

Meta-Rape:
Sexual Violence, Criminal law and the Metaverse
Professor Clare McGlynn, Durham Law School, Durham University and
Dr Carlotta Rigotti, Leiden University

Summary

1. **New terminology of meta-rape:** the term meta-rape should be used to better explain the nature and harms of sexual violence and abuse in the metaverse, replacing terms such as 'virtual rape'.
2. **Meta-rape:** an umbrella term and concept defined as experiences of sexual violence and harassment taking place in the metaverse.
3. **Meta-rape experiences:** There are three broad types of meta-rape experiences: (a) existing forms of sexual violence and harassment that are also being perpetrated in the metaverse such as sexual assault; (b) forms of abuse which are metaverse-specific such as 'shadow presence' and 'passing through'; and (c) yet to be imagined forms of abuse as technology develops.
4. **Understanding the nature of meta-harms:** due to its immersive and synchronous nature, meta-rape and other forms of abuse, may be experienced as especially intense and invasive. Such abuse is also likely to lead to potentially devastating and life-shattering experiences, as well as having a silencing effect on women, girls and other marginalised communities.
5. **Current criminal law on sexual assault could be applied to meta-rape:** As some forms of meta-rape involve physical sensations, due to haptic technologies, it would be possible to interpret current sexual assault laws to cover these instances of abuse.
6. **Current criminal laws on harassment could be applied to metaverse behaviours:** Just as harassment online falls within existing criminal offences, so should harassment in the metaverse which constitutes a 'course of conduct amounting to harassment'. The offence requires that the defendant knew, or ought to know, that the actions constituted harassment which may not be easily satisfied due to societal minimisation and lack of understanding of the nature of harms in the metaverse.
7. **Current laws on image-based sexual abuse would not apply to the metaverse:** these laws require imagery of real people in intimate situations.
8. **Future-proofing criminal law via offence of 'intimate intrusions':** it would be possible to introduce a criminal offence which covers current behaviours of physical and online intrusions that would also cover some forms of meta-rape now and into the future.
9. **Need to swiftly respond to developing technology with meta-rape specific offences:** It is likely that specific offences will be required to respond to meta-rape. To learn the lessons of the slow pace of change in relation to online abuse, it will be necessary to act swiftly as metaverse technology develops and forms of abuse increase in prevalence.

10. This briefing is drawn from research being undertaken by Professor McGlynn and Dr Rigotti into the legal regulation of sexual violence and harassment in the metaverse. It develops previous work advancing the concept of 'image-based sexual abuse' and justifications for criminal sanctions¹, analysis of the European Union directive on cyber-violence², preparation of the Council of Europe's thematic report on the digital dimension of violence against women and girls³ and a report on vulnerability in the metaverse.⁴ The focus is on the experiences of adults.⁵

Meta-Rape: a new concept and terminology

11. **Terminology matters:** Terminology matters as it shapes our understandings of behaviours and emerging phenomena and influences legal regulation. This is why Clare McGlynn and Erika Rackley developed the term 'image-based sexual abuse' to better describe and understand the nature and impact of all forms of non-consensual creating, taking and sharing of intimate images. Previous terminology, such as 'revenge porn' failed to capture the full range of harmful activities and did not reflect the seriousness of the harms or victims' experiences.
12. **Problem with the term 'virtual rape':** Incidents of sexual violence and harassment are often reported as 'virtual rapes'.⁶ This is linked to the common terminology of 'virtual reality' to describe, in particular, computer games involving three-dimensional simulations. However, the term 'virtual' means 'appearing to, but not physically', existing. It suggests a lack of reality and other-worldliness which serves to minimise the significance of any harms and harassment experienced in the metaverse. We do not therefore consider the term 'virtual rape' appropriate when describing sexual violence and abuse in the metaverse.
13. **Problem with using terms 'real world' and 'virtual world':** Discussions of the metaverse often use terms such as the 'real world' to separate day-to-day lived experience in our current physical spaces, from the experience of using three-dimensional computer technology or being in the metaverse. The juxtaposition of these terms emphasises a separation and difference which can serve to downplay the significance of harassment and abuse in the metaverse (the 'virtual' world), as well as suggesting a separation in experience and behaviours. However, as with current experiences of online and offline abuse, there is no clear separation, and abuse shifts between offline and online experiences with ease. Victims experience a pattern of abuse that can be both offline and online, rather than separate experiences.
14. **The virtual world is the real world:** Accordingly, this is not 'virtual' abuse, but real abuse of real people, by real perpetrators. Whether in physical space, online or in the immersive metaverse, it is all real. There is no separation between a 'real' world and a 'virtual' world. As David Chalmers has written, 'virtual reality is genuine reality'.⁷
15. **Why new terminology needed:** Accordingly, in order to appropriately identify and understand the nature of harms and abuse in the metaverse, we need terminology that recognises the significance of the harms and draws attention to this new and growing form of abuse.
16. **Why the term 'meta-rape' is being proposed:** We are proposing the term 'meta-rape' to conceptualise the range of forms of sexual violence and abuse experienced in the metaverse. The prefix 'meta' identifies the metaverse as the focus of inquiry, as well as emphasising its role as an overarching concept. The term 'rape' is used as an umbrella term to capture the range of experiences of sexual violence and harassment, in a similar way to the term 'rape culture'. This term emphasises the seriousness of sexual violence and harassment in the metaverse. It aligns with current terminology of 'virtual rape', but shifts the focus from virtual to meta, emphasising the reality of the experience and the harms.

Identifying the experiences of meta-rape

17. **Sexual assault:** There are and will be a range of experiences of sexual violence and harassment falling within the concept of meta-rape that are based on contact between avatars that is experienced with physical sensations via haptic technologies. This will include sexual assault by an avatar against another avatar, often referred to as 'groping', which generates physical impacts on the user through haptic technologies.⁸
18. **Sexual harassment:** This can include experiences such as the simulated groping and ejaculation by one avatar against another.⁹ The equivalent to forms of street harassment such as intentionally blocking space, forced attention, verbal abuse and harassment included rape 'jokes'.¹⁰ . Another incident involved two male users following women users around, 'crowding them, stalking them, looking at them closely, breathing on them', as well as examples of where 'users threatened to rape other users' and sometimes repeatedly.¹¹ Other forms of sexual harassment experienced in the metaverse include unwanted viewing of pornography and the unwanted audio playing of pornography.¹²
19. **Image-based sexual abuse offences:** These are offences involving the non-consensual taking, sharing and threatening to share intimate images. In the metaverse, incidents have already been reported of harassment and abuse being recorded without consent.¹³ It is likely that future incarnations of the metaverse, and development of avatar technology, will enable the non-consensual taking and sharing of intimate imagery, as well as the sending of unsolicited intimate images. This is particularly so as 'virtual pornography' and 'virtual sex' are rapidly advancing areas of metaverse technology and development. Criminal laws in this field currently focus on intimate imagery of real people, including where images have been altered using AI. This means that imagery in the metaverse, of avatars, would not be included within current laws.
20. **Metaverse-specific forms of sexual violence and harassment:** There are forms of sexual violence and harassment that are specific to the metaverse. This includes:
21. **Shadow presence:** When a user is experiencing harassment or abuse, it is possible to block the abusive user. However, they can continue to be in the same space as the victim and may deliberately choose to continue to be in that space and be engaged in activities around the victim including verbal abuse. This is experienced as a 'shadow presence' of another and is similar to the harassment of being followed, stared at and being the subject of forced attention, but with the added disturbing dimension of this being a shadow avatar. Blocking, therefore, may not end the sexual harassment.¹⁴
22. **Passing through an avatar:** While it is possible to have a personal boundary around an avatar, where there is no such 'bubble' or boundary, it is sometimes possible for an avatar to pass through the body of another avatar. This can be experienced as particularly destabilising and invasive. It might be done as a deliberate action to distress the victim.
23. **Physical pressure on bubble/boundary:** even when a bubble/boundary is activated, others can still put pressure on the bubble, including with objects, meaning an invasion of that supposedly protected space.
24. **Hacking of avatars:** it will be possible to hack into avatar controls meaning that someone else may take-over your avatar, with the possibility of this happening while one is wearing the headset. This would be a particularly invasive form of abuse.
25. **AI-generated abusive avatars:** It is also likely to be possible in the future to create avatars which perpetrate abuse on other avatars. Holding creators responsible for the avatars and their actions will be necessary, even though likely complicated.

26. **Future forms of abuse:** There will be many new ways in which sexual violence and abuse can be perpetrated in the metaverse which we cannot yet imagine, in the same way that many years ago it was not possible to conceive of AI generated intimate imagery.

Sexual violence and harassment related experiences:

27. **Stalking:** There are many stalking behaviours that can be carried out in the metaverse, with avatars contacting, or attempting to contact, a person in and through metaverse, monitoring the use by a person of their metaverse activity, loitering, following, watching or spying on a person in the metaverse. As with physical and online stalking, such behaviours could be acted out solely or principally in the metaverse. They are also likely in many cases to be part of a broader pattern of conduct including stalking behaviours online and offline.
28. **Domestic abuse:** As with stalking, domestic abuse is perpetrated online and offline, with technology being involved in most cases of domestic abuse. The metaverse will also therefore become a means by which to exert power and control over another in the form of domestic abuse, interacting with other behaviours offline and online.
29. **Hate speech:** There are many examples of racist and misogynistic speech and text in the metaverse.¹⁵ These can be forms of sexual harassment (such as rape threats) as well as constituting criminal forms of hate speech.

Meta-rape and meta-harms: understanding the experience of sexual violence and harassment in the metaverse

30. **Violation of sexual autonomy:** Experiencing sexual harassment or abuse in the metaverse is a violation of a victim's sexual autonomy in and of itself. This is because, at its core, this is non-consensual conduct of a sexual nature which infringes an individual's right to sexual autonomy and integrity. In other words, the harm manifests regardless of whether there are subsequent physical or psychological adverse consequences. This is the same for other forms of online and offline sexual violence and harassment such as image-based sexual abuse, cyberflashing or sexual assault. They are wrongs in and of themselves.
31. **Intimate intrusion:** Many victims experience sexual harassment and abuse, both offline, online and in the metaverse, as an 'intimate intrusion'.¹⁶ This is also described as an 'invasion' of the self. The idea of intrusion, or invasion, describes physical experiences of meta-rape such as sexual assault, the metaverse versions of street harassment, such as verbal forms of abuse, as well as metaverse-specific harms such as another avatar passing through another avatar without consent.
32. **Silencing:** That sexual violence and harassment currently exists in the metaverse, and is likely to increase, has two major silencing effects.¹⁷ First, it will make women and girls less likely to engage in experimentation with metaverse technologies, due to their well-founded fear of harassment and abuse. Women's relationship with technology already differs from many men's due to experiences of technology being used as a means of abuse and harassment. Secondly, in the future, when much of our lives are experienced in the metaverse, if sexual violence and harassment continues, women are likely to be silenced by abuse and harassment in ways similar to current experiences of online harassment and abuse. This means that their interactions in the metaverse will be constrained, their options reduced, adversely impacting on all of society's metaverse experience due to a lack of diverse participation.

33. **Intensity of immersive experience of harassment and abuse:** The immersive nature of the metaverse experience means that the violation often feels more acute and intense than online abuse. This is the difference between watching and looking at abuse online, and the synchronous experience of living the abuse in the metaverse. The metaverse is sometimes described as the 'embodied internet' and therefore the experience of abuse and harassment feel especially intense.
34. **Psychological and physical harms:** All forms of physical and online abuse have potentially devastating adverse consequences for victims. Reports thus far of sexual violence and harassment in the metaverse suggest similar experiences of harm. In relation to the recent UK report of meta-rape, the police stated that the victim 'suffered the same psychological and emotional trauma as someone who has been raped in the real world'.¹⁸ It is likely therefore that we will see similar patterns of life-shattering, life-threatening and potentially life-ending harms.¹⁹

Applying the current criminal law to meta-rape

35. Sexual assault: prosecutions would be possible

36. It is generally assumed that current laws on sexual assault do not apply to meta-rape as such offences are generally understood as requiring the non-consensual physical, sexual touching of another. In particular, English law defines sexual assault as the intentional, sexual touching of another person without consent.²⁰ However, it would be possible to bring a sexual assault prosecution in some cases of meta-rape.
37. The dictionary definition of 'touching' is to 'come into or be in contact with' or 'to feel something with a body part'. It must be remembered that some forms of engagement with the metaverse do involve physical sensations through haptic technology. This means that when an avatar interacts with your avatar, you can feel this on your own body. Therefore, this could be said to constitute a 'touching' for the purposes of sexual assault. It is intentional touching of another person.
38. The touching in the metaverse takes place through the avatars which may give rise to questions of applicability. However, English law defines touching as including touching with any part of the body, with 'anything else' and 'through anything'.²¹ The current law is interpreted as including touching through clothing or with an object or instrument²² and therefore should be interpreted to include through an avatar.
39. Nonetheless, while this interpretation is possible, it would require determined police, prosecutors and courts to interpret the law in this way and pursue such an action, in view of societal scepticism about this form of abuse. An analogy may be drawn with cyberflashing, where the existing law on sexual exposure requires 'intentional exposure of the genitals'. This law does not specify physical exposure and could have been interpreted to cover the online sending of genital images without consent.²³ However, this was not how the law was being interpreted and therefore a new, specific criminal offence of cyberflashing has been introduced.
40. In summary, therefore, as some forms of meta-rape involve physical sensations, due to haptic technologies, it would be possible to interpret current sexual assault laws to cover these instances of abuse. However, this is perhaps unlikely due to conservative interpretations of the current law and the lack of recognition of the seriousness of the harms of meta-rape. Any criminal prosecutions of this behaviour, therefore, are likely to require new criminal offences (see further below)

41. Harassment: prosecutions possible

42. Criminal laws on harassment generally focus on repeatedly or continuously engaging in threatening behaviour. English law specifically provides for an offence of harassment where an individual pursues a

course of conduct that s/he knows or ought to know amounts to harassment.²⁴ To fall within this provision, the conduct must cross 'the boundary between conduct which is unattractive, even unreasonable, and conduct which is oppressive and unacceptable'.²⁵ The commonplace trivialisation of meta-rape raises the risk that it is not perceived as crossing this threshold into criminality. It must also be shown that the offender knew or ought to have known that the conduct amounts to harassment. A conviction, therefore, will only follow if a 'reasonable person' would consider two or more instances of harassing conduct as constituting a *criminal* level of 'harassment'.

43. If an individual in the metaverse, controlling an avatar, engages in a course of conduct amounting to harassment, there is no reason why this offence should not apply. This may cover the experiences described as 'virtual rape', where avatars are 'groping' other avatars. It may also include verbal and text abuse, following and pursuing one's avatar without consent and other associated forms of meta-rape and meta-harassment.
44. That the harassment takes place in the metaverse should be analogous to harassment online which is within the scope of harassment laws. The potential caution may be if a defendant claims not to know, or reasonably understand, their actions as constituting harassment. It is possible, due to a societal minimisation and lack of recognition of meta-harms and meta-rape, that police and prosecutors accept that do not know or realise that these forms of harassment in the metaverse are sufficiently serious to reach a threshold of criminal harassment.
45. This would be highly regrettable from a victim's perspective, as it leaves victims without redress until such time as society catches up with the experiences of meta-rape and determines that, in fact, defendants really ought to know that their actions constitute harassment. The risk is that gendered assumptions about harassment – and its trivialisation – will adversely impact on how the law is enforced in relation to meta-rape.²⁶
46. **Hate speech:** Offences related to hate speech could be applied in the metaverse including in relation to text-based speech, as well as the speech through the avatars. Hate speech has been widely reported in the metaverse though we are unaware of any prosecutions for such conduct.²⁷

Future-proofing and reform of the criminal law

47. It is already evident that sexual violence and harassment take place in the metaverse; what we are calling meta-rape. Some of these experiences could be tackled using existing criminal offences, though it is likely that there will be few, if any, such prosecutions due to the lack of understanding of the nature of meta-harms. It is also inevitable that as metaverse technologies develop, they will be used in ways to perpetrate sexual violence and harassment in ways not yet known.
48. **Criminal offence of 'intimate intrusions':** Overall, therefore, there is an urgent need to examine the need for legislation to cover both existing offences and future forms of abuse. One approach, as suggested by Clare McGlynn, is to introduce an offence of more general applicability that is flexible in responding to the changing ways in which abuse is perpetrated: a possible law on 'intimate intrusions'.²⁸ For example, Sweden has a criminal offence of sexual molestation/harassment which covers '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'. McGlynn also raises the possibility of the option canvassed by the Hong Kong Law Commission, namely where a person 'intentionally does an act of a sexual nature which would have been likely to cause B fear,

degradation or harm'. These are provisions which could be introduced now and would cover some forms of meta-rape.

49. **Specific offences for meta-rape:** The alternative is to introduce specific offences for meta-rape. It would be difficult to introduce such measures now due to a lack of knowledge about how abuse is likely to manifest in the future when metaverse and avatar technologies are further advanced. But this should be kept under active review.

¹ Clare McGlynn and Erika Rackley, (2017) 37 *'Image-Based Sexual Abuse'* *Oxford Journal of Legal Studies* 534–561 and Clare McGlynn, Erika Rackley and Ruth Houghton, *'Beyond 'Revenge Porn': The Continuum of Image-Based Sexual Abuse'*. (2017) 25 *Feminist Legal Studies* 25–46.

² Carlotta Rigotti and Clare McGlynn (2022) 13(4) *Towards an EU criminal law on violence against women: The ambitions and limitations of the Commission's proposal to criminalise image-based sexual abuse* *New Journal of European Criminal Law* 452–477.

³ Council of Europe *'New thematic paper on the digital dimension of violence against women as addressed by the EDVAW Platform'* (2022).

⁴ Alliance for Digital Rights (2023) *Vulnerability in the metaverse* (written by Carlotta Rigotti and Gianclaudio Malgieri).

⁵ For discussion of the experiences and impacts of abuse and harassment in the metaverse on children, see Institute of Engineering and Technology (2022) *Safeguarding the metaverse* (IET, London).

⁶ Rebecca Camber, *'British police probe virtual rape in the metaverse'* *Daily Mail* 1 January 2024.

⁷ Quoted in Ian Sample, *'Virtual reality is genuine reality' so embrace it, says philosopher* *The Guardian* 17 January 2022.

⁸ As discussed in Io Dodds (2022) *My Metaverse diary: what it's like to live, work and shop inside the Internet (telegraph.co.uk)* *The Telegraph* 8 October 2022.

⁹ As described in Chantelle Higgins quoted in Olivia Petter (2022) *'Why is no one taking sexual assault in the metaverse seriously?'* *Vogue* 20 March 2022.

¹⁰ Reported in Olivia Petter (2022) *'Why is no one taking sexual assault in the metaverse seriously?'* *Vogue* 20 March 2022. See also Sean Russell, *'I enjoyed playing in the metaverse, then I went in as a woman'* *The Times*, 3 January 2024 who reports an avatar approaching his female avatar and saying 'I have a boner'.

¹¹ Centre for Countering Digital Hate (2021) *'New research shows Metaverse is not safe for kids'* 30 December 2021 quoted in Maya Oppenheim (2022) *'"Repeated rape threats": sexual violence and racist abuse in the metaverse'* *The Independent* 16 February 2022.

¹² Research by the Centre for Countering Digital Hate stated that: 'Users in one group chat were sending hardcore pornography to the group. Users were bragging about imposing that on other users. They were deliberately moving from one world to another world or one group chat to another to target users with this porn': quoted in Maya Oppenheim (2022) *'"Repeated rape threats": sexual violence and racist abuse in the metaverse'* *The Independent* 16 February 2022.

¹³ Nina Jane Patel (2021) *Reality or Fiction?. Sexual Harassment in VR, The Proteus... | by Nina Jane Patel | Kabuni | Medium*, describing screenshots being taken of users touching her avatar. In Frenkel and Browning (2021) *'The Metaverse's Dark Side: Here Come Harassment and Assaults'* *New York Times* 30 December 2021 and incident is described where one user claimed to have "recorded her [voice]" in order to "jerk off".

¹⁴ See further Rachel Metz (5 May 2022) *Harassment is a problem in VR, and it's likely to get worse | CNN Business*.

¹⁵ Blackwell et al 2019. *Harassment in Social Virtual Reality: Challenges for Platform Governance*. Proc. ACM Hum.-Comput. Interact., Vol. 3, No. CSCW, Article 100 (November 2019).

¹⁶ See further Clare McGlynn, 'Towards a criminal offence of intimate intrusions' *Feminist Legal Studies* forthcoming.

¹⁷ On the silencing effect of online abuse of women and girls, see United Nations, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, Irene Khan (A/78/288) (2023).

¹⁸ Rebecca Camber, *'British police probe virtual rape in the metaverse'* *Daily Mail* 1 January 2024.

¹⁹ See Clare McGlynn et al (2021) *'It's Torture for the Soul': The Harms of Image-Based Sexual Abuse* *Social & Legal Studies* 30(4): 541–562. Section 3 of the Sexual Offences Act 2003.

²⁰ Section 79(8) of the Sexual Offences Act 2003.

²¹ Peter Rook and Robert Ward, *Sexual Offences Law and Practice 6th edition* (Sweet and Maxwell 2021) para 2.59.

²² As discussed in Clare McGlynn and Kelly Johnson, *Cyberflashing: recognising harms, reforming laws* (2021) pp 76–77.

²³ Sections 1–2 of the Protection of Harassment Act 1997.

²⁴ *Majrowski v Guy's and Thomas' NHS Trust* [2007], para 30.

²⁵ This concern arises from the way in which similar offences have been interpreted. An instructive example comes from a Scottish case involving a 'pick-up artist' who targeted women, seeking to engage them in conversation in public streets, blocking their movements, sometimes touching or attempting to kiss them, giving 'compliments' and seeking their personal details. The defendant was charged with 'threatening or abusive behaviour', similar to the English public order offences, but his convictions were quashed on appeal as 'there was nothing in the appellant's behaviour ... which was overtly threatening, or which could reasonably be construed as threatening' (para 51). The behaviour was interpreted by the (male) judges as a 'polite conversational request or compliment' which cannot be construed as threatening 'merely because it is uninvited or unwelcome' (para 51). This judgment displays a concerning lack of understanding of the nature of public harassment experienced by many women. While there are differences between the English and Scottish offences, each are underpinned by understandings of what might constitute threatening or abusive behaviour and intentions. See further *Ahmed v Her Majesty's Advocate* [2020] HJAC 37 discussed in McGlynn and Johnson, *Cyberflashing: recognizing harms, reforming laws* (2021) pp 80–82.

²⁶ See, for example, Sean Russell, *'I enjoyed playing in the metaverse, then I went in as a woman'* *The Times*, 3 January 2024 who reports that during an experience in the metaverse he heard the 'n' word around twenty times.

²⁷ See Clare McGlynn, 'Towards a criminal offence of intimate intrusions' *Feminist Legal Studies* forthcoming.