



Cybercrime Law Through the Theoretical Lens of Relational Self

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ABSTRACT

This article examines cybercrime law through the theoretical lens of the relational self, as articulated by Jonathan Herring. It argues that understanding harm in technology-facilitated offences requires moving beyond traditional classifications of cyber-dependent and cyber-enabled crimes, which focus on technology as an instrument or target. Instead, a relational perspective reveals that cyberviolence—such as image-based abuse, cyberstalking, and online harassment—inflicts not only physical or economic harm, but also emotional, psychological, and relational harms that affect victims' autonomy, dignity, and capacity for trust. The analysis demonstrates how existing legal frameworks inadequately capture these harms, leading to misaligned classifications and limited remedies. Drawing on recent European Court of Human Rights jurisprudence, the article highlights a growing judicial recognition of the continuity between online and offline violence and of cyberviolence as a structural, relational phenomenon. Integrating the relational self into cybercrime law can thus advance a fairer, human-rights-oriented approach to technological harms.

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One can hardly imagine a crime being committed nowadays without the use of any Information Communication Technology (ICT) or the Internet. In 2024, Eurojust, the European Agency for Judicial Cooperation, reported working to a large extent in cases concerning fraud, drug trafficking, and money laundering.¹ At a minimum in those cases criminals used ICT as a means to organize and coordinate their activities, such as through encrypted telephone devices and other communication hardware and software.² In other cybercrime cases, technology plays a key enabling role.³ Ransomware attacks, according to the latest ENISA Threat Landscape, are a growing concern, targeting both private enterprises and public organizations.⁴ Criminal networks do not rely on ransomware only for their own illicit gain, but also offer ransomware-as-a-service, which explains the rise in ransomware attacks. Other cases, in which technology is a key enabler, are deepfake image-based sexual abuse cases, which concern the creation and distribution of synthetic abusive explicit images of real or non-real persons. While ransomware attacks and the creation of deepfake image-based sexual abuse, especially against children, are both cybercrimes and largely dependent on technology, they do have significant differences when it comes to effects, the targets of the offences, and the eventual harm on individuals and their human rights.

Understanding those differences and in particular what constitutes harm invoked or facilitated by technology (or technologies) as well as who suffers this harm is significant to comprehend the true nature of cybercrimes and seek for fair and appropriate remedies to those harms.

This contribution builds on Jonathan Herring's 2025 Montesquieu lecture on 'the criminal law and the relational-self'. In his lecture, Herring articulated, *inter alia*, the impact of understanding the concept of *self* in criminal law, and the challenges to the nature of harm and the role of responsibility.⁵ Given the prevalence of crime which takes place online or is facilitated by different digital technologies,⁶ this paper explores cybercrime law through the lens of the 'relational self' theory and reflects on the value of the theory in perceiving and remedying harms generated online.

The argument developed in this contribution is that applying a relational self lens to cybercrime law helps modernize existing approaches in conceptualizing cybercrimes, which are currently largely based on traditional criminal law frameworks into treating crimes. A relational self approach entails seeking an interpersonal relational component in cybercrime offences. Those are predominantly cybercrimes relating to cyberviolence, targeting individuals through exploitation, coercion, and abusive control or due to gender, age, or vulnerability. Such a conceptualization creates the space to acknowledge the impact of cyberviolence on human rights, the continuous nature, enduring harm, and the interconnection of cyberviolence offences with one another. Addressing relational harms, next to other types of inflicted harms, ultimately sets foundations for a fair(er) remedial system for technology-facilitated cyberviolence.

2. CYBERVIOLENCE AND THE RELATIONAL SELF

The theory of relational self has been applied to different domains, including psychology, biology, feminism, and human rights.⁷ Andersen and Chen, who proposed the relational self as an interpersonal social – cognitive theory of the self and personality, have suggested that

1 Eurojust, Annual Report, 2024, <<https://www.eurojust.europa.eu/sites/default/files/assets/files/eurojust-annual-report-2024-en.pdf>> accessed 30 September 2025.

2 See for example the EncroChat case: Court of Justice of the European Union, Judgment of the Court, 30 April 2024, *M.N.*, C-670/22, EU:C:2024:372, para 19.

3 The opposite is also true: various technologies are also deployed to prevent and detect criminal activity such as money laundering: Martin, A. et al., 'How technology and law interact to combat financial crime' In B. Vogel, E. Kosta, & M. Lassalle (Eds.), *Law of public-private cooperation against financial crime: Developing information sharing to counter money laundering and terrorism financing* (Intersentia, 2024).

4 ENISA Threat Landscape (2025): <<https://www.enisa.europa.eu/sites/default/files/2025-10/ENISA%20Threat%20Landscape%202025.pdf>> accessed 30 September 2025.

5 Herring, J., 'Criminal Law and the Relational Self: Rethinking Conceptions of Harm and Responsibility in an Interdependent World' (2025) *Tilburg Law Review* 30(1).

6 Europol, Internet Organised Crime Threat Assessment (IOCTA) 2024, Publications Office of the European Union, Luxembourg.

7 See in detail on the theory: Nedelsky, J., *Law's relations: A relational theory of self, autonomy, and law* (UOP USA 2011); Read further on different applications: Hansbury, T., *The Relational Self and Human Rights: Paul Ricoeur's Hermeneutics of Suspicion* (Birkbeck Law Press 2022); Nedelsky, Jennifer, 'A Relational Approach to Law and its Core Concepts' in Brake, Deborah, Martha Chamallas, and Verna Williams (eds), *The Oxford Handbook of Feminism and Law in the United States* (Oxford Academic, 9 June 2021).

relational selves provide a basis for an interactionist model of personality.⁸ In his book on Law and the Relational Self, Herring explains that at the heart of the relational self concept lies a claim that ‘the self emerges out of our relationships with each other: the self is constituted by and through our relationships.’⁹ Such a relative conceptualization of the self, as opposed to the individual, autonomous, rational self, pays attention to the fact that relationships have an impact on individuals’ autonomy and identities, they form them, and help them flourish, or inflict harm.

Actions such as cyber harassment, sextortion, cyber bullying, image-based sexual abuse, cyberflashing, doxxing, fitting under the term ‘cyberviolence’, result to harms that are rarely limited only to physical injury. Although such actions occur in the online sphere and may not always result in physical harm, they are still capable of inflicting significant emotional or psychological harm.

Cyberviolence, according to the CoE, is defined as:

[T]he use of computer systems to cause, facilitate, or threaten violence against individuals, that results in (or is likely to result in) physical, sexual, psychological or economic harm or suffering and may include the exploitation of the individual’s circumstance, characteristics or vulnerabilities.¹⁰

Cyberviolence offences have thus a common denominator; the act (or threat) of violence is directed at individuals and may result in physical, sexual, psychological, or economic harm. While the severity of the impact on the victim is not the same in every offence,¹¹ the broad range of types of harms nevertheless demonstrates the multi-dimensionality of the harm of cyberviolence.

The term ‘cyber’ is used to capture the different ways that the Internet exacerbates, magnifies or broadcasts the abuse. The full spectrum of behaviour ranges from online harassment to the desire to inflict physical harm including sexual assaults, murders and suicides. Cyber violence takes different forms, and the kinds of behaviours it has exhibited since its inception has changed as rapidly — and, unchecked, will continue to evolve — as the digital and virtual platforms and tools have spread.¹²

McGlynn and Rackley have explained that, image-based sexual abuse as a form of cyberviolence for example, may cause both individual (physical and mental illness, loss of dignity, privacy and sexual autonomy) and collective harms.¹³

Especially in cases of gender-based cyberviolence or intimate relationship (cyber)violence,¹⁴ the harms of the perpetrator’s actions are emotional, psychological,¹⁵ and of an enduring nature. In cyberstalking, research shows that victims experience feelings of irritability, guilt, anxiety, stress, fear, and isolation.¹⁶ Victims of cyberstalking are equally frightened and anxious as in offline stalking.¹⁷ Citron reports that victims ‘make themselves invisible, as best as they can, in the hopes that perpetrators might forget them.’¹⁸ Even in cases of non-intimate relationship

⁸ Andersen SM, Chen S., ‘The relational self: an interpersonal social-cognitive theory’ (Psychol Rev. 2002);109(4):619–45.

⁹ Herring, J., *Law and the relational self* (Cambridge University Press 2019) 11.

¹⁰ CoE Cybercrime Convention Committee (T-CY) ‘Mapping study on cyberviolence with recommendations adopted by the T-CY on 9 July 2018’ (CoE, 2018) p.5.

¹¹ Severity is commonly measured by the type of act, its potential and the resulting consequence. Davies, E., ‘The harms of violence are unevenly distributed: how does the harm caused to victims of violence vary by victim-perpetrator relationship?’ (2025) *Journal of Gender-Based Violence*, 9(3), 388.

¹² ECtHR, Judgment of 11 February 2020, *Buturugă v. Romania*, Application No. 56867/15; ECtHR, Judgment of 10 January 2019, para 36, referring to a 2015 Report on cyberviolence against women and girls by the UN Broadband Commission for digital development working group on broadband and gender, cyberviolence against women and girls.

¹³ Collective harms are a ‘form of cultural harm that impacts directly on individuals, as well as on society as a whole.’ McGlynn C., Rackley E., ‘Image-Based Sexual Abuse’ (2017) *Oxford Journal of Legal Studies*, Vol 37, Issue 3.

¹⁴ Faith, B., ‘Tackling online gender-based violence; understanding gender, development, and the power relations of digital spaces’ (2022) *Gender, Technology and Development*, 26(3) 325–340.

¹⁵ Davies, 2025, op.cit. fn.11.

¹⁶ Short, E., Guppy, A., Hart, J. A., & Barnes, J., ‘The impact of cyberstalking’ (2015) *Studies in Media and Communication*, 3(2), 23–37.

¹⁷ Ibid.

¹⁸ Keats Citron, D., ‘From Bad to Worse: Stalking, Threats, and Chilling Effects’ (The Supreme Court Review 2023) no. 1 (2024): 175–212 (177).

violence,¹⁹ where the offender is unknown to the victim, the relational capacity of the victims is impacted and their trust towards other people and forming relations is affected.

Therefore, understanding harm not only as an impact on the individual's autonomy and dignity, but also on their confidence and relational trust, corresponds to what existing criminological studies, some of which were referenced in this section, identify as the actual harm of cyberviolence offences.

The question however is how well the law corresponds to such a relational understanding of harms as a result of cyberviolence. The following two sections examine the law from a formal perspective, exploring classifications of cybercrimes, and from a substantive perspective, on how case law signals the importance of taking relational harms into account.

3. CYBER-DEPENDENT CRIMES AND CYBER-ENABLED CRIMES: STILL A RELEVANT DISTINCTION?

In the United Nations classification of crime for statistical purposes, crimes such as hacking, data and system interference, computer related forgery and fraud could fall under acts against property or acts involving fraud, deception, or corruption.²⁰ Acts of cyberviolence would fall under acts leading to harm or intending to cause harm to the person, or injurious acts of a sexual nature, only when acts of cyberviolence are part of sexual offences materialized offline. Across these categories, the involvement of ICT or the Internet ('cybercrime-related') is regarded as a variable, which according to the classification, applies only to cyber-enabled traditional offences 'facilitated by the use of a computer, such as internet fraud or cyber-stalking,' and not to cyber-dependent crimes, which target a computer or a computer system and 'can only be committed through ICT infrastructure'.²¹ How crimes are classified and grouped has impact on the statistical reporting and the understanding of the prevalence of a type of crime. But there is also another aspect that needs to be taken into account. The classification, or looser 'grouping', implies common characteristics, underlying rationales, and protected values behind the criminalization of certain acts in those groupings.

Cybercrimes are often classified taking as a criterion the role of the Internet and networked technologies in committing the crime. Cybercrimes are then divided in cyber-assisted crimes, which are ordinary criminal law offences assisted with the use of computers, or cyber-enabled and cyber-dependent crimes.²² Cyber-enabled crimes are largely traditional crimes with a globalized opportunity, while cyber-dependent crimes are *sui-generis* crimes, which cannot be committed without the use of the Internet (e.g. Denial of Service Attack).²³ Other classifications distinguish offences against the confidentiality, integrity, and availability ('CIA') of computers and data (e.g. hacking and system interference), computer-related offences (e.g. computer-related forgery), and content-related offences (e.g. image-based sexual abuse against children). This is the approach adopted by the Council of Europe Cybercrime (CoE) Convention.²⁴ As regards the underlying rationale of such groupings, in CIA crimes the targets are computer systems and data, and the protected goods and values relate to data integrity, availability and confidentiality of communications, while a 'content crime' such as child pornography protects values such as human dignity and autonomy.

The EU also acknowledges such distinctions of CIA cybercrimes and other cybercrimes. However, not all types of cybercrime are regulated in a single EU legal instrument. The EU legislator rather devises different Directives per type of cybercrime. The 2013 EU Cybercrime Directive on attacks

¹⁹ Herring, J., *Law and the relational self* (Cambridge University Press 2019) 87f.

²⁰ United Nations, The International Classification of Crime for Statistical Purposes (ICCS), v.1, 2015.

²¹ Op cit. fn 19, 62.

²² See Wall, D.S., *Cybercrime: The transformation of crime in the information age* (John Wiley & Sons 2024).

²³ Ibid.

²⁴ See Council of Europe (CoE) Cybercrime Convention (a fourth category concerns the infringements of copyright), CoE Convention on Cybercrime, European Treaty Series – No. 185 (2001). There are also exceptions from such classifications or groupings, reflecting the multi-dimensionality of cybercrime offences. The recent UN Convention on Cybercrime (Hanoi Convention) avoids grouping crimes under such categories but rather provides a list of offences. United Nations Convention against Cybercrime; Strengthening International Cooperation for Combating Certain Crimes Committed by Means of Information and Communications Technology Systems and for the Sharing of Evidence in Electronic Form of Serious Crimes'. The Convention was adopted in the General Assembly of the United Nations on 24 December 2024 in New York by resolution 79/243.

against information systems criminalizes illegal access to information systems, system and data interference, interception, and tools used for committing those offences.²⁵ Accordingly, the 2011 EU Child Sexual Abuse Directive, which is currently being revised, establishes crimes such as child pornography (child image-based sexual abuse) and solicitation of children (known as ‘grooming’).²⁶

With the use of Artificial Intelligence (AI) new forms of cybercrimes have emerged, which challenge such conceptualizations: how certain cybercrimes are perceived and criminalized does not reflect the magnitude of the actual harm suffered by the victim. This problem is well demonstrated with the example of deepfake image-based sexual abuse.²⁷ Deepfakes, that is realistic synthetic images, video, and audio generated with the use of AI, are reportedly increasingly used for the creation of abusive sexual material and intimate fabricated images of real or fictional persons.²⁸

When the behavioral components of deepfake image-based abuse involving non-existent individuals are considered in isolation, the conduct may be classified as a cyber-dependent offence, insofar as it entails the manipulation of data (e.g. digital images) and the protected legal interest is data integrity. However, when situated within its broader contextual framework, it becomes apparent that, although no tangible or physical harm is inflicted upon an actual individual in such cases, the conduct extends beyond a mere violation of data integrity. Image-based abuse of non-existent persons generates harm both to the recipients of such unsolicited material²⁹ and to society more broadly, given that AI-generated sexually explicit imagery may be utilized for purposes of child grooming and extortion.³⁰

Courts do not always have appropriate tools to remedy – next to any individual bodily harm – harms relating the relational capacity, especially in intimate relationships. This issue is exemplified by the fact that deepfake image sexual based abuse may be treated as defamation³¹ or a copyright violation.³² This potential mismatch between the legally constructed perception of harm underlying cybercrime classifications and the actual social and moral harm caused by such acts may have significant implications, including, at the extreme, the perpetuation of crime-type bias.³³ Traces of a relational understanding of cybercrime, however, have started to manifest in case law of the European Court of Human Rights (ECtHR) in cases of cyberviolence, as explained in the following section.

4. EUROPEAN COURT OF HUMAN RIGHTS, CYBERVIOLENCE, AND THE RELATIONAL SELF

The European Court of Human Rights, through a number of landmark cases,³⁴ has been contributing to shaping the concept of cyberviolence (or ‘online violence’), and understanding

²⁵ Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems and replacing Council Framework Decision 2005/222/JHA OJ L 218, 14.8.2013, 8–14.

²⁶ Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, OJ L 335, 17.12.2011, 1–14.

²⁷ Flynn, A., Clough, J., and Cooke, T., ‘Disrupting and preventing deepfake abuse: Exploring criminal law responses to AI-facilitated abuse’ In Powell, A., Flynn, A., Sugiura, I. (eds), *The Palgrave handbook of gendered violence and technology* (Cham: Springer International Publishing 2022), 585.

²⁸ Flynn, A., Clough, J., and Cooke, T., ‘Disrupting and preventing deepfake abuse: Exploring criminal law responses to AI-facilitated abuse’ In *The Palgrave handbook of gendered violence and technology* (Cham: Springer International Publishing 2022).

²⁹ See Dushi, D., Berdufi N., and Karagianni A., ‘The legal framework and legal gaps for AI-generated child sexual abuse material’ (2025) *Computer Law & Security Review*, 59: 106205.

³⁰ Ciardha, Caoilte Ó., John Buckley, and Rebecca S. Portnoff, ‘AI Generated Child Sexual Abuse Material-What’s the Harm?’ (2025).

³¹ George, A., ‘Defamation in the Time of Deepfakes’ (2024) *Columbia Journal of Gender and Law*, 45(1) 122–172.

³² See Denmark’s proposed amendment to copyright law granting individuals copyright over their own body, facial features, and voice, and thus being able to file complaints against non-consensual AI-generated media. See Axelsson S., ‘Owning the Self: Denmark’s Copyright Turn Against Deepfakes’ (3 September 2025, *Schjodt*).

³³ See for crime-type bias in cases involving jury for example: Castrellon, J., Hakimi, S., Parelman, J., Yin, L., and Jonathan, R., ‘Social cognitive processes explain bias in juror decisions’ (2008) *The International Journal of Evidence & Proof* 23 134–140.

³⁴ ECtHR, Judgment of 3 December 2024, *M.S.D v. Romania*, Application No. 28935/21; ECtHR, Judgment of 14 September 2021, *Volodina v. Russia* (No2), Application No. 40419/19; ECtHR, Judgment of 11 February 2020, *Buturugă v. Romania*, Application No. 56867/15; ECtHR, Judgment of 10 January 2019, *Khadija Ismayilova v. Azerbaijan*, Applications Nos. 65286/13 and 57270/14; ECtHR, Judgment of 2 December 2008, *K.U. v. Finland*, Application No. 2872/02.

its impact on human rights, especially as regards prohibition of torture and the right to respect for private and family life.³⁵ In these landmark cases, the Court acknowledges, *inter alia*, the role of technology, the nature of (cyber)violence in intimate relationships, and the different manifestations of harm, both as individual and relational harm.³⁶

As regards the role of technology, cyberspace more generally, and the link between online and offline violence, the ECtHR acknowledges the blurred dichotomy between online and offline violence. *Volodina* concerned a series of offences that a former intimate partner perpetrated against the applicant, which included both threats of violence and life threats, but also the hacking by the offender to the applicant's social media and email accounts, the uploading and sending of obscene messages impersonating the applicant to her family, friends, and persons from the school environment of her son, and the publication of non-consensual nude images. In *Volodina*, the Court provided that '[o]nline violence, or cyberviolence, is closely linked with offline, or "real-life", violence and falls to be considered as another facet of the complex phenomenon of domestic violence.'³⁷

In *Buturugă*, the female victim of physical violence by a former intimate partner, had her electronic accounts unlawfully accessed by the offender, who made copies of the victim's private conversations, documents, and photographs. The local law enforcement authority found the unlawful access acts unrelated to the physical violence and death threats, and rejected the victim's request for an electronic search to the family's computer, in view of obtaining evidence. The ECtHR quoted a report from the European Institute for Gender Equality explaining that cyberviolence is a continuum of offline violence, and that

[t]he police tend to make a false dichotomy between online and offline violence against women and girls, constructing victims' experiences as "incidents" rather than patterns of behaviour over time.³⁸

The ECtHR has recognized that acts of cyberviolence lead to harm such as anxiety, distress and insecurity, and seek to humiliate and distress the victim.³⁹ An individual should be protected against such emotional and psychological harms, as opposed to the 'soldier model of harm', that prioritizes physical harm.⁴⁰ In *Volodina*, the Court, importantly, quoted a report UN Human Rights Council's Special Rapporteur on violence against women, according to which '[a]ll forms of online gender-based violence are used to control and attack women and to maintain and reinforce patriarchal norms, roles and structures and an unequal power relationship'.⁴¹ Therefore, cyberviolence, and especially gender-based violence, is a structural discriminatory phenomenon and should not be regarded as unrelated acts. This is also acknowledged in the EU Directive on combating violence against women, in which, Recital 10, stipulates:

Violence against women is a persisting manifestation of structural discrimination against women, resulting from historically unequal power relations between women and men. It is a form of gender-based violence inflicted primarily on women and girls by men. It is rooted in socially constructed roles, behaviour, activities and attributes that a given society considers appropriate for women and men.⁴²

The link of relational harm and human rights becomes clear in the case of Art. 8 ECHR. The right to protection of personal life, is pivotal in expanding the understanding of harm in the case of

³⁵ Articles 3 and 8 European Convention on Human Rights (ECHR) respectively.

³⁶ It is not the aim of this short contribution to analyze in-depth the cases, for an elaborate analysis see: Sinclair-Blakemore, Adaena, 'Cyberviolence Against Women Under International Human Rights Law: *Buturugă v Romania* and *Volodina v Russia* (No 2)' (2023) Human Rights Law Review 23, no. 1; Van de Heyning C., 'Strasbourg's Consolidation on Technology-Facilitated Gender-Based Violence: *M.Ş.D. V. Romania*' (22 April 2025) *Strasbourg Observers*.

³⁷ ECtHR *Volodina* op. cit. fn 32, para 49; also in the more recent *M.Ş.D. op.cit.* fn 32, para 119.

³⁸ ECtHR *Buturugă*, op. cit. fn 32, para 42.

³⁹ ECtHR *Volodina* op. cit. fn 32, para 57.

⁴⁰ Herring 2025, op. cit. fn.5.

⁴¹ ECtHR *Volodina* op. cit. fn 32, para 23.

⁴² Directive (EU) 2024/1385 of the European Parliament and of the Council of 14 May 2024 on combating violence against women and domestic violence, 1 OJ L, 2024/1385, 24.5.2024.

cyberviolence. As the Court noted in *Khadija*, the right of Article 8 protects *inter alia* ‘the right to establish and develop relationships with other human beings and the outside world.’ Privacy therefore does not relate to a ‘self-serving rational self’, as Herring argues, or threatening interdependence, but the opposite: it allows a relational self to flourish, and creates the space for it, far from coercive and abusive relationships.

5. CONCLUDING REMARKS

Viewing cybercrime law through the theoretical lens of the relational self allows for a deeper understanding of the nature of harm and responsibility in technology-facilitated offences. Traditional classifications of cybercrimes, distinguishing between cyber-dependent and cyber-enabled crimes, remain focused on the role of technology as an instrument or target of the offence. Such approaches, however, do not adequately reflect the relational and enduring harms suffered by victims of cyberviolence, nor do they capture how digital acts disrupt individuals’ capacity to relate, trust, and participate in social life. A relational self approach shifts the focus from the isolated, autonomous subject towards an understanding of the self through its relationships. Within this framework, harm is not only physical or economic, but also emotional, psychological, and relational. The jurisprudence of the ECtHR acknowledges these relational harms, recognizing cyberviolence as part of a continuum of offline and online violence, and emphasizing the impact of such acts on dignity, autonomy, and human relations. Integrating a relational self perspective into cybercrime law therefore contributes to a more comprehensive and accurate conceptualization of cyberviolence. It enables the law to better respond to the real harms experienced by victims, and to promote fairer and more effective remedies within a human-rights-based framework.

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