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Review Article

#### Ageing and sexuality: Safeguarding sexual privacy in the digital age

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#### Abstract

The rapid advancement of digital technology has introduced unprecedented threats to personal and intimate privacy, particularly for ageing populations in India. Older adults, increasingly reliant on digital platforms for communication, interaction, and relationships, face heightened risks of exploitation, coercion, and manipulation. Their vulnerability is exacerbated by a lack of digital literacy, making them susceptible to breaches of sexual privacy, including non consensual pornography, sextortion, voyeurism, and deepfake sex videos. Furthermore, hidden cameras, smart devices, and practices like up-skirting contribute to an environment of pervasive digital voyeurism, leaving elderly individuals exposed to invasive practices.

This theoretical paper examines the relationship between ageing, sexuality, and digital privacy, focusing on how these dynamics compromise older adults' autonomy and dignity. Using a socio-legal and conceptual methodology, the paper critically analyzes existing legal frameworks and identifies gaps in the protections offered to aging individuals against breaches of sexual privacy. It also integrates insights from sociological and psychological studies to highlight the emotional and psychological toll these violations take, particularly on older women and marginalized communities. The findings underscore the urgent need for comprehensive reforms, including enhanced penalties for bias-motivated violations, accountability measures for digital platforms, and

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the evolution of privacy laws to address emerging threats such as deep-fake technology. The paper concludes by proposing a multifaceted approach that includes legal reforms, digital literacy programs, societal education, and robust support systems. By recognizing and addressing the unique vulnerabilities of older adults in the digital age, this study contributes to the development of a theoretical framework aimed at safeguarding their dignity and autonomy in a rapidly evolving technological space.

#### Introduction

As technology evolves, personal and intimate information faces increasing threats, especially for the elderly, who are more susceptible to exploitation than any other age group. The growing use of digital platforms for communication and relationships among older adults has opened new avenues for privacy breaches. These individuals, often less familiar with technology, find their intimate lives exposed to risks of coercion, manipulation, and surveillance in ways previously unimaginable. The vulnerability of elderly individuals to these digital threats demands the urgent need for enhanced protection of their sexual privacy. Element of the protection of their sexual privacy.

Digital technologies have become tools for monitoring and exposing private moments, with home devices like smart cameras, web cams and mobile phones sometimes misused by intimate or ex-partners. Hidden cameras, used to capture people in vulnerable states, and practices such as "up-skirting" have contributed to an environment where no one is completely safe. [3] Older adults, who may not be as tech-savvy, are particularly at risk of these invasive practices, highlighting a gap in their protection against digital voyeurism and privacy breaches, it may be witnessed at Maha Kumbh Mela at Prayagraj or Haridwar. [4]

The threat of coercion and nonconsensual distribution of intimate content extends to older individuals, who may be pressured into sharing explicit material under the threat of public exposure. The rise of "deep fake" technology further complicates the issue by creating realistic fake pornographic content exploiting victims' images without consent, as seen with Bollywood actresses Rashmika Mandana and Alia Bhatt. For the elderly, who may lack resources or legal recourse, the damage is profound, impacting their dignity and privacy. This erosion of sexual privacy, particularly for ageing populations, underscores the urgent need for amendments to the Information Technology Act of 2005, to protect them better.[5]

This paper contributes to the literature by:

 Highlighting the unique challenges faced by ageing populations regarding sexual privacy.

- Proposing specific legal reforms for addressing digital threats.
- Offering a comprehensive framework for safeguarding sexual privacy through legal, social, and technological interventions.

### Conceptual framework: Defining sexual privacy in the context of ageing

Ageing individuals rely on boundaries around personal information and intimacy to safeguard autonomy. However, limited awareness of technological advancements leaves them vulnerable to breaches of sexual privacy, especially as they navigate isolation or depend on technology for social interaction. [6]

Privacy boundaries for older adults extend to physical spaces and selective sharing of personal content. While they use social media to manage their private lives, the legal framework often fails to address the unique challenges they face in protecting sexual privacy in the digital age.<sup>[7]</sup>

Sexual privacy involves managing boundaries around intimate aspects of life, such as personal information, desires, and activities. For older adults, this includes protecting confidentiality about their bodies and sexual experiences amid digital threats. While the Digital Personal Data Protection Act 2023 offers some protection, it often overlooks specific sexual privacy needs, leaving gaps vulnerable to exploitation in the digital realm. [8]

Protecting sexual privacy for ageing individuals requires addressing overlapping physical and digital intrusions. Elderly adults, especially those unfamiliar with technology, often struggle to safeguard their privacy online. This underscores the need for robust legal and societal measures to clearly define and protect the boundaries between intimacy, age, and technology. [9]

#### Sexual privacy as securing autonomy in aging

Sexual privacy is vital for preserving autonomy, especially for older adults, as it enables them to set boundaries around their intimate lives. It becomes increasingly important with age, allowing elderly individuals to control how their bodies and

intimate information-such as sexual orientation, gender, or history-are shared. In the digital age, these boundaries are particularly vulnerable to breaches, highlighting the need for stronger protections. [10]

Sexual privacy is a nuanced concept that goes beyond granting or denying access; it ensures that intimate moments and personal information shared within trusted relationships remain confidential. For instance, an older person may trust a care giver for daily assistance, but this trust does not extend to unauthorized invasions of their intimate privacy, such as inappropriate photographs. Similarly, intimate memories or sexual preferences shared with a partner should remain private, and sexual privacy protects such personal content from exposure. [11]

Autonomy in managing one's intimate life is crucial for identity formation and self-development at any age, including old age. Sexual privacy enables older adults to explore and express their gender identity and sexuality without societal judgment or technological intrusion. This autonomy is especially important for those revealing their sexuality or gender identity later in life, as violations of sexual privacy can lead to emotional distress and trauma. [12]

Sexual privacy offers elderly individuals a vital "breathing space" to make intimate decisions without the fear of public exposure, supporting their dignity and self-respect. The principles of privacy, as outlined by Samuel Warren and Louis Brandeis, remain relevant today. Protecting sexual privacy for older adults in India is crucial for preserving their personal integrity and preventing them from being reduced to their physical vulnerabilities or intimate habits. As technology advances and new threats emerge, safeguarding sexual privacy is essential for maintaining autonomy and dignity in the digital age. [13]

#### Historical background

The history of sexual privacy for marginalized groups in India reveals a painful legacy of violation, particularly during the pre-colonial and colonial periods. A stark example is the case of Nangeli, a lower-caste Ezhava woman from Travancore (now Kerala), who resisted the oppressive "breast tax"

imposed by local rulers in the early 19th century. [14] This tax mandated that lower-caste women could not cover their breasts in public, a symbol of dignity and autonomy. Women who defied this rule were subjected to a tax based on breast size, a practice that not only imposed a financial burden but also served as a direct infringement on their sexual privacy and bodily autonomy. Nangeli's defiant act of cutting off her breasts and presenting them on a plantain leaf as protest, resulting in her death within a few minutes, ignited a rebellion and ultimately led to the abolition of this cruel tax. Her story highlights the struggle for bodily autonomy and the deep connection between sexual privacy and caste oppression. [15]

Caste-based discrimination in India has historically led to severe violations of sexual privacy, akin to the racial oppression faced by enslaved individuals in the United States. Lower-caste and Dalit women, in particular, were subjected to public humiliation and violence, their bodies treated as public property by upper-caste men. This lack of privacy was not just a means of oppression but a deliberate strategy to enforce caste hierarchies and control marginalized and Dalit women's sexuality. For instance, Dalit women were often prohibited from wearing clean clothes or jewellery and faced frequent sexual violence from powerful men. This systemic denial of sexual privacy was used to reinforce caste superiority and subjugate these women further.[16]

The sexual privacy of marginalized women, like Dalits, was deemed unworthy of protection, much like the experiences of enslaved Black women in the U.S. Just as Black women were stereotyped as "licentious temptresses", Dalit women were often unjustly seen as sexually available to upper-caste men.<sup>[17]</sup> This mythologizing and stereotyping justified the sexual violence and denied these women the dignity and autonomy to control their bodies.<sup>[18]</sup> Such deeply ingrained prejudices facilitated the exploitation and oppression of marginalized women, demonstrating how sexual privacy was systematically violated to maintain social hierarchies and control.<sup>[19]</sup>

Overall, the historical context of sexual privacy violations in India highlights the caste oppression and bodily autonomy of Dalit women. Nangeli's defiance and the broader patterns of abuse highlight the need to address these violations comprehensively, recognizing how sexual privacy and caste discrimination are closely linked in the struggle for dignity and autonomy.

#### Examining digital threats to sexual privacy and assessing the effectiveness of existing laws

In the digital age, historical invasions of sexual privacy have evolved into modern threats amplified by technology's pervasive influence. Despite slow cultural shifts regarding women, sexual minorities, and the elderly, sexual privacy violations persist in India, fueled by entrenched societal attitudes and digital environments. Issues such as digital voyeurism, up-skirt photos, sextortion, non consensual pornography, deep-fake sex videos, and sexting are prominent, particularly affecting ageing individuals. This highlights the urgent need to address these violations within the Indian context.<sup>[20]</sup>

In the digital age, technological advancements have introduced new forms of sexual privacy invasions, extending beyond traditional surveillance. These technologies pose significant threats to the autonomy of the elderly. This discussion examines how modern invasions, like digital voyeurism, impact ageing individuals in India and their sexual privacy and autonomy. [21]

#### 1. Digital voyeurism

Digital voyeurism, involving unauthorized observation and recording of intimate moments, has expanded with technological advancements. Unlike past forms of voyeurism, which were confined to physical spaces where privacy was expected, today's technology allows for remote and often covert surveillance. [23] In India, incidents of hidden cameras being used by landlords or caretakers to record tenants or elderly residents highlight this issue. Such invasions not only violate personal privacy but also diminish the dignity of ageing individuals who may already be vulnerable. [24]

As discussed supra, a historical example of

societal infringement on personal dignity is the 19th-century story of Nangeli from Travancore, India. Nangeli, a lower-caste woman, resisted the oppressive "breast tax" that forced lower-caste women to uncover their breasts in public or face a tax. Her act of defiance, which included cutting off her breasts as a protest, highlights the long-standing struggle for privacy and respect, mirroring contemporary issues like digital voyeurism.<sup>[25]</sup>

#### Hidden cameras and remote surveillance:

Digital voyeurism increasingly involves covert surveillance devices, such as hidden cameras disguised as everyday objects like coat hooks, pens, or smoke detectors. These devices, often used by landlords, maintenance workers, shopkeepers, or even family members, pose a significant threat to elderly individuals, who may already be vulnerable due to reliance on others for care. The widespread availability of such technology, coupled with the lack of robust legal protections in India, makes this a pressing issue. For older adults, hidden cameras can cause severe psychological distress by violating personal spaces, undermining autonomy, and compromising their sense of security and dignity. [26]

#### Cyberstalking and smart home technology:

Smart home technologies and cyberstalking apps are increasingly used for digital voyeurism, putting ageing individuals at risk of unauthorized surveillance by abusers or family members. In India, the rise of smart home technology calls for greater awareness and regulation to protect elderly residents. The use of cyberstalking apps for real-time tracking emphasizes the need for stronger legal protections against these privacy threats. [27]

#### Psychological impact and autonomy:

Digital voyeurism significantly harms the psychological well-being of ageing individuals, as constant surveillance and the fear of being recorded undermine their mental health and autonomy. Control over private spaces and bodily autonomy is vital for maintaining dignity and trust. When compromised, it disrupts their sense of security and self-respect.<sup>[28]</sup>

In India, addressing these concerns requires a comprehensive approach, including stronger legal protections, increased public awareness, and robust support systems for the elderly. The legal framework, such as the Information Technology Act of 2000, the Digital Personal Data Protection Act of 2023, and privacy-related judgments like Justice K.S. Puttaswamy (Retd) v. Union of India<sup>[29]</sup>, must adapt to the challenges posed by digital voyeurism. Strengthening these measures will help protect the privacy and dignity of ageing individuals, ensuring they can maintain control over their intimate spaces and personal information in the digital age.<sup>[30]</sup>

### 2. Up-skirt photos: A contemporary violation of sexual privacy

Up-skirt photos involve secretly capturing images of women's intimate areas without consent using hidden cameras or modified clothing. This invasive act significantly breaches sexual privacy, undermining victims' control over their own bodies and personal space. The dissemination of such images reduces victims to objects of voyeuristic interest, stripping them of dignity and contributing to a culture of objectification and harassment.<sup>[31]</sup>

Internationally, the legal system often struggles to address privacy violations effectively. In the U.S., legal gaps have allowed some perpetrators of up-skirt photography to evade justice due to inadequacies in existing laws. In states like Georgia and Massachusetts, legal attempts to prosecute have been thwarted due to these gaps. [32]

In India, addressing up-skirt photos remains challenging due to evolving legal frameworks. Provisions in the Bhartiya Nyaya Sanhita, 2023, and the Information Technology Act, 2000, are relevant but may not fully cover the nuances of digital voyeurism. Section 77 of BNS, 2023, and Section 66E of the IT Act address voyeurism and privacy violations but may require specific legal interpretation and enforcement to tackle up-skirt photography effectively.

While up-skirt photography is not yet widely reported in India, there have been instances of similar privacy violations involving hidden cameras and modified clothing. These cases highlight the urgent need for stronger legal measures and increased public awareness to address such invasions effectively.<sup>[33]</sup>

Aging individuals, who may rely more on public facilities or caregivers, are particularly vulnerable to these privacy invasions. The psychological impact on elderly victims can be profound, affecting their sense of security and dignity. For instance, an elderly woman using a public restroom could experience heightened feelings of vulnerability andfear due to such invasive practices.<sup>[34]</sup>

The rise of digital technologies has intensified sexual privacy invasions, such as up-skirt photography. While India's legal frameworks are evolving, there is a critical need for more specific and robust measures to protect individuals, particularly the elderly. Strengthening legal protections, raising public awareness, and fostering a culture of respect are essential to safeguard sexual privacy in the digital age. [35]

### 3. Sextortion and aging: A unique threat to sexual privacy in the digital age

Sextortion involves blackmail, where perpetrators threaten to release sexually explicit images unless the victim complies with further demands. This form of digital harassment devastates victims by stripping them of control over their intimate spaces and privacy. The psychological toll is severe, leading to extreme humiliation, fear, and lasting emotional scars. Elderly individuals are increasingly vulnerable to sextortion as they become more digitally connected. Contributing factors to their susceptibility include: [36]

Lack of digital literacy: Older adults may be unfamiliar with online privacy risks, making them easy targets for scams.

Isolation: Loneliness can make them more susceptible to online predators seeking emotional connections.

Shame and stigma: Cultural norms and fear of judgment may deter older victims from reporting sextortion.

Legal framework in India: Section 77 of BNS addresses voyeurism, relevant for cases involving extortion of private images.

Section 66E IT Act covers privacy violations through the capture or transmission of intimate images.

Sections 67 and 67A IT Act deal with the transmission of obscene material, applicable to sextortion cases.

Despite these provisions, enforcement is challenging, particularly for older victims who may face stigma and reluctance to report.

Sextortion can severely impact aging individuals, exacerbating psychological trauma and social isolation. The threat of exposure undermines their sense of autonomy and dignity, especially in a society where elderly sexuality is often stigmatized. To address the growing risk, targeted awareness campaigns and digital literacy programs for the elderly are essential. Law enforcement must be trained to handle sextortion cases involving older victims with sensitivity. Additionally, legal reforms should focus on harsher penalties for perpetrators and improved support for victims to encourage reporting and ensure justice. [37]

Sextortion in the digital age poses a grave threat to the sexual privacy of ageing individuals. As technology becomes more embedded in daily life, older adults face heightened vulnerability to exploitation. Addressing this issue requires bolstering digital literacy, enhancing legal protections, and fostering a supportive environment for victims. Ensuring the sexual privacy of all individuals, regardless of age, is essential for creating a just and compassionate digital society. [38]

### 4. Nonconsensual pornography and aging: Impacts and protections in the digital age

Nonconsensual pornography, involving the

unauthorized distribution of explicit images, is a severe violation of privacy, especially for older adults. As digital technology becomes more embedded in daily life, it poses unique challenges for ageing populations, compromising their sexual privacy and autonomy. Often, these images are captured and shared through deceit or hacking, causing significant harm. Older adults are particularly vulnerable due to limited digital literacy, increased online activity, and societal stigma around ageing and sexuality, intensifying psychological distress and feelings of humiliation and isolation. [39]

In India, legal protections against nonconsensual pornography include Section 66E of the IT Act, which criminalizes the unauthorized capture and dissemination of intimate images, and Sections 77 and 67/67A of the BNS and IT Act, which address voyeurism and obscene material. However, enforcement remains challenging, with victims often hesitant to report due to stigma and lengthy legal procedures.

To better protect older adults, targeted measures are needed. Enhanced digital literacy programs can help them understand online privacy risks and secure their digital presence. Addressing nonconsensual pornography effectively requires a multifaceted approach, including improved legal frameworks, digital education, and support services, ensuring the dignity and autonomy of ageing individuals in an increasingly connected world. [40]

### 5. Deep-fake sex videos: Implications for sexual privacy and aging in the digital age

Deep-fake technology, which uses machine learning to create hyper-realistic but fabricated video and audio content, has introduced a new threat to sexual privacy. It allows perpetrators to insert individuals' faces and voices into pornographic material, creating videos that seem authentic but are entirely fabricated. Unlike traditional nonconsensual pornography, deep-fake sex videos distort a person's sexual identity, turning them into objects of exploitation without their consent.

Though older adults are less frequently targeted, they remain at significant risk from deep-fake technology. The creation and distribution of such videos can deeply invade their privacy, especially given the varying levels of digital literacy among older populations. The psychological trauma for elderly victims can be severe, further compounded by societal attitudes toward ageing and sexuality, and the social stigma associated with deep-fake content can harm their personal and professional reputations. [41]

In India, the legal and social responses to deepfake abuse are evolving. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 require platforms to address illegal content, though specific provisions for deepfakes are lacking. The provisions of the IT Act cover some aspects of digital privacy violations but do not explicitly address deep fakes. There are ongoing discussions for new legislation to address these gaps. Socially, high-profile cases such as Rashmika Mandana and Alia Batt, require the need for awareness and support systems. Advocacy groups and social media platforms are working to educate the public and provide resources for victims. [42]

Deep-fake sex videos present a serious challenge to sexual privacy, especially for older adults. Addressing this issue requires stronger legal protections, increased public awareness, and effective support services to protect the dignity and privacy of individuals in the digital age.<sup>[43]</sup>

#### Conclusion and recommendation

As digital technology advances, the risks to sexual privacy, particularly for ageing individuals, have grown significantly. Issues like digital voyeurism, sextortion, non consensual pornography, and deep-fake sex videos demand immediate attention. Addressing the intersection of ageing and digital privacy concerns is critical to protecting autonomy and dignity. A robust legal framework is essential, including stricter penalties for privacy violations, accountability for digital platforms, and updated privacy laws to address emerging threats like deep fakes. Unified legislation can provide clear

standards, promote public awareness, and foster respect for personal privacy and consent.

Support systems for victims must also be strengthened to ensure privacy protection encourages healthy intimate relationships. A forward-thinking, comprehensive strategy that integrates legal reforms, societal education, and victim support is vital to counter rapid technological advancements and safeguard digital privacy.

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