

A CASE STUDY FROM KENYA

WHEN A STOLEN PHOTOGRAPH LEADS TO THREATS OF VIOLENCE

Keywords: sharing photos without consent; faking personal data; threats of violence; stealing identity; abusive comments; emotional harm; loss of identity; Facebook; Twitter; other social networks; abuser is known; abuser is unknown; many abusers; reported to law enforcement; leaving platform; survivor's age is 18-30

THE STORY AND THE VIOLENCE

Raha, 27, lives in Kenya where she works in a small business. Born in a settlement called Yellow Jungle, Raha is from one of two ethnic communities that hail from the area. Following recent ethnic violence, Raha's community was displaced and tensions were running high.

One day, a male colleague of Raha's offered to take a picture of her so she would be able to put it up on her Facebook profile page. Soon after, the same image of hers appeared online, identifying her as an International Criminal Court (ICC) witness currently testifying at The Hague in cases concerning the deputy president of Kenya. When Raha found out she was angry and distressed. She says, "I was shocked because I was told by my friends that they saw me on social media networks including Facebook and Twitter. They wondered what I was doing at The Hague. But I wasn't at The Hague. It was a very stressful situation, especially psychologically."

Given the high-profile nature of the ICC case, Raha faced several threats of violence, including death threats. These threats were heightened by the continuing ethnic violence in Yellow Jungle, and led to ill feelings from both the area's communities. Raha's colleague who may have been responsible for uploading the picture was not from either ethnic group; however, the wider political climate meant that the implications of the photograph became far broader than

the incident itself. Although this period was a very difficult time in Raha's life, she says, "I am a very strong woman. It is only the first night that I couldn't sleep; I slept with the lights on."

SEEKING JUSTICE

Initially Raha did not see the seriousness of the crime. But after mainstream national media began to pick up the story, she was urged by friends and family to report the abuse and present her side of the story to the public. Raha's *account of the case focused on the misuse of her photograph*; however, the officer recording the case decided to approach it as a cyber crime. But *existing cyber crime law does not address cyber bullying or abuse*. Instead, the Information and Communications Act Cap 411A focuses on criminal acts including unauthorised access to computer data, electronic fraud, and publishing obscene information. There is currently a proposed law called the Cyber Crime and Computer-related Offences Bill 2014; however, it is still to be presented in parliament.

Furthermore, *the existing cyber crime police unit does not function properly*. Cases from across the country have to be referred to its headquarters in Nairobi, which is a *long process that lacks sufficient procedures*. In Raha's case, the police offered her physical protection on the basis of the possible ethnic violence that could ensue, and Raha was assured that *the cyber crime unit was pursuing her case*. However, no one contacted Raha in over five months since her

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complaint, and *the follow-up process was difficult* because the officer-in-charge was transferred immediately after the case was registered.

FINDING AGENCY

Initially, due to the harassment Raha was receiving across social media platforms, she *removed her pro-*

file picture from Facebook. She also left Facebook for *that period of time*, urged by her friends and family to do so. Later she overcame her fear and *made the decision to return to Facebook and add her pictures*. Raha says that the incident built courage in her, but she was disillusioned by the lack of assistance from law enforcement.



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