



Civil legislation on the non-consensual distribution of intimate images

The non-consensual distribution of intimate images (NCDII) is a form of sexual and gender-based violence that disproportionately affects women, girls, and 2SLGBTQIA+ individuals. Those who are violated by NCDII may experience distress and trauma (including humiliation, fear, and isolation), reputational harm, and financial repercussions (including loss of employment and costs associated with paying to have images located and taken down). The threat of NCDII may be used to prevent a person from leaving a violent relationship (e.g. an abuser may threaten to release images of their partner if they attempt to leave) or to coerce them in other respects. NCDII may lead or contribute to additional violence in the form of stalking and harassment.

Part of the harm of NCDII is the reach of the violation. Images are rarely only shared once by a single person; rather, they are often found and re-shared by others who may or may not know the victim. They are also shared via internet intermediaries (organizations that host or index third party content through online platforms). Some of these intermediaries are specifically focused amplifying NCDII (e.g. so-called “revenge porn” websites) and may have business models based on extracting payment from victims (or their friends and families) in order to have the images removed.

On a societal scale, NCDII upholds stigma and shame around sexuality (particularly the sexuality of women and 2SLGBTQIA+ individuals of all genders) and normalizes sexual and gender-based violence. It also contributes to the marginalization and underrepresentation of women in public life. Women who are outspoken and influential in public-facing roles are frequently subjected to intimidation, harassment, and abuse that may include NCDII. Women may minimize their public profile out of fear of NCDII, or to avoid having past experiences of NCDII made public, because they know that in such situations they are likely to receive little public support and instead face shaming and blaming. When sexual and gender-based violence limit women’s participation in public life, everyone suffers that loss as our institutions are deprived of important perspectives and ideas to inform decision-making.

Establishing civil legislation in New Brunswick

Laws addressing NCDII not only provide support to victims in the form of legal relief and remedy, but also affirm that NCDII is unacceptable and harmful. Denouncing NCDII through laws is part of the necessary work to address, reduce, prevent, and ultimately eliminate NCDII. It is an important step in the campaign to end all forms of sexual and gender-based violence.

NCDII is covered by Canada's *Criminal Code*, but there is value in ensuring that victims also have the option of civil recourse as well. Civil actions have a lower burden of proof than criminal prosecutions and allow greater control over the litigation process for victims as plaintiffs. This is particularly meaningful for victims of sexual violence given the ways that the criminal legal system has [consistently failed](#) or disempowered survivors who come forward.

Existing civil laws (such as those dealing with defamation, breach of confidence, and copyright) may be viable paths for victims of NCDII to pursue lawsuits; however, these routes can be both lengthy and costly, may require proof of damages, and may not provide recourse for the threat of NCDII. There are therefore several advantages to creating civil legislation that deals explicitly with NCDII (beyond the public denunciation that it makes).

Critically, a law that is tailored to address NCDII can provide what many victims want most: relatively quick and efficient removal of images from the internet. A NCDII-specific civil law can ensure that the victim, as plaintiff, need only prove that an intimate image has been distributed by a defendant in order to obtain a court order for its removal, de-indexing, or destruction. Such legislation can also address threats to distribute intimate images by issuing court orders prohibiting distribution of or requiring the destruction of the image(s).

Concrete support for victims

Litigation will not be a viable path forward for many victims due to the cost of initiating an action, lack of familiarity with the civil system, and distrust of any legal system's ability to effectively and equitably address gender-based violence and sexual violence in particular.

To increase the accessibility of this avenue for relief, government must put in place concrete supports for potential and actual complainants. Government must fund the [Public Legal Education and Information Service of New Brunswick](#) to create resources on the law with the goal of increasing the likelihood that people are aware of this legislation and how to initiate action under it. We also strongly encourage government to develop a program that will provide free legal aid to individuals pursuing civil action under this legislation (other jurisdictions can provide models of successful independent legal advice and representation programs for survivors of sexual violence). These supports will be critical to ensure that the most vulnerable and marginalized victims have equitable access to this path to relief.

Support for the framework for action on sexual violence

Implementation of a law on NCDII must be situated within broader work on sexual violence in New Brunswick. Government must increase funding for [Preventing and Responding to Sexual Violence in New Brunswick: A Framework for Action](#). Funding the framework will help close service gaps for survivors of sexual violence and provide better support for community organizations addressing this issue. These organizations are facing increasing demands on their services, often without accompanying increases in resources.

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