



Is Revenge Porn Illegal in South Africa

Exploring South African Law on revenge porn and the remedies you have at your disposal

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Discovering that private images or videos of yourself have been shared online without your consent can be a distressing experience.

Unfortunately many couples who do not live together exchange nude photos, videos, and even engage in phone sex to keep the spark alive in their relationship. Whether it is a nude picture sent to a partner or taken in a vulnerable moment. Bear in mind that once explicit images are taken and shared with a third party, they can easily be disseminated across the Internet. This may lead to a situation where one partner blackmails the other by threatening to share or sharing these intimate moments online. Such an act is known as "revenge porn" and is illegal in South Africa.

If you are the owner of such images, it is unlawful for any third party to distribute them without your consent, particularly if it is done with malicious intent. This is known as "revenge porn" and is now illegal in South Africa.

Sharing or distributing sexually explicit material of someone without their consent with the aim of humiliating or harming them is referred to as "revenge porn". This act is considered a criminal offense in South Africa. Anyone who breaks the revenge porn laws will face imprisonment or fines.

The bill, that forms part of the Films and Publications Amendment Act, states that "any person who knowingly distributes private sexual photographs and films in any medium including through the internet, without prior consent of the individual or individuals and where the individual or individuals in the photographs or films is identified or identifiable

in the said photographs and films, shall be guilty of an offence and liable upon conviction" With the new act in place, anyone found guilty of sharing private sexual images and/or videos can be jailed for:

- Knowingly distributing private sexual photographs or films without the prior consent of any individual featured.
- Sharing private sexual photos or videos publicly with the intention to cause harm or distress to another individual.
- Uploading private sexual photographs where the person can be clearly identified or is named in any accompanying text.

The perpetrator may spend up to two years in jail and/or be fined up to R150 000 if the victim cannot be identified in the content. If the victim can be identified in any way, the perpetrator could be sentenced to a maximum of four years in prison and/or be fined up to R300 000.

Victims of revenge porn often suffer severe emotional distress, with over 90% experiencing such stress. However, the Protection of Personal Information Act 4 of 2013 (POPI) allows victims to seek relief by instituting a civil claim for damages against the perpetrator. Section 99(1) of POPI provides the right to claim non-patrimonial damages against the responsible party.

South Africa has become stricter about what is acceptable and legal to post online in recent years. The The Cyber Crimes and Cyber Security Bill and Prevention of Combating of Hate Crimes and Hate Speech Bill criminalize harmful or bigoted messages.

What can you do if you fall victim to revenge porn?

- Always keep a record. If you see someone sharing your private content without your permission, take a screenshot, save any URLs and keep it safe if you are considering legal action.
- In many cases, the person who shared the private content is known to the victim. If you can prove you know who shared your explicit images or videos, keep a record and present it to the police and your attorney.
- If your private content is posted on a pornographic website, you can send a request to the website to remove your content. In this case, it is best to contact a lawyer to assist you with getting your content permanently removed from the public domain.
- When you are the victim of "revenge porn", it is best to report it to the police immediately.

If you are a victim of revenge porn, you can seek assistance to bring the perpetrator to justice and ensure your dignity is protected. Additional remedy may be available

For more information or assistance with cybercrime issues, you can contact CYBARETI Consulting Services. ♦

