold accountable any officer who turns away a complaint regarding a digital sex crime without good cause.
- Set clear standards for respectful conduct by police toward members of the public, including an obligation to accept cases and appropriate conduct during interrogations.
- Ensure that all police stations have a private space for interviewing people reporting crimes, and that all interviews regarding digital sex crimes are conducted in these spaces.
- Provide support during digital sex crimes investigations—including referring all complainants to lawyers and explaining the process, including the definitions of digital sex crimes and of sexual violence.

To the Supreme Court

- Increase the number of female judges in all roles.
- Train all judges on gender equity, gender sensitivity, and the impact of gender-based violence with specific reference to how they should view victim impact and apply the sentencing guidelines in digital sex crimes cases.

To Social Media Internet Platforms

- Comply promptly with all lawful requests for preservation and disclosure of evidence in cases of alleged digital sex crimes.
- Regularly publish data on the number of takedown requests received and their responses, disaggregated to show how many cases involve complaints of non-consensual sharing of intimate images and the genders of the people making the requests.
- Strengthen procedures for people to seek removal and blocking of non-consensual intimate images through steps including:

- prohibit the posting of non-consensual intimate images;
- permit users to request removal of multiple images in a single request;
- respond to all removal requests explaining the decision;
- provide an option for people to appeal the decision, including review by a person or panel of persons that was not involved in the initial decision, with whom they can be in contact;
- block images from being reposted once they have been removed; and
- take action, in line with terms of service, against users who post non-consensual intimate images.

To the United Nations and the Organisation for Economic Co-operation and Development

- Monitor South Korea's progress in addressing digital sex crimes and urge and assist the South Korean government to implement the recommendations above.
- Urge all UN member states and the private sector to do more to prevent and end forms of gender-based violence involving technology, using best practices from South Korea where appropriate.

Acknowledgments

This report was written and researched primarily by Heather Barr, interim co-director of women's rights. Lina Yoon, senior researcher on Asia, contributed to the research and Erika Nguyen, senior women's rights coordinator, contributed to the research and drafted several sections of the report. It was edited by Tom Porteous, deputy program director, and Amanda Klasing, interim co-director of women's rights. Specialist review was provided by: Deborah Brown, senior researcher and advocate on business and human rights; Hye Jung Han, researcher and advocate on children's rights and technology; Judy Kwon, Seoul city director; Samer Muscati, associate director of disability rights; John Raphling, senior researcher, US program; Ryan Thoreson, researcher on LGBT rights; and Lina Yoon. Legal review was by Maria McFarland Sanchez-Moreno, senior legal advisor.

Hae Ju Kang and Sookyoung Lee worked as consultants on this project and made important contributions. Jinouk Chung provided speedy and excellent translation. Judy Kwon and Seung Kyung Noh provided invaluable assistance from Human Rights Watch's Seoul office. Susanné Bergsten helped with sources and managed the production process.

The law firm of Bae, Kim & Lee LLC (BKL) provided invaluable pro bono legal research assistance and review of the report. We are very grateful to Hyunjung Lee, Juho Yoon, Myungeun Oh, Haein Jeung, Jaemin Kim, and Jiwoon Kim of BKL for this assistance, and to Sihyun Song and Takgon Lee of the Dongcheon Foundation for facilitating this support.

We are very grateful to everyone we interviewed for this report, especially the service providers and activists in South Korea who are pouring their heart and soul into the endlessly changing fight against digital sex crimes. Our greatest gratitude is to the survivors of digital sex crimes who shared their stories with us, in person or through the survey. We wish them justice, safety, and healing.

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Annex



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June 2, 2021

President's Office
Seoul, South Korea

Moon Jae-in
President of the Republic of Korea

*by email—to president@president.go.kr

Dear Madam or Sir:

I am writing to you regarding an issue I know is of great concern to your government—the prevalence and impact of digital sex crimes in South Korea.

Human Rights Watch is an international non-governmental organization, with headquarters in New York, USA, that works in about 100 countries documenting human rights violations and advocating for an end to those violations. We have conducted research on digital sex crimes in South Korea and we will issue a report on this topic in the coming weeks.

Our report finds that digital sex crimes are a major problem, affecting the lives of a large proportion of women and girls in South Korea. These crimes have a devastating impact on victims, and because these crimes are so prevalent, they have a harmful impact even on women who do not know whether they have been the victim of a digital sex crime, making them feel less safe and less able to participate in public life.

We are aware of the steps your government has taken to try to address the problem of digital sex crimes, and we make note of some important reforms, including the reform of the law and the establishment of the Digital Sex Crime Victim Support Center. These are important reforms, and we believe the Digital Sex Crime Victim Support Center is a valuable model that should be replicated in other countries.

We also note in our report, however, ways in which we believe the government’s response has fallen short of what is needed to address the very serious problem of digital sex crimes. We are particularly concerned about the lack of efforts to prevent these crimes by promoting gender equity, awareness about healthy relationships and consent, and digital citizenship, for children and adults. We note remaining gaps in access to services for survivors of digital sex crimes, the frequency with which victims encounter abusive and unhelpful responses by police, the frequency with which prosecutors appear to drop digital sex crimes cases, and other failures by the criminal legal system to support survivors and hold perpetrators accountable in a manner proportionate to the harm they have inflicted. We also believe that civil remedies—such as making it easy for a victim to sue a perpetrator—are an important measure in response to digital sex crimes, and such remedies are, on a practical level, not sufficiently available in the South Korean legal system.

We have requested meetings with and data from your government during the course of this research. Some of these requests have been granted; many have not. At this time, we would like to request the following information:

- Data on digital sex crimes for each year during the period from 2010 through 2020, including the following: number of cases referred by police to prosecutors; number of cases where prosecutors filed charges; number of cases that went to trial; number of convictions; breakdown of sentences imposed after conviction.
- Funding allocated, by year, for the Digital Sex Crime Victim Support Center, from its founding through the present.
- Timeline and other details regarding the government’s plan to reform the curriculum and teaching of sexuality education in schools.

We would also be eager to hear any response to the concerns we have raised above or more generally on the issue of digital sex crimes. To ensure that we can take the government’s response into account as we finalize the report, we would request a response before June 7, 2021.

Thank you very much for your kind attention.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Barr', written over a horizontal line.

Heather Barr
Interim Co-Director of Women’s Rights
Human Rights Watch

Cc:

Chair of the National Assembly

Ministry of Gender Equality and Families

Ministry of Education

National Police Agency

Supreme Prosecutor's Office

Supreme Court



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“My Life is Not Your Porn”

Digital Sex Crimes in South Korea

Digital sex crimes are having a devastating impact on women and girls in South Korea. These crimes are acts of online and tech-enabled gender-based violence involving digital images—almost always of women and girls—that are captured non-consensually, captured with consent but shared non-consensually, or manipulated or faked.

In 2008, less than 4 percent of sex crimes prosecutions in South Korea involved illegal capturing of images; by 2017 the number of these cases had increased eleven-fold, and they constituted 20 percent of sex crimes prosecutions. Much of the public attention to digital sex crimes was initially driven by use of tiny cameras (“spycams”) to covertly record footage in places like toilets, changing rooms, and hotels, with perpetrators sometimes earning money by selling the footage.

Survivors of digital sex crimes face major barriers to justice. Police often refuse to accept their complaints and behave in abusive ways toward them. In 2019, prosecutors dropped 43.5 percent of sexual digital crimes cases, compared to 27.7 percent of homicide cases and 19 percent of robbery cases. Judges often impose low sentences—in 2020, 79 percent of those convicted of capturing intimate images without consent received a suspended sentence, a fine, or a combination of the two. The problems survivors face in the justice system are exacerbated by a lack of women police, prosecutors, and judges. Civil remedies such as a court order forcing a perpetrator to delete images or pay money to a victim are not easily available to survivors. South Korea’s government has taken some important steps to reform the law and provide services. But these measures are still inadequate, in part because they have failed to grapple with deep gender inequity that fuels digital sex crimes.

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