

## The Dangers That Deepfakes Pose towards Women

You wake up to your phone buzzing. Upon checking, you see that you have been sent what is seemingly a video of yourself. You're doing things in the video that you have no recollection of doing. It's hyper realistic, though, you know that you were in no such video, and that this must have been edited somehow. Still, the masses of people that have seen this video are unable to tell the difference between what is real, and what is fake.

This is the reality that women, and other vulnerable demographics of the population face as deepfakes become more prevalent in our society. One of the most common crimes that's being found as deepfakes continue are women being edited to appear in nonconsensual deepfake pornography videos.<sup>1</sup>

A deepfake is a video, image, or sound that is created using artificial intelligence, and machine learning algorithms.<sup>2</sup> Essentially, a deepfake allows the creator to make the person in the media they are creating do whatever they want. An easier way to think of this is the concept of hyper realistic face swapping.

Deepfakes pose a horrific threat to women. More than 90% of victims to deepfakes are women who have been subject to abuse, and online sexual harassment resulting from nonconsensual deepfake porn.<sup>3</sup> Common motives seen in these situations are revenge porn, or blackmail. Less than 5% of deepfakes are targeting politicians, and political discourse, which some states' concern seem to be focused on.<sup>4</sup>

According to IACP there are only a few states that have laws pertaining to deepfakes.<sup>5</sup> This is cited to be a result of lack of awareness.<sup>6</sup> Texas has a law banning deepfakes, however, it only bans media that is created to influence elections, a very uncommon situation, which then leaves the majority of deepfake victims without recourse.<sup>7</sup> Virginia has now banned deepfake pornography, and California has laws against nonconsensual deepfake porn, along with a ban on malicious deepfakes that are within 60 days of an election.<sup>8</sup> These laws do not fully encapsulate the issue, and as seen, are only in a few states. Detection of deepfakes has also been an issue for law enforcement. Commercial deepfake detection software is not currently available.<sup>9</sup> While there are agency's creating, and publishing deepfake detecting software, this has come with an unintended consequence.<sup>10</sup> Creators of deepfakes have been using current deepfake detection processes in order to better their own deepfake creations, and make it harder to detect them.

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<sup>1</sup> Tanya Petersen, *Deepfakes and Their Impact on Women*, EPFL, June 21, 2021.

<sup>2</sup> Frederick Dauer, *Law Enforcement in the Era of Deepfakes*, IACP (June 29, 2022), <https://www.policechiefmagazine.org/law-enforcement-era-deepfakes/>.

<sup>3</sup> Petersen, *supra* note 1.

<sup>4</sup> *Id.*

<sup>5</sup> Dauer, *supra* note 2.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

Kelsey Farish, a leading expert in deepfakes, puts forward that a way to combat this issue is through a combination of educational campaigns, along with a legal perspective, specifically recognizing the right of digital personhood.<sup>11</sup> However, Farish asserts that this is a move that would require support from social media companies.<sup>12</sup>

It is clear that deepfakes are incredibly damaging to vulnerable parts of the population, specifically women, and the response from states has been abysmal. In order to start addressing this issue clearly, effort from state legislators is necessary, along with the recognition of the right of digital personhood, coupled with education on how deepfakes work, how harmful they can be, and how to combat them.

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<sup>11</sup> Petersen, *supra* note 1.

<sup>12</sup> *Id.*