



RESEARCH ARTICLE

From Trauma to Recovery: How Victim-Centered Approaches Can Combat Deepfake Pornography

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ARTICLE INFO	ABSTRACT
Received: Sep 17, 2024 Accepted: Nov 8, 2024	In an era of rapid technological advancements, Industry 4.0 and artificial intelligence (AI) have brought transformative impacts to various aspects of life, including the emergence of electronic-based sexual violence. The proliferation of deepfake technology enables the creation of non-consensual intimate material, raising concerns over personal privacy and dignity. Victims of such electronic sexual crimes, often innocent, face severe psychological trauma and societal exclusion. To address this, the "Right to Be Forgotten" (RtBF) principle, originally established in the European Union's General Data Protection Regulation (GDPR), allows individuals to request the removal of personal data from online platforms. In Indonesia, this right is recognized under the Electronic Information and Transactions Law and the Sexual Violence Law. However, challenges remain in implementing RtBF effectively due to regulatory ambiguities and lack of clear procedural guidelines. This study advocates for a victim-centered approach that prioritizes victims' well-being and recovery, emphasizing the need for clear policies to protect individuals from the adverse effects of deepfake pornography and electronic sexual violence.
Keywords	
Artificial Intelligence	
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1. INTRODUCTION

In the contemporary era of unparalleled technological progress, technology has become integral to human existence (Poljak & Cvetkovic, 2019; Rapp, 2012). In light of the Fourth Industrial Revolution, also known as Industry 4.0, the world has gained the ability to produce nearly anything due to its vast technical progress (Culot et al., 2020; Santhi & Muthuswamy, 2023). Artificial Intelligence (AI) is one of the critical technologies facilitating this progression (Alenizi et al., 2023; Lazzeretti et al., 2023). The exponential advancement of technology in terms of artificial intelligence complexity has thrust humanity into a period of technological upheaval (Benedikter, 2023). Disruption, in the context of online-based digital technology, is defined by swift, extensive, profound, systematic, and markedly distinct changes compared to the preceding paradigm. One consequence of technological disruption is the occurrence of electronic-based violence, namely electronic-based sexual violence (Marganski & Melander, 2021; Zaltina & Nurtjahyo, 2024). This encompasses the distribution of non-consensual intimate material or non-consensual intimate images of violence, more often referred to as revenge porn and sextortion. Cybersexual violence, in a broad sense, can impact individuals of all genders. However, when examined through a gender lens, women are seen as more susceptible to becoming victims, as evidenced by the fact that 71% of incidents involve female victims (Violin & Nafi, 2022).

Historically, non-consensual intimate image violence was carried out by using traditional methods, specifically by disseminating content that was initially genuine documents (Sparks et al., 2023). Thus,

historically, the prevention of revenge porn and sextortion was far more feasible (Šepec, 2019; Yar & Drew, 2021). Nevertheless, the prevalence of AI, readily available to a considerable number of individuals, has heightened the alarming nature of electronic sexual crimes beyond our initial expectations. This is because it is no longer necessary to have access to the victim's personal information; instead, a mere photograph of their face can suffice to convert it into explicit material using deepfake technology, now known as deepfake pornography (de Ruiter, 2021; Vaccari & Chadwick, 2020).

The rising prevalence of sexual violence, particularly in cases of electronic-based sexual violence, such as non-consensual intimate image violence, indicates the necessity for legal safeguards to protect society from such abuse (Paradiso et al., 2024; Said & McNealey, 2023). The concept of non-consensual intimate image violence is intricately linked to digital traces that pose a significant risk to the dignity and reputation of victims (Brighi et al., 2023; Sparks et al., 2023). Hence, the government should ensure the realization of the right to be forgotten (RtBF) for those who have experienced electronic-based sexual violence. RtBF was initially introduced as a fundamental entitlement in the European Union (Razmetaeva, 2020; Rigotti & McGlynn, 2022). This entitlement grants individuals the ability to delete their data from the internet, mainly through the General Data Protection Regulation 2016/679 (Krzysztofek, 2018). Although the General Data Protection Regulation exclusively applies to the European Union, other countries, including Indonesia, have embraced its principles. Within the framework of electronic-based sexual violence, the RtBF is already addressed in Article 70, Paragraph (2) letter l of Law No. 12 of 2022 on Sexual Violence Crimes (the Law on Sexual Violence Crimes). This provision ensures that victims of electronic-based sexual violence are entitled to the right to remove sexually explicit material both before and during the legal proceedings. This right implicitly embodies the expression of RtBF (Zaltina & Nurtjahyo, 2024).

While legally mandated, implementing the RtBF encounters numerous challenges due to various circumstances at both the governmental and societal levels. This research aims to address the author's concerns regarding the alarming and harmful nature of deepfake pornography, as well as the lack of specific laws governing the use of AI. The goal is to provide valuable insights for future research and government policy development, particularly in implementing the RtBF for victims of deepfake pornography.

2. RESULTS AND DISCUSSION

The High Commissioner announced the policy on a "Victim-Centered Approach" in December 2020. This policy relates to the response of the United Nations High Commissioner for Refugees (UNHCR) to violence against women and girls. When it comes to responding to sexual misconduct, this policy emphasizes safeguarding the safety, rights, and well-being of victims and survivors while addressing their expressed needs and preferences (Durojaye et al., 2023).

According to the UNHCR website, the victim-centered approach is a method of engaging with victims that emphasizes listening, seeks to avoid retraumatization, and systematically focuses on victims' safety, rights, well-being, expressed needs, and choices. In addition to ensuring that services are provided in a compassionate and nonjudgmental manner, the objective is to give victims as much control as possible. Within the framework of the victim-centered approach, the rights and dignity of victims, as well as their well-being and safety, are prioritized. Regardless of the affiliation of the person accused of committing sexual exploitation and abuse, every effort is made to prevent and address issues related to these types of crimes.

According to Benjamin Mendelsohn (1976), there are six different types of victim: a completely innocent victim, a victim who has minor guilt, a victim who is equally guilty as the offender, a victim who is more guilty than the offender, a victim who is the only party at fault or who dies as a result of their actions; and an imaginary victim, which occurs in situations where someone claims to be a victim but has not been harmed or lost anything.

Based on the classification presented above, it is possible to conclude that victims of deepfake pornography belong to the first category, which consists of individuals who are entirely innocent. Considering that the pornographic information shared is not genuine documentation but rather a distorted result of deepfake technology, this holds true because the victims were not involved in the

case. Furthermore, this occurrence highlights that victims of deepfake pornography are entitled to special attention and that their rights must be safeguarded.

This approach was established to gain a better understanding of the victims' positions on sexual violence, such as those affected by deepfake pornography, as discussed earlier. Most individuals, when confronted with instances of sexual violence, are overly focused on chasing the perpetrator, ignoring the fact that the victim is the one who requires more care. The destruction of a person's good name and dignity due to something that is not their fault occurs when they become victims of deepfake pornography. This violence significantly impacts the victim's psychological state. The needs of the victim should be the top priority, and this should be done without diminishing the importance of appropriate punishment for the offender.

Post-traumatic stress disorder (PTSD) is one of the psychological effects that victims of sexual assault, such as deepfake pornography, experience. According to the Miao et al. (2018), PTSD is a common psychiatric disorder that can result after an individual experiences a traumatic event. PTSD has a broad clinical presentation but is characterized by symptoms that impair cognition, mood, somatic experiences, and behavior. PTSD can cause chronic impairments, lead to comorbid psychiatric illnesses, and increase the risk of suicide.

Whenever a victim is confronted with the debasement of their dignity, mainly when it is based on slander, the desire to restore their good reputation is naturally the most crucial thing the victim wants to do. In the case of deepfake pornography, the right to erasure, also known as the RtBF, should ideally be among the rights that the victim can easily access. If we place excessive emphasis on dealing with the offender, we must ensure that the victim's primary rights are adequately protected.

If the victim's bogus pornographic content continues to be shared on the internet, the victim will continue to experience worsening effects and consequences from the situation. In addition, the victim's healing process will be impacted by their experiences of being bullied and excluded from society. Therefore, while dealing with incidents of sexual violence, particularly deepfake pornography, it is essential to take the victim's perspective and prioritize their wishes. At the very least, it is possible to assist the victim in recovering and eventually returning to live their life under ideal conditions, provided that their digital trace is removed from the internet.

The RtBF is a legal principle that enables individuals to effectively seek to remove personal information about past events from public availability on the internet (Vrabec, 2021). This right was initially introduced as a fundamental entitlement within the European Union, allowing individuals to delete their data from internet sites. The inception of the RtBF may be attributed to the significant legal case concerning Google Spain SL, Google Inc. v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González in 2014. González initiated legal proceedings to invalidate a story published by La Vanguardia, a Spanish newspaper, and formally demanded that Google Spain and Google Inc. eliminate any hyperlinks to this article from their search results. González contended that the material had become irrelevant since the matter had been resolved (Frantziou, 2014).

The European Court of Justice ultimately found in favor of González, thus defining fundamental precepts for the RtBF. If processing an individual's data by search engines infringes on their fundamental rights, the court rules that the search engines cannot justify processing the data based on legitimate interests, such as profit. Individuals are entitled to demand the deletion of connections to third-party websites that include personal information if the information is found to be incorrect, insufficient, no longer pertinent, or excessive. Nevertheless, this entitlement is not without limitations; if the material is considered essential for the public benefit, such as in situations involving prominent individuals, the search engine has the authority to retain the material.

This case established a significant legal principle as it was the initial instance where the RtBF was examined and implemented practically. Despite its existence for more than four decades, the notion was officially integrated into European law on April 27, 2016, with the enactment of Regulation 2016/679, commonly referred to as the General Data Protection Regulation. Following a two-year transition period, the General Data Protection Regulation became effective on May 25, 2018. A key objective of the General Data Protection Regulation is to safeguard individuals' essential rights to their personal data in the digital age and encourage conscientious and open data utilization. Article

6 of the General Data Protection Regulation delineates specific legal foundations for processing personal data, including “Consent.” Personal data processing is typically forbidden unless permitted by law or with the data subject’s explicit consent.

The right to erasure, or RtBF, refers to an individual’s entitlement to request the deletion of their data in situations where it is processed and disseminated on the internet without their proper consent. According to Article 17 of the General Data Protection Regulation, individuals who are data subjects are entitled to request the immediate removal of their personal data related to them. Conversely, data controllers are required to erase the data promptly under specific circumstances. These criteria include the data becoming unnecessary for its original purpose, the revocation of consent, illegal processing, and the need to adhere to legal obligations.

The RtBF was initially implemented under Article 26 of Indonesia’s Electronic Information and Transactions Law. While not expressly disclosed, the article acknowledges that any electronic information about personal data must be used with the explicit permission of the subject in question. If an individual’s rights are infringed, they can initiate legal proceedings to seek compensation. Electronic system operators are then obligated to remove all pertinent material within their jurisdiction upon receiving a court order.

Nevertheless, the rule exhibits ambiguity, requiring precise instructions for implementing the RtBF. Government Regulation No. 71 of 2019, intended to provide specific rules for executing the RtBF under the Electronic Information and Transactions Law, also needs clear guidance. The rule mandates that operators of electronic systems must promptly remove electronic information or documents under their authority upon request. However, a precise definition of the scope of the right to erasure is needed.

The RtBF is recognized in both the Sexual Violence Law and the Personal Data Protection Law. Article 70 of the Law on Sexual Violence Crimes confers on victims of electronic-based sexual abuse the right to have sexually explicit material about them deleted; therefore, it indirectly embodies the RtBF. Article 8 of the Personal Data Protection Law grants data subjects the right to terminate the processing, erasure, and destruction of their data in compliance with legal provisions. However, the lack of legislative measures presents challenges in upholding these rights and ensuring adequate protection for victims in various areas.

3. CONCLUSION

The victim-centered approach, announced by the UN High Commissioner in 2020, seeks to address violence against women and girls by prioritizing victims’ rights and needs. This approach emphasizes listening to victims, avoiding retraumatization, and addressing victims’ safety, rights, and well-being. In cases like deepfake pornography, where victims are often completely innocent, their needs for dignity and psychological recovery are highlighted. The approach also stresses providing compassionate support, helping victims regain control, and addressing their psychological distress, such as PTSD. Instead of focusing solely on punishing perpetrators, the approach encourages prioritizing victims’ recovery and well-being, including ensuring that offensive digital content is removed to aid in their healing process.

The Right to Be Forgotten (RtBF) is a legal principle allowing individuals to request the deletion of personal data from the internet, stemming from the landmark 2014 case in the European Union involving Google. Recognized under the GDPR, this right enables individuals to demand data deletion when it infringes upon their rights or is no longer relevant. Indonesia’s regulations also incorporate the RtBF within the Electronic Information and Transactions Law, albeit with some ambiguity and need for precise guidelines. The Sexual Violence Law and Personal Data Protection Law in Indonesia recognize similar rights, granting victims of sexual violence the ability to have explicit material erased. However, effective protection for victims requires clearer legislative measures to ensure comprehensive enforcement of these rights.

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