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Towards a New Criminal Offence of Intimate Intrusions

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Abstract

This article suggests a new approach to tackling women's experiences of harm and abuse, particularly online, namely a criminal law of 'intimate intrusions'. It seeks to reinvigorate Betsy Stanko's (1985) concept of intimate intrusions, developing it particularly in the context of the ever-increasing prevalence of online abuse against women and girls, as well as establishing how this conceptualisation might manifest in law reform. Intimate intrusions, it is argued, provides a valuable umbrella concept that may better encompass both the range and nature of existing harms, as well as, crucially, the yet-to-be-imagined modes of abuse. Further, in suggesting a new criminal offence of intimate intrusions, this article challenges the common process of piecemeal criminal law reform, with each new manifestation of abuse resulting in a specific offence tackling that specific behaviour. While such an approach provides new redress options, it remains limited. Following an examination of recent reforms in Northern Ireland, where three distinct new criminal offences were adopted covering downblousing, upskirting and cyberflashing, this article suggests that the concept of 'intimate intrusions' provides a better foundation for a new criminal offence and outlines its potential nature and scope.

Keywords Intimate Intrusions · Image-based Sexual Abuse · Downblousing · Upskirting · Cyberflashing · Intimate Image Abuse · Technology-facilitated Sexual Violence · Online Abuse

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Introduction

It seems that the ways in which men perpetrate harassment and abuse against women know no bounds.[1] This is no more evident than online, where as fast as technology advances, new ways are found to intrude upon women's autonomy and privacy. Indeed, the desire to abuse drives technological innovation, with deepfake technology fast advancing and, despite its creative potential, 96% of all deepfakes are non-consensual pornographic images of women (Ajder et al. 2019). Similarly, millions of men are availing themselves of new apps which produce 'nudified' images of women from an ordinary, everyday photograph found anywhere on the internet, and the technology only works on images of women (Cole 2019). In the fast developing metaverse - the immersive, virtual-reality world where we will all likely be living much of our lives in the years to come (Ravenscraft 2022) – women are already experiencing harassment and abuse in new ways, with the violation often feeling especially acute and intense due to the embodied nature of the experience (Oppenheim 2022; Patel 2021). These developments follow fast on the heels of Airdrop and Bluetooth enabling men to expose images of their penis to women without their consent, and without the need to take to the streets, but to do it all from their own smart device (McGlynn and Johnson 2021). Long gone are the days when we were surprised by cameras in shoes to take upskirt photos, though we are only just getting to grips with the realisation of how much of that material is traded and shared online and on mainstream pornography websites (McGlynn and Vera-Gray 2018; Vera-Gray et al. 2021). Indeed, the scope of intrusive violations of privacy appears to be limitless, with images and videos of women in toilets being taken and shared at alarming levels (Taylor and Kim 2018).

Each time we find out about the new ways in which women are harassed and violated, whether offline or online, we search for ways to tackle such abuse and to offer redress to those who are experiencing these often life-shattering harms. In legal terms, this commonly means, first, trying to fit women's experiences into existing legal categories, usually with little success. The criminal law has not been created, amended, or interpreted with women's experiences at the fore.[2] Women's harms, and the ways we experience abuse, fall between the categories of criminal law and even where the acts fit within existing classifications, often the label defies our experiences. These realisations are then commonly followed by victim-survivors having to raise

[1] In this article, I examine the highly gendered experiences of harassment and abuse that are perpetrated predominantly by men against women, particularly upskirting, downblousing and cyberflashing (Henry et al. 2021; McGlynn 2023a; McGlynn and Johnson 2021). While it is the case that women can perpetrate these forms of abuse, and men can be victimised, particularly men from minority ethnic communities and men identifying as LGBTQI, I refer here to men and women to reflect the common realities of these behaviours. It is also vital to understand victimisation as an intersectional experience, with differently situated women experiencing violence and abuse in differing ways, as discussed further below.

[2] The law excludes and oppresses many marginalised communities, including women, as evidenced, for example, by scholarship on race and the law (Tuitt 2004; Williams 1991). The focus of this article is on women's historic exclusion from the law and the consequent impacts, particularly on criminal laws on intimate intrusions. For further discussion of the masculine and patriarchal nature of law, and historical exclusion of women from the realm of the criminal law, see (Naffine 2019; Dahl 1987; Graycar and Morgan 2002).

their voices and campaign for change. Then, in some cases, their voices are eventually heard, resulting in specific measures, often criminal laws, targeting their very specific experiences. Change has happened, some messages are sent about societal disapproval, and a somewhat wider range of options are offered to victim-survivors.

However, this patchwork and piecemeal approach to tackling women's experiences then continues. New ways of experiencing abuse and harassment arise, as the technology swiftly changes, and the perpetrator's determination to generate new harms continues.[3] This leaves women and girls with the continual burden of trying to name their harms and experiences, engaging in a seemingly never-ending process of 'naming praxis' (Walling-Wefelmeyer 2019).[4] At the same time, energy is required to challenge the often salacious and trivialising terminology adopted to describe their experiences, from the paradigmatically problematic term 'revenge porn' (McGlynn et al. 2017), to labels such as 'cum tributes' where men ejaculate onto images of women and share them on the internet, in anything but a 'tribute' to the women and girls (Defer 2022). And the battle then continues, with each new abuse requiring substantial effort to be recognised in public and then in law. An alternative to this law reform approach would be the introduction of a more general law which seeks to address the variety of harms women experience and which may therefore include the 'yet-to-be-imagined' forms of abuse we will experience as technology develops. Importantly, this might future-proof the law, obviating the need for victim-survivors to come forward, campaign and risk re-traumatisation, all in the name of seeking redress for other women.

The aim of this article is to advance such an option: a new criminal offence of 'intimate intrusions'. It does so by, first, putting forward a conceptualisation of 'intimate intrusions' which seeks to reinvigorate, re-establish and develop the landmark work of Betsy Stanko (1985) who argued that the variety of ways in which women experience harm and abuse can be understood as 'intimate intrusions'. I expand this understanding to encompass the range and extent of abuses now experienced online and through technological means, emphasising a phenomenological understanding of women's experiences by drawing on the work of Vera-Gray (2017a). I also expand on what we might understand as 'intimacy', particularly emphasising a broader understanding of the variety of ways in which harms can be experienced, being particularly attuned to ensuring an intersectional approach which recognises that what is considered abusive, harmful, or 'intimate' will always be culturally grounded and specific.

This is followed by an examination of the recent legislative experience of Northern Ireland, part of the United Kingdom with its own criminal law jurisdiction, where

[3] It is often argued that as these abuses are perpetrated through rapidly evolving technology, this means that legal systems will always lag behind technological developments, often due to regulation being considered an impediment to innovation (Leenes 2019). However, I would argue that legislative change is a political choice and delays in new laws to tackle the abuse arising from how harassers deploy technological developments is also, therefore, a political decision about priorities. In other words, swifter action could be taken regarding technology-facilitated abuse.

[4] While there may be greater opportunities following the viral #MeToo movement to express and share experiences (Fileborn and Loney-Howes 2019; Chandra and Erlingsdóttir 2021), arguably such movements have led to a backlash actioned through ever more abuse, harassment and intrusions (de Maricourt and Burrell 2022; Tolentino 2018; Mulkerris 2023).

three distinct new criminal offences were adopted covering downblousing, upskirting and cyberflashing. The specifics of these provisions are examined, in the context of whether a law on 'intimate intrusions' would better capture the range and nature of these abusive practices, as well as providing space to cover 'yet-to-be-imagined' forms of abuse. While Northern Ireland is the particular focus, its experience reflects many jurisdictions where the last few years have seen an on-going process of incremental, piecemeal law reform to tackle online abuse generally and image-based sexual abuse in particular. Conclusions drawn here, therefore, apply to many other countries engaging with questions of law reform. In light of the patchwork approach identified in Northern Ireland, I then examine some of the more general provisions in other jurisdictions, including Sweden, which provide some indications for how we might imagine a different approach. Finally, I make the case for a new criminal offence of 'intimate intrusions' which eschews conventional categories of the criminal law, and better reflects women's lived experiences of harm, abuse and privacy invasions.

Conceptualising 'Intimate Intrusions'

Developing a conceptualisation of intimate intrusions as a means of understanding women's multiple and varied experiences of harm and abuse, particularly online, returns to how abusive practices were conceptualised in early work on violence against women – as intrusions (Stanko 1985, 1990; Kelly 1988). Betsy Stanko's pioneering work in the 1980s showed how many women's lives revolved around strategies to avoid men's threatening, intimidating, coercive or violent behaviours (Stanko 1985). She identified the 'everyday' experiences of harassment, violence and abuse, stating that in "each case, a woman endures an invasion of the self, the intrusion of inner space, a violation of her sexual and physical autonomy" (Stanko 1985; 9). These experiences, in a masculine dominated society, take on an 'illusion of normality, ordinariness' (Stanko 1990; 9) as they are "filtered through an understanding of *men's* behaviour", commonly characterised as 'typical' (Stanko 1985; 10, emphasis in original). What is not foregrounded, she argues, is a 'woman-defined' understanding of these intrusions (Stanko 1985;10). This means women often have no ways of describing how the 'typical' feels intimidating or threatening, partly due to the only "official category which exists to define aberrant" behaviour being the criminal law which is the "standard against which women" are supposed to measure their experiences (Stanko 1985; 17). But, as Stanko points out, this is a standard which is not drawn from women's lives.

My conceptualisation of intimate intrusions also draws on more recent scholarship, particularly Fiona Vera-Gray's work understanding experiences commonly labelled street harassment as 'men's stranger intrusions' (Vera-Gray 2017a). Vera-Gray uses 'intrusion' to refer to the "deliberate act of putting oneself into a place or situation where one is uninvited, with disruptive effect" (Vera-Gray 2017a; 11). She continues that this definition requires no desire to harm or disrupt the target, with the focus being on the deliberateness of the practice and 'uninvited' affirms the power of the target of the intrusion to "choose who is able to enter their physical and emotional space" (Vera-Gray 2017a; 11). Intrusion, she argues, also better fits women's experi-

ences of their "inner world being entered into rather than solely acted on" and therefore assists in coming closer to women's lived experiences (Vera-Gray 2017a; 11). As described by Liz Kelly, it is the "unwelcome intrusions into women's personal space" which transform "routine and/or potentially pleasurable activities (for example, a walk in the park, a quiet evening at home, a long train journey) into unpleasant, upsetting, disturbing and often threatening experiences" (Kelly 1988; 97).

While Stanko was writing about incest, domestic abuse, rape and sexual harassment, as intrusions, this term has begun to be used in some online contexts. Bridget Harris and Laura Vitis discuss how the terms 'online intrusions' and 'digital intrusions' broaden our understanding of online abuse and harassment as they can reflect changing technologies and patterns of perpetration (Harris and Vitis 2020; 330). Rosa Walling-Wefelmeyer discusses 'men's intrusions' as a framework for "exploring a lived continuum of men's practices in and across digital, online and offline space" (Walling-Wefelmeyer 2019). In my research with others on the harms of image-based sexual abuse, we found that women victim-survivors commonly experience these forms of abuse as an 'intrusive violation' of the self (McGlynn et al. 2021; 550). In addition, when conceptualising cyberflashing as a form of 'sexual intrusion', Kelly Johnson and I emphasised how experiencing abuse through online technologies, particularly our smart phones, can have such a violating effect: it is an intrusion into a very personal space, as our phones have almost become an extension of our selves, an integral and personal part of our daily lives (McGlynn and Johnson 2021). Others have also explained cyberflashing as an intrusion, with Andrea Waling and Tinonee Pym (2017; 7) referring to penis images as an 'unwelcome intrusion'.

While the discussion thus far seeks to explain the value of the term 'intrusion', it is also necessary to explain the choice of 'intimate', as opposed to terms such as 'sexual'. As noted above, in my earlier work with Kelly Johnson on cyberflashing, we argued that such practices are a form of 'sexual intrusion', suggesting that this term clearly identified the sexual and sexualised nature of the behaviour, perpetrated as it is via images of the penis, and that it is often accompanied by other sexual threats and intimidatory conduct (McGlynn and Johnson 2021, 31–35). Similarly, in my work on image-based sexual abuse with Erika Rackley and colleagues, the emphasis has been on these practices as a form of sexual abuse or assault, as so described by many victim-survivors (McGlynn and Rackley 2017; McGlynn et al. 2019, 2021).

While maintaining the value of these conceptualisations, I am suggesting here that 'intimate' encompasses a wider range of behaviours and will also work to protect the idea of 'intimate privacy' (Citron 2022), described in the context of intimate image abuse as the "right to control the boundaries of our intimate lives, of our sexual autonomy and sexual expression, of what people know about our intimate experiences" (McGlynn and Rackley 2021). Central here is the ability to exercise power, control, choice and autonomy over our intimate lives, including sexual lives. This is particularly salient for black and minoritised women, and other marginalised groups and sexual minorities, who are especially subject to having their intimate lives scrutinised and subjected to abuse (Francisco and Felmlee 2022; Glitch and EVAW 2020; Musgrave et al. 2022; Plan International 2020).

For example, in the context of image-based sexual abuse, while the terms 'upskirting' and 'downblousing' describe particular forms of abuse, there are many other

types of images taken without consent that are similarly violating and intrusive, such as of people bathing or toileting. Such material is not 'sexual' per se, though it may often be taken or distributed for sexual purposes.[5] Similarly, many other images of nudity, or people in various states of undress, are not necessarily sexual, though they would commonly be considered intimate. In order to include such material within the scope of criminal laws challenging the taking or sharing of images without consent, definitions have commonly been based on the idea of 'intimate' images in order to capture this range of material. Laws in jurisdictions such as New South Wales, for example, refer to 'intimate images' and the English Law Commission report on this area adopts the term 'intimate image abuse' to encapsulate this wider scope beyond obviously sexual material (Law Commission 2022).

However, while many jurisdictions profess to protect the non-consensual taking or sharing of 'intimate' images, this term is in fact commonly defined to only include images of nudity, toileting and bathing, or sexual activity, conventionally understood. Definitions generally do not include, for example, images considered sexual or intimate in particular cultural or religious communities, such as images of a woman without her expected attire or head-dress. Therefore, as Erika Rackley, others and I have suggested, current definitions of 'intimate' material therefore risk reinforcing dominant norms, particularly around gender, race, ethnicity, religion and sexuality (Rackley et al. 2021; McGlynn and Rackley 2021; Law Commission 2022, 84–85). A concept of 'intimate' intrusions could be more inclusive, being better attuned to an intersectional approach which recognises that what is considered abusive, harmful, or 'intimate', will always be culturally grounded and specific. It emphasises that 'hierarchies of worth' situate women and girls in relation to each other, as well as in relation to men and boys, and that we need to be attentive to how these hierarchical structures interact and intersect with gender inequality, and how its manifestation differs according to other markers of a woman's or a girl's social location (Vera-Gray 2017b). In the context of intimate intrusions, this includes understanding how women are differently affected by these practices, such as the higher rates of victimisation for black and minoritised women (Francisco and Felmlee 2022; Glitch and EVAW 2020; Musgrave et al. 2022; Plan International 2020).

Further, this conceptualisation of 'intimate intrusions' is based on a phenomenological understanding of women's experiences, emphasising the deliberate acts of imposing, intruding, uninvited, into women's space and selves (Vera-Gray 2017a). Phenomenological framings and understandings of women's experiences recognise the complexities of our lives, the shifting nature of intrusive experiences, and the connections between experiences that are often avowed by dominant discourses, particularly legal and medical framings (Vera-Gray 2017a). Feminist phenomenological scholarship has conceptualised suffering as an embodied, conscious, and subjective happening, experienced and situated in a particular time and place (de Beauvoir 2012; Scarry 1985; Vera-Gray 2017a; Young 1990). Thus, phenomenological perspectives introduce an embodied, subjective self who is mutually constituted through meaningful relations with others, and the temporally, spatially and historically specific

[5] In addition, a legal interpretation of 'sexual' is often limited to the perpetrator's sexual intention or gratification, rather than the victim-survivors' sense of their sexual self or wider concepts of sexual integrity.

world in which they are situated (Brison 2003; Du Toit 2009; Vera-Gray and Fileborn 2018). Moreover, feminist phenomenological works centre everyday experience, locating sexual violence as taking place within a particular socio-symbolic context (Alcoff 2018; Conaghan 2019; Du Toit 2009). Thus, phenomenological understandings of harm better capture the totality, extent and diversity of the harms experienced by women, as examined in relation to rape (Brison 2003; Cahill 2008; Du Toit 2009), street harassment (Vera-Gray 2017a; Vera-Gray and Fileborn 2018) and image-based sexual abuse (McGlynn et al. 2021).

Accordingly, the conceptualisation of intimate intrusions advanced in this article seeks to reinvigorate, re-establish and develop the idea first put forward by Stanko, that the variety of ways in which women experience harm and abuse can best be understood as 'intimate intrusions'. Intimate intrusions, therefore, is an umbrella term which describes and conceptualises the range of women's experiences of harm and abuse. It seeks to provide terminology to describe the seemingly infinite variety of ways that abuse is perpetrated without the need to provide a distinct label for each and every different form of harm. It therefore sits alongside Liz Kelly's (1988) concept of the 'continuum of sexual violence' which seeks to explain the inter-relationships between different forms of sexual violence and to challenge the notion of a hierarchy of sexual offences. The 'continuum' concept helps us to understand that women's experiences are not distinct, but shade into each other: forms of intimate intrusion shade into each other and with other forms of sexual violence, all being part of the continuum of sexual violence. Therefore, the many forms of harm and abuse collectively termed 'intimate intrusions' overlap and often cannot be separated: it is also possible therefore to talk of a 'continuum of intimate intrusions', reflecting the variety of forms of intrusion and their inter-relationship.

Finally, in suggesting the concept and terminology of 'intimate intrusions', this is not to say that other terminology is not valuable. For example, some of the intrusions being discussed can also commonly be known as forms of online and public sexual harassment (Women and Equalities Committee 2018; Powell and Henry 2017) or image-based sexual abuse (McGlynn and Rackley 2017; McGlynn and Johnson 2021). Indeed, there are benefits in terminology such as 'sexual harassment', as it is a phenomenon widely understood and recognised as problematic. However, a harassment framing suggests that the actions are always experienced as unwelcome or unwanted which is not invariably the case (Vera-Gray 2017a). Some may not describe cyberflashing or street harassment in such ways, in light of what is allowed to count as 'unwanted' or 'unwelcome' in a gender order where women are socialised to accept, expect, and even desire intrusive attention from men (Vera-Gray 2017a; 7). Therefore, a 'harassment' framing may pre-define experiences and behaviours in ways which may not capture all women's experiences and understandings (Vera-Gray 2016; 11).

As Vera-Gray states in the context of such debates over the naming and conceptualising of violence and abuse, "one frame need not replace the other; rather, open discussions about terminology assist in expanding the vocabulary we have to speak of women's experiences" (2017a; 12). She continues that there are also challenges in introducing new terms when the existing ones are well-known and commonly used (Vera-Gray 2017a; 12). Indeed, we must also be alive to prospect that the term

'intimate intrusions' may not feel sufficiently serious for some, particularly in light of it being a relatively unknown and new concept. However, as Sally Engle Merry has suggested in the context of translating human rights concepts across borders, it is the "unfamiliarity of these ideas that make them effective in breaking old modes of thought" (Merry 2006; 178, quoted in Vera-Gray 2017a; 12). I hold the same hope here in relation to 'intimate intrusions', namely that it might spark new understandings and conversations.

But the aim in this article is also broader, to assess and advance a criminal legal response to a concept of intimate intrusions.[6] This is a challenge as the law, and particularly criminal law, centres on establishing categories of inclusion and exclusion, of criminal and non-criminal. Separating "particular intrusive practices into distinct categories does not represent the ways in which these practices are lived and risks normalising practices that are excluded" (Vera-Gray 2017a; 6). Kelly's continuum concept similarly disrupts this binary, enabling us to understand women's experiences of sometimes ambiguous, unidentifiable within existing categories and ever-changing (Kelly 1988). As Vera-Gray points out, this evidences the tension between providing a framework to understand women's lived experiences and one that can be operationalised in legal and policy contexts, suggesting that it may be that 'this tension cannot be reconciled' (Vera-Gray 2017a; 10). This article is an attempt to see what a reconciliation might look like.

Legislating against Upskirting, Downblousing and Cyberflashing in Northern Ireland

My consideration of a possible law on 'intimate intrusions' begins by looking at Northern Ireland where three new, distinct criminal offences were adopted in 2022 covering behaviours that are all forms of intimate intrusion, namely upskirting, downblousing and cyberflashing. A study of these provisions, therefore, provides a particularly clear case study of the relative benefits and disadvantages of adopting legislation addressing particular behaviours, compared with the possibility of a more general provision covering a spectrum of intrusions.

Upskirting: Responding to Victim-Survivors

The path towards legislative reform in Northern Ireland began when the male pupil of two women teachers took images and videos up their skirts during school and the police initially refused to take action (McNeilly 2019). While there was no specific legislation covering upskirting, the police did consider the ancient common law offence of 'outraging public decency'. This offence had been used in England to successfully prosecute some cases of upskirting (Gillespie 2019). However, as its name suggests, it is an act of outraging *public* decency and the police at first refused

[6] There is also a vital need for greater regulation of what Bridget Harris and Laura Vitis call the 'industries of intrusion', the internet platforms, which 'both foster and facilitate violence and also exacerbate discrimination and marginalisation of "other" groups' (Harris and Vitis 2020; p. 335). However, the specific focus of this article is how the criminal law might be better framed to provide redress for intimate intrusions.

to prosecute on the basis that the acts took place within a school which they considered a private space. Ironically, the laws on voyeurism did not apply, as this involves the recording of someone doing a 'private act' which did not apply to teachers in school carrying out their professional duties.[7] The women, therefore, found themselves in the situation where the acts of upskirting were not sufficiently 'public' to fall within the conventional interpretation of the outraging public decency offence, yet not sufficiently 'private' to constitute voyeurism. It would be difficult to find a clearer example of the conventional categories of the criminal law failing to reflect women's experiences of harassment and abuse.

While it is undoubtedly the case that technological advances have facilitated upskirting, enabling the establishment of online communities to trade such material, as well as generating the pornographic landscape where upskirting is an established genre, it is not a new phenomenon (Gillespie 2019). It existed long before smartphones and other amplifying technology was invented. Yet, until very recently, upskirting has been 'invisible' to the law (McGlynn et al. 2017). This invisibility was challenged by the Northern Irish women whose police reports of upskirting, and demand for recognition and redress from the state, were rejected. Undeterred, and determined to shine a light on this form of abuse, the women pursued a judicial review against the authorities (McNeilly 2019), challenging their interpretation of the outraging public decency offence, and, supported by their trade union, they were successful (Meredith 2017). A conviction eventually followed for outraging public decency, but the need for a clearer law covering upskirting had been identified and a campaign to raise awareness and seek change began.

At around the same time, a new law on upskirting had been adopted in England and Wales, also following a high-profile campaign by a victim of upskirting and the MPs who took up the case. As a result, a new criminal law in England and Wales was adopted in 2019, amending the voyeurism law, to include a very specific offence of upskirting (Gillespie 2019). The specificity is important to note. The offence only applies to images taken 'beneath' the clothing of the victim, with that very choice of word indicating that not all images taken are to be included. Further, there is only an offence if it can be proven that the perpetrator was motivated by sexual gratification or with the intention of causing distress, alarm or humiliation. This means that taking upskirt images for other reasons, perhaps as a so-called prank, or as a way of bonding amongst friends, or raising their status among groups of men, or for financial gain, are not included. These limitations were identified at the time (McGlynn 2018a; 2018b; Gillespie 2019), but the Government pressed ahead, the only concession being the establishment of a law review covering the whole field of intimate image abuse. Three years later, the requested review by the English Law Commission agreed that the law was indeed too restrictive (Law Commission 2022).

At first, the Northern Ireland Ministry of Justice put forward an upskirting law replicating English law, with all its limitations. However, the Justice Committee of the Northern Ireland Assembly undertook a consultation, including confidential evidence from the women teachers in the school upskirting case, their union (NASUWT 2021) and on the problems of the English provisions (McGlynn 2021). The Com-

[7] Sect. 71 of the Sexual Offences (Northern Ireland) Order 2008.

mittee found this evidence convincing and therefore recommended a more comprehensive upskirting law, based on non-consent, rather than focussing on proving the motivations of perpetrators (Committee for Justice 2022). A political compromise was subsequently reached whereby the requirement to prove specific motivations of perpetrators was maintained, but the offence could be established on the basis of recklessness as to causing distress, alarm or humiliation.[8] Recklessness does require an awareness of the risk, and taking the risk in any event, but this is still a broader scope than the original provision and the current law in England and Wales. Some constraints also remain such as the images being taken 'beneath' clothing.

The end result is a new law covering some forms of upskirting and which is broader than English law. The extensive public discussions and campaigns also led to an increased awareness of the harms and prevalence of this abuse. This example of law reform demonstrates the challenges of fitting women's experiences both into ancient categories of law, such as the common law offence of outraging public decency, and the struggle to expand the law, particularly when a more limited approach has already been adopted elsewhere. While the evidence of the women who experienced upskirting in Northern Ireland ensured a shift from the original proposal, the framing of the debate was largely already set and constrained by the recent history of English law reform. English debate proceeded on the basis of the need for an offence to cover this very specific form of behaviour, with analogies being sought to existing sexual offences. Accordingly, the new English law was crafted onto existing laws on voyeurism which are premised on ideas of the sexual deviance of a small number of men who have the very particular habit of invasion of private spaces. The concepts and approach were ameliorated to accommodate upskirting, but the constraints and overall construction remained. The conventional approach of the criminal law to sexual offending, of a focus on supposedly 'deviant' men exhibiting abnormal behaviour, fails to understand how women are experiencing everyday sexual offending, such as upskirting and other intimate intrusions by 'ordinary' men. In essence, the existing categories of law were amended to take into account some women's experiences, but the underpinning foundations and conceptual understanding of perpetration remained.

Downblousing: Expanding the Scope of Criminal Laws

These constraints were then carried forward into the consideration of acts of downblousing and whether the criminal law in Northern Ireland should be expanded to cover this particular practice. Downblousing is when someone (usually a man) takes an image or video, usually from above, down a woman's clothing to capture their breasts, cleavage or bra (Law Commission 2022, 2.26; McGlynn 2023a). Commonly this takes place in public, for example where images captured from a high vantage point in a public space, such as a balcony in a shopping centre, standing on public transport taking an image of a seated woman, an image of a woman leaning over which reveals more of her breasts than is the case when normally seated, and so on. It also covers so-called 'nip-slip' photographs, commonly taken by the paparazzi

[8] Sect. 1 of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022.

of celebrities, where the top of a dress slips or where the buttons of a shirt become undone, allowing momentary sight of a woman's breast (Gillespie 2019). Downblousing is intrusive, breaching a woman's privacy and autonomy, and is exactly the kind of conduct that means women have to engage in 'safety work' while out in public to try to protect themselves from harassment and abuse (Vera-Gray and Kelly 2020; Gillespie 2008; McGlynn and Downes 2015). In defining downblousing, however, there is a challenge in distinguishing it from other similarly intrusive practices, such as what are often referred to as 'creepshots' often shared on 'creepshot' forums, such as women in gym kit, or zoomed in photos of them in leggings (Law Commission 2022, 3.92).

Drawing a line between creepshots and downblousing, however, may be difficult. For example, a woman may choose to wear in public a low-cut top which displays her cleavage and bra. The capturing of such an image may be experienced as intrusive, rightly being labelled a 'creepshot' (Hargreaves 2018), but is it downblousing, with the implied non-consensual and surreptitious nature of that term? Arguably, trying to separate out these varying acts runs counter to women's lived experiences which are of such abuses as a spectrum of behaviours. We also see this in surveys seeking to determine the incidence of forms of online harassment which identify the commonality of unwanted 'cleavage' images, without being clear whether they are of voluntarily exposed breasts or cleavage, or surreptitious images taken of body parts or underwear not otherwise on display (eSafety Commission 2017; Henry et al. 2019).

While these differences between varying types of images of breasts, cleavage and bras are not generally acknowledged in scholarly or public discussions, they are critical when it comes to considering criminal legal responses, particularly those that seek to identify and criminalise this specific behaviour (McGlynn 2023a). In the particular case of downblousing, new legislative measures have sought to distinguish between these different forms of creepshot and downblouse images in order to only criminalise the latter. The focus is very much on the specifics of the image and the circumstances around how it has been captured, at the same time as trying to fit within existing understandings and frameworks of the criminal law.

In Northern Ireland, therefore, the law revision process focussed on amending existing laws on voyeurism with the final offence being named 'voyeurism: additional offences (breasts)', sitting alongside 'voyeurism: additional offences (genitals and buttocks).[9] The downblousing offence itself takes eight sections to try to circumscribe the scope of the offence. In delineating between images criminalised as downblousing, and other similar images, the legislation specifies an offence where the offender records an image 'beneath or above' the clothing of another person and the image or observation is of 'breasts (whether exposed or covered in underwear)' and in "circumstances where the breast or underwear would not otherwise be visible". These are very specific provisions, with 'beneath or above' clearly anticipating circumstances that will not fall within such a definition. In terms of the nature of the image, the provision covers only material that the victim has chosen not to reveal. While this approach is a legitimate control on the scope of the criminal law, ensur-

[9] Sect. 1 of the Justice (Sexual Offences and Trafficking Victims (Act) (Northern Ireland) 2022.

ing that only the non-consensual and surreptitiously taken material is covered, this example highlights the level of detail required in this approach to legislative drafting.

The legislation further circumscribes the reach of the offence by also requiring proof that the offender only acted for the purposes of sexual gratification or to cause (or be reckless as to causing) distress, humiliation or alarm. This element not only imposes a practical threshold of evidencing a particular motive, often difficult to do in cases of image-based sexual abuse (McGlynn et al. 2019; Rackley et al. 2021), but also limits the scope, by excluding acts perpetrated for other motives such as humour, financial gain and bonding amongst friends, although the recklessness standard may capture some such cases.

The main point is that while this legislation is welcome to the extent that it recognises the intrusive nature of such practices, it is an example of how pedantic and exceptionally detailed legislative drafting is required, as the focus is on a very specific behaviour where there are few clear boundaries between criminal and non-criminal actions. Further, ensuring that a set of behaviours actually falls within scope, and evidence supports each element, means that prosecutions are going to be challenging. In so closely circumscribing the conduct and motivations, there is also little to no scope that these provisions will be adaptable to changing circumstances and abusive practices. They focus on one very particular practice: indeed that is the aim of this detailed drafting.

Cyberflashing: Criminalising Everyday Intimate Intrusions

The third type of intimate intrusion newly criminalised in Northern Ireland is cyberflashing, where men (mostly) send penis images or videos to others, commonly women, without their consent (McGlynn and Johnson 2021). It had been possible to prosecute some elements of cyberflashing in Northern Ireland, for example using laws on malicious communications or harassment, but, as with English law, it was not clearly covered, and most cases fell outside existing laws. Cyberflashing, therefore, is another form of common intrusion experienced predominantly by women that defies conventional categories of the criminal law (McGlynn and Johnson 2021). Following a submission identifying the gaps in Northern Irish law and suggesting reform (McGlynn 2021), the Justice Committee recommended a new specific offence of cyberflashing (Committee for Justice 2022) and the Minister for Justice agreed, with a new provision being included in the legislation.[10]

When considering reform, the Northern Ireland Justice Minister looked to Scots law on coercing another to look at a sexual image, as a basis for the Northern Irish reforms (McGlynn and Johnson 2021; 183–4). The Scots law was introduced primarily to target children being groomed for sexual activity through viewing pornography, though during the deliberative process leading to the legislation, its scope was extended to adults. This law, therefore, is broader than cyberflashing and extends to pornographic images more generally. But to establish the offence, proof of non-consent and lack of reasonable belief in consent is required, as well as evidence of specific motives of either sexual gratification or causing distress. In the context of sexual

[10] Sect. 2 of the Justice (Sexual Offences and Trafficking Victims (Act) (Northern Ireland) 2022.

grooming of children, and the high penalties attaching to this sexual offence, some of these thresholds are understandable. However, relying on the normative basis of the Scots law means that the nature and motivations behind *women's* everyday experiences of intimate intrusions, such as broader ideas of masculine bonding and status-building, and men's so-called humour and pranks, do not form part of the underlying rationale, and therefore scope, of the offence.

Consequently, the Northern Irish provision extends to any 'sexual image' and requires proof of non-consent and no reasonable belief in consent, as well as evidence of the motive of sexual gratification and reckless as to causing distress, alarm or humiliation, or the direct purpose of causing distress, alarm or humiliation. Sending unsolicited penis images, therefore, for financial gain, because the sender thinks it's funny, or as a shared activity amongst a group of men, or for any other unspecified reason, is not within the new law. On the other hand, the law is broader than the sending of penis images, the harm originally identified, to encompass sharing pornography without consent more generally.

This new law, therefore, does go some way to recognising the harms of cyberflashing. But, it is also constrained by its normative foundations and therefore lack of understanding about the nature and motivations behind this form of abuse, particularly as it affects the primary victims, women. The inherently conservative nature of much law reform, by adopting similar provisions already introduced elsewhere, means that new understandings are difficult to bring to the fore and realise in legislative form. It is also worth noting that the specific motivation requirements for cyberflashing differ from the provisions on downblousing and upskirting which include being reckless as to causing distress, alarm or humiliation. In relation to sending an unwanted sexual image, there must be evidence of the direct intention to cause distress, alarm or humiliation; reckless in this case does not suffice. This adds another layer of confusion to the overall approach of the law to intimate intrusions, and women's experiences of online abuse more generally.

Criminalising Intrusions in Sweden and Hong Kong

The discussion thus far reveals that a dedicated focus on paradigmatic examples of a particular practice can lead to laws that, while covering some forms of the abusive behaviour, risk excluding others, particularly new modes of abuse. It also demonstrates the tendency for very specific types of behaviours to be at the forefront of legal categorisation and analysis, particularly the mode of perpetration, rather than the nature of the harms and impacts (Wegerstad 2021). In sum, therefore, the risk with a specific offence targeting very specific behaviours, whether it be downblousing, upskirting, cyberflashing or some other abuse, is that while it may cover the forms of intimate intrusion of which we are currently aware, before too long, we will discover its limitations, as perpetrators find new ways of abusing and harassing others.

Another option, therefore, is to develop a law which has more general applicability. The principal advantage of introducing such an offence is that it would help to future-proof the law so that it can cover new ways of perpetrating abuse and encompass emerging understandings of harms. To consider the possibilities of such measures, this section examines the Swedish provision on violations of sexual integrity

which covers a wide range of different sexual intrusions, as well as an option put forward by the Law Commission in Hong Kong.

Sweden's Criminalisation of Violations of 'Sexual Integrity'

When considering a more general offence that will capture sexual intrusions, Sweden provides an instructive example (Wegerstad 2021). Sweden's catch-all provision of 'sexual molestation/harassment' covers acts not otherwise included in more specific offences such as rape. This offence encompasses "a person who exposes themselves to another person in a manner that is liable to cause discomfort, or who otherwise molests a person by word or deed in a way that is liable to violate that person's sexual integrity" (Wegerstad 2021). This is a sexual offence, and the aim is to protect 'sexual integrity' and sexual self-determination, with a maximum term of imprisonment of two years.

As Wegerstad (2021) explains, this provision could encompass most forms of intrusive sexist behaviour and therefore fit well into a continuum understanding of the nature of sexual abuse. It covers physical and verbal intrusions, if the behaviour violates the person's sexual integrity, and therefore has been applied to cyberflashing. It also covered a man repeatedly, in a public place, asking a young woman to have sex with him in exchange for money, as well as the practice of upskirting (Wegerstad 2021). These examples demonstrate that this provision manages to cover a range of intrusive behaviours, many of which are not often included in sexual offence laws or criminalised. Nonetheless, the law is subject to a range of limitations established in the case law, such as where a male manager touching the inside of the clothed thigh of a woman trainee was considered inappropriate and unwelcome, but not behaviour of such a clear sexual nature as to be criminalised (Wegerstad 2021).

This latter example demonstrates the cultural fluidity of concepts such as sexual assault, intrusion or molestation. While this case was excluded from Swedish law, it would most likely constitute sexual assault in English law because of the physical element, even though English law would not cover many of the other forms of conduct covered by the provision. This emphasises the challenges of a more open-ended provision where the boundaries of criminal conduct are not always clear and may require litigation to clarify, as well as the development of policing and prosecution practices. The benefits of breadth and future-proofing the law need to be balanced with a more uncertain understanding of the scope and applicability of the law.

Hong Kong: Sexual Acts Causing Fear, Degradation or Harm

A similar measure was proposed by the Hong Kong Law Reform Commission in 2012 which recommended expanding the law on sexual assault to "cover any act of a sexual nature which would have been likely to cause another person 'fear, degradation or harm' had it been known to the other person" (2012, 6.26). Specifically, they recommended an offence where a person (A) who, without the consent of another person (B) and without a reasonable belief that B consents, intentionally does an act of a sexual nature which would have been likely to cause B fear, degradation or harm

had it been known to B, irrespective of whether it was known to B (Law Reform Commission of Hong Kong 2012; 94).

Interestingly, this proposal arose out of concerns that the existing law did not cover 'upskirting'. The Commission stated that its proposal would acknowledge "the sexual nature of such activity and the need for respect for sexual autonomy" and that such an expansion in the scope of sexual assault was justified because it is "a violation of another person's sexual autonomy" (Law Reform Commission of Hong Kong 2012, 6.25–.28). While having the benefit of breadth, this particular recommendation was nonetheless restricted to activity of a 'sexual' nature, returning us to the already identified limitations of a framing of 'sexual intrusions', rather than a focus on 'intimate' material. In the end, the proposal was not adopted, with more recent proposals on upskirting being far more limited in their scope and drafted to cover only the very specific behaviour of upskirting and voyeurism (Crofts 2022).

Towards a New Criminal Offence of Intimate Intrusions

The starting point for considering a new offence of intimate intrusions is that there is a need for the criminal law to better reflect women's lived experiences of harm and abuse.[11] Rather than accommodating women's experiences within existing categories, this new offence would start afresh, taking women's lived experiences as the foundation. Both the Swedish provision, and the proposal from Hong Kong, focus on the nature of the experience from the victim-survivor's perspective, namely the breach of sexual integrity, or the experience of fear, degradation or harm. This has the benefit of foregrounding the harmful experiences, with the possibility of better reflecting women's harms. A new law, therefore, could be centred on the experience of 'intimate intrusion', understood as an invasion, or a breach or infringement of personal liberty, integrity or privacy. The focus should be on deliberateness, the intention to intrude uninvited, with no requirement, therefore, to prove specific motives, such as causing distress or alarm.[12]

In terms of 'intimate', a new offence needs to meet the challenge of how best to define, or not, this term. The dominant common law approach in legislation of this nature is to draft extremely detailed definitions. While the drive to specificity may be understandable, seeking to ensure that already identified forms of abusive conduct are included, this approach forecloses any incremental development of the law. The limits of such a specific approach should be recognised, including in relation to image-based sexual abuse, where legislation in many jurisdictions excludes images altered by AI or other forms of technology, known commonly as 'deepfake porn' (McGlynn and Rackley 2017; Chesney and Citron 2019). While legislation is now being introduced to include such forms of abuse, the point remains that it was pedantic drafting, without imaging future forms of abuse, that limited the scope of existing laws.

[11] While such a law would best be framed as gender neutral, in order to ensure that it can capture all abusive behaviours, this should not detract from the reality of the targeted behaviours being highly gendered.

[12] In practice, an offence of intimate intrusion would sit alongside other sexual and violent offences. It might be thought of therefore as a 'catch-all' in practical terms.

The alternative is a more general approach and definition, following examples such as the Swedish provision, which are more fluid and adaptable. Intimacy as a concept, focuses on ideas of privacy and the inner self, and is mutable, changing in different cultural contexts and over time. Such flexibility and nuance can be beneficial from a victim-survivor perspective, as it means criminal redress, as an option, may be available without the need for new laws. The legislation can be interpreted to reflect changing mores, such as happened with the expansion of offences such as 'assault' to include psychological harms and words alone, following recognition of the harms of 'silent' phone-calls (Virgo 1997; Horder 1998).

Nonetheless, concerns may be raised that a more general law contravenes principles of criminal law in being too vague. Debate over such matters is the perennial subject of academic and policy discussion and disagreement. However, what often gets lost in such debates, particularly around violence against women and girls, is that broad definitions are in fact relatively common in the criminal law. The example of what constitutes 'assault' has already been raised. Another example are laws on fraud which are often broadly crafted to retain their value as new financial instruments are continually in development, in turn leading to new ways of perpetrating fraud. For example, the English Fraud Act 2006 was drafted in a deliberately broad manner, avoiding detailed technical definitions, so as to ensure flexibility and future-proofing (Ormerod and Laird 2018). In addition, the clear aim was to put in place legal definitions of fraud and fraudulent activity that were more closely aligned with 'ordinary', everyday understandings of 'fraud' (Law Commission 2002). Accordingly, it can be seen that the ways in which laws on fraud have been developed have many similarities to this proposal on intimate intrusions. The term 'fraud' is an umbrella term (and offence) that encompasses an extensive variety of interconnected and overlapping wrongs, such as theft, embezzlement, false accounting, deception and many more. In addition, as with 'intimate intrusions', advancing technology inevitably provides new ways of committing fraud, such that detailed definitions would inevitably be rendered out-of-date relatively quickly. The overall point is that broad definitions have their value in the criminal law and are commonly used, despite principled objections. Therefore, to make such a recommendation in relation to conduct experienced mainly by women, such as intimate intrusions, is not exceptional and does not run counter to principles of criminal law.

What is being proposed, therefore, is a new offence of intimate intrusions which takes women's everyday experiences as its foundation. It hopes to challenge the conventional categories of the criminal law which do not reflect women's lives, in the normative hope that this may show a different approach, a different way of understanding harms and providing redress. In suggesting an offence based on a broad concept, the idea is to enable interpretative development to respond to emerging harms and ways of perpetrating abuse, without the need for victims of 'new' harms to share their trauma, expending years of their lives campaigning for change and so often facing further harassment and abuse. An offence of 'intimate intrusions' may also provide a form of hermeneutical justice for women, reflecting in law their lived, phenomenological experiences, giving a name to what happens to so many women in their everyday lives.

Nonetheless, feminist engagement with the criminal law has garnered significant opposition in recent years with the development of what is known as an 'anti-carceral' feminist critique. Drawing on Elizabeth Bernstein's coining of the phrase 'carceral feminism' (Bernstein 2007, 2012), this critique argues that a feminist focus on criminalisation to tackle sexual violence has been co-opted by a punitive, neo-liberal state seeking to shore itself up by utilising feminist arguments for its own ends (Bernstein 2007, 2012; Bumiller 2008; Kim 2018; Gruber 2020). Black feminists and women of colour in particular have challenged criminalisation strategies, arguing for greater understanding of the differential impacts on individuals and groups based on the intersections of race, ethnicity, class, gender and other social categories (Crenshaw 1991; Hill Collins 1997; Davis et al. 2022).

As I have argued elsewhere (McGlynn 2022), to the extent that some anti-carceral feminist thinking presents a binary choice between criminalisation and non-criminalisation, it reduces any space for "progressive engagements with the criminal law" (Terwiel 2020, 425) or encouraging a "spectrum of decarceration" (Terwiel 2020, 423). Further, movements taking a definitive approach against criminalisation also risk under-acknowledgement of the "punitive aspects of community" (Masson 2020, 73). Rahila Gupta, discussing her work as part of Southall Black Sisters, a community organisation supporting black and minoritised women experiencing violence and abuse, has spoken of the "minefield of conflicting priorities of race and gender" when engaging in the sometimes necessary work with police to safeguard women, at the same time as expressing concern with 'community' solutions (Gupta 2020).

Justifying criminalisation, as part of a holistic, multi-faceted approach to tackling violence against women and girls, draws on the experiences and perspectives of women victim-survivors who seek redress through the criminal justice system (McGlynn 2022). Recent work has revealed the variety and complexity of sexual violence survivors' justice interests, including interest in restorative justice (Zinsstag and Keenan 2017; Daly 2006; McGlynn et al. 2012; Westmarland et al. 2018), as well as transformative justice processes providing the accountability and vindication survivors seek, but without the potentially harmful and traumatising effects of criminal justice systems (Kim 2018; Dixon and Lakshmi Piepzna-Samarasinha 2020; Davis et al. 2022; Pali and Canning 2022). This emphasis on justice beyond conventional understandings of criminal justice is echoed in research with survivors in many different contexts (Antonsdóttir 2020; Daly 2017; Holder 2015, 2018; Jülich 2006; Keenan 2014; Zinsstag and Keenan 2017).

However, while this body of work demonstrates the varied and nuanced approaches to what constitutes justice, this must not obscure the reality that for some survivors, criminal justice remains central to their understanding of 'justice' (Brooks-Hay 2020; McGlynn and Westmarland 2019; McGlynn 2022). This includes black and minoritised women who continue to seek access to criminal redress. Research by the organisation Imkaan, which works with black and minoritised women experiencing abuse in the UK, identified that some survivors wish to 'access justice' via the criminal justice system and that this is an "important objective for many survivors" (Thiara and Roy 2020, 6). Despite the difficulties of reporting abuse to the police, including feelings of betrayal of their communities and knowledge of negative experiences,

they report that some black and minoritised women did so "motivated out of a need for justice and protecting other women" (Thiara and Roy 2020; 39).

Further, an anti-criminalisation approach which rejects the introduction of any new criminal offences (Gruber 2020), fails to provide redress options for those experiencing forms of abuse not yet recognised by the criminal law, such as many forms of online abuse (McGlynn 2022) and, therefore, many 'intimate intrusions'. Across the world, in recent years, new criminal offences have been introduced to address many forms of online abuse, such as intimate image abuse, often following high-profile campaigns with survivors speaking out and sharing their experiences of devastating and sometimes life-threatening harm. While Tanya Serisier rightly suggests that the ability to 'speak out' relies on "dominant narratives of race and class" (2018; 90), and that speaking out may play into the "carceral horizon" (Serisier 2018; 89), it may also be possible that speaking out might challenge stereotypes, revealing the myriad ways in which women experience abuse, including online and via emerging technologies.

While it is evident that tackling any form of sexual violence requires a multifaceted response beyond the criminal law, it is not clear why women who have experienced online abuse, such as 'intimate intrusions', should be denied the opportunity to seek criminal justice redress and have their experiences recognised in the criminal law. The privileging of existing criminal offences risks reinforcing current criminal law categories and conventions which fail to understand and recognise the multiplicity of women's experiences, and how abuse has evolved, particularly with new technology (McGlynn and Johnson 2021; McGlynn 2023b). Criminal law reform in these contexts can address a form of hermeneutical injustice faced by survivors whose experiences are not recognised (Fricker 2007; Giladi 2018); where victim-survivors struggle to be understood in a society where violence against women is trivialised and minimised, and therefore struggle to understand, narrate and name what has happened to them. This is especially the case with many forms of intimate intrusion where the harms experienced are commonly minimised and dismissed, with many not even recognised as problematic.

Therefore, while anti-carceral feminism is seeking to reduce harm and violence by disengaging with the state and criminal justice systems, it risks reifying the criminal law status quo, without opportunity for change or reform. It risks setting in stone historical, often highly stereotypical, assumptions about the nature and extent of sexual violence. And it does not explain why some survivors are able and entitled to pursue redress through criminal justice systems, such as those experiencing rape (assuming rape is not to be decriminalised), but not those who are victimised by 'newer' and emerging forms of abuse.

Justifying a criminal law response to intimate intrusions is linked to understanding that if a new offence of 'intimate intrusions' is to reflect the diversity of women and survivors' perspectives on justice, its introduction must be accompanied by significant changes to the underpinnings and practices of criminal justice systems. Sexual violence victim-survivors' concepts of justice sometimes include criminal justice, though generally with a focus on prevention, education and recognition, rather than punitiveness and punishment (McGlynn and Westmarland 2019). These justice interests can be better achieved through a transformed justice system where criminalisation is not synonymous with incarceration, including greater use of restor-

ative justice, rehabilitative programmes, educative initiatives and community-based outcomes (Cossman 2021; McGlynn 2022). The need for such transformations is evident from current experiences of the harms of incarceration and the shadows of the criminal law, particularly over the lives of those from black and minoritised communities (Davis et al. 2022). The extent to which such approaches would reduce the current iniquities is not yet knowable, as so few such measures have been tried. While it is difficult to envisage a criminal justice system without retribution and imprisonment at its heart, this is a path worth pursuing in order to reflect the variety of victim-survivors interests and aspirations, and to offer a multiplicity of justice mechanisms.

Conclusions

Back in 1985, Betsy Stanko drew attention to women's experiences of 'intimate intrusions' and noted that legislative efforts were "important ideologically" in seeking to change perceptions and understandings of men's violence (Stanko 1985; 165). Thus, despite law's capacity to oppress and marginalise, there remain benefits in deploying the criminal law, including its expressive and symbolic role in sending a message to society in general and to potential perpetrators that specific conduct is wrong and harmful (McGlynn 2022). It can also offer a form of hermeneutical justice to women whose experiences are named and recognised. The particular expressive message to be advanced here is that women experience a range of behaviours, together labelled here as 'intimate intrusions', which are wide-ranging, ever-changing, violating and sufficiently harmful and unacceptable to constitute criminal wrongdoing. In response to such behaviours, the criminal law can provide an additional justice option for victim-survivors for whom criminal justice meets their understanding of justice. They may choose to report to the police, even where they are aware that little may happen, for the same reasons that other sexual violence survivors have done so, as a form of 'symbolic protest' (Taylor and Norma 2011) or to try to protect others (Brooks-Hay 2020).

Nonetheless, there remains a significant challenge in crafting a response to women's experiences where they do not fit within the conventional categories of the criminal law. As Vera-Gray points out, there is a clear tension between providing a framework to understand women's lived experiences and one that can be operationalised in legal and policy contexts, concluding that it "may be that this tension cannot be reconciled" (Vera-Gray 2017a; 10). This article has been an attempt to see what a reconciliation might look like, suggesting that a law on intimate intrusions may better encompass women's experiences of abuse, particularly the range of online practices. A law on intimate intrusions may offer not only a better way of conceptualising and offering redress for existing behaviours, but also future-proof the law in ways that current regulation fails to do, by providing the space to encompass what will inevitably be new ways of abusing women and breaching their privacy, dignity, autonomy and integrity.

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vision has changed the law and public discourse around image-based sexual abuse. Their determination to change society, so that other women and girls do not encounter the same hurdles and intransigence they faced when confronting abuse, has been humbling and motivating. Change comes from the willingness of women like them to speak out, demand change and forge a new path for us all.
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