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Abstract

'Upskirting'—the non-consensual taking and/or dissemination of intimate images taken surreptitiously up a skirt—is a relatively new addition to the repertoire of men's violence against women and girls. Recently, it has received considerable media and public attention in many countries and some academic scrutiny. This systematic review explicates how scholars construct upskirting as a matter for academic inquiry and a social problem that requires remedy. Four research sub-questions address how scholarship constructs: the problem of upskirting; perpetrators of upskirting; victims of upskirting, and remedies. Five bibliographical databases were searched, yielding 26 sources that met the inclusion criteria. Most of the studies (16) and most of the earlier work is from the discipline of Law. Other studies come from a combination of Criminology, Media Studies, Cultural Studies, Psychology, Social Work, Sociology and Computing. The predominance of legal scholarship has created a framing of upskirting which constructs it as an individual sexual act, for purposes of sexual gratification, as gender-neutral, as the act of aberrant individuals, and scrutinises the act of taking the photograph. By contrast, scholarship from other disciplines is more likely to locate upskirting as a highly gendered behaviour in the context of gendered relations of power, and of violence against women and girls, and to consider both the act of taking the photograph and its dissemination online. We argue that future research ought to: approach upskirting as a form of violence against women and girls; be empirical and intersectional, and engage with victims and perpetrators.

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Introduction

Upskirting and 'down-blousing' are the terms used to describe sexist, non-consensual taking and/or dissemination of intimate images of women and girl's bodies, taken surreptitiously up a skirt or down a blouse. A relatively recent addition to the repertoire of men's violence and abuse against women and girls, 'upskirting' and, to a lesser extent, 'downblousing' has caught the attention of activists, media, legal systems and scholars in several countries across the world. As cases have been prosecuted, it has become clear that existing legal frameworks are inadequate for the prosecution of this offence across different jurisdictions. In some countries such as the UK, US and Germany, these legal failings have provoked campaigns to change the law as well as scholarship about legal responses to upskirting. Subsequently, scholars from a range of other disciplines have also investigated this new form of gender-based violence so that there is now a small body of research dedicated to upskirting (sometimes encompassing down-blousing, which is given less attention). This paper provides a systematic analysis of this literature, to address the question, 'how do scholars construct upskirting as a matter for academic inquiry and a social problem that requires remedy'?

Following a brief overview of the context and methods, the findings explicate how the prevailing scholarship constructs: the problem of upskirting; the perpetrators of upskirting; the victims of upskirting and the remedies for upskirting in terms of public policy and legal change. This is followed by a discussion on the implications of the existing frames for understanding upskirting and suggestions for future research.

Framing Upskirting

In reviewing the extant scholarship about upskirting, this paper pays attention to the ways in which upskirting is framed in academic scholarship and considers the significance of

the frames used in terms of knowledge creation and potential responses to upskirting. In so doing, it draws on previous research about the processes and implications of framing, which we now consider.

Analysis of framing refers to the ways in which social matters are constructed and given meaning, the implications of that process and how power relations influence it. Framing often refers to discourses surrounding social problems, the process whereby those social problems come to be defined and the elisions that inevitably accompany such definitions. It "is rooted in the symbolic interactionist and constructionist principle that meanings do not automatically or naturally attach themselves to the objects, events, or experiences we encounter, but often arise, instead, through interactively based interpretive processes" (Snow, 2004: 384). Academic consideration of framing originates in Goffman's (1974) sociological research and Tuchman (1978) and Gitlin's (1980) media sociology. As well as being used to analyse how media reporting frames social matters, framing has also been used in analysis of social movements and collective action (Snow, 2004). The significance of framing through media and other public discourses is that it directs knowledge generation, and public and policy responses to an issue, that is, it creates what are known as 'framing effects'.

There is a significant body of scholarship about how gender-based violence has been framed and how this has influenced the societal treatment of victims and perpetrators. For example, Klein's (2013:1) edited collection "examines how sexual and domestic violence against women is framed through language… the expressions used to name abuse, the meanings suggested by these expressions, and their implications for research, policy, and practice." In the various contexts of research, policy, practice and media/public discourse, there are numerous ways in which the violence, perpetrators, and victims may be portrayed. The violence may be portrayed as gendered or gender neutral, as a family, social, medical,

psychiatric, and/or criminal problem. It may be portrayed as a global phenomenon related to other global and national processes of domination such as capitalism, patriarchy, neo-colonialism, heteronormativity, and ableism or as a problem linked only to racialized 'others'. Perpetrators may be portrayed as pathological, monstrous, predatory and/or they may be rendered invisible. Victims may be portrayed as culpable, tragic, agentic, and/or empowered survivors. Euphemisms may be employed and stereotypes generated. Moral outrage may be induced and rhetorical devices used for political effect. A closer scrutiny of the framing approach can explicate the ways in which this process is inherently political and strategic and has implications for knowledge-generation, policies and practices in relation to gender-based violence.

In relation to the framing of domestic violence in media discourses, Berns (2004) notes that the dominant portrayal of domestic violence individualises the problem, responsibilises the victim and ignores the social, cultural, structural, institutional, and political forces which enable domestic violence to flourish. In this way, the dominant framing of domestic violence reflects the dominant discourses of the society from which it emerges. In a society characterised by a neo-liberal, patriarchal ideology emphasising individual choice and celebrating individual empowerment, that ideology will influence the emerging framing of a social problem. In this way, framing does not happen in a vacuum but emerges from and through prevailing power relations and structures. However, Carragee and Roef (2004), writing about framing in the media context, argue that these questions of power have been largely neglected in recent research about framing. Instead, there has been a tendency to reduce frames to story topics and positions in a way that divorces frames from the context in which they are produced and from their theoretical and substantive implications. In this examination of how scholarship frames upskirting, questions of power are also considered in terms of disciplinary approaches as all academic disciplines do not enjoy similar levels of

power. For example, the discipline of law enjoys greater symbolic, cultural and material power than newer disciplines such as communication and media studies. We consider *inter alia* which disciplines have produced scholarship about upskirting and which of those disciplines are imbued with power and authority to frame upskirting.

This review focuses specifically on scholarship about upskirting (which occasionally also refers to 'downblousing'), rather than on scholarship which has a wider remit that includes upskirting. There is a large body of work about different forms of gender-based violence and of image-based abuse which have influenced how these issues are framed and responded to; this literature forms the wider context to research focusing specifically on upskirting. While all forms of gender-based violence can be considered to be on a continuum (Kelly, 1987) there is value in examining individual forms, as they each have their own features and dynamics. Moreover, upskirting, distinct from other forms of image-based abuse, has attracted considerable attention from media, publics and law-maker; for example it has been the subject of recent public campaigns to outlaw this behaviour in several jurisdiction For these reasons, this review focuses on scholarship dedicated specifically to upskirting rather than literature about a range of other forms of image-based abuse.

Methodology

The purpose of this study was to illuminate the ways in which upskirting is framed in the academic literature. It was driven by the research question, 'how does scholarship construct 'upskirting' as a matter for academic inquiry and as a social problem that requires remedy?' To address this question a systematic literature review was undertaken.

Search strategy.

We conducted a literature search in June 2020 using five bibliographical databases: Web of Science, International Bibliography of the Social Sciences (IBSS), Scopus, Google

Scholar and Applied Social Sciences Index and Abstracts (ASSIA). The initial search used ten search terms, but some (such as creep*) generated more than a million results and an initial review of the first hundred references listed did not generate any sources relevant to upskirting. The list of search terms was then refined to include: upskirt*, up-skirt*, downblouse*, down-blouse*, and creepshot*. The searches generated 1815 hits; this included some instances where the same article was found by more than one database. The title and, in some cases, the abstract of each reference were reviewed to assess the item's relevance. Items were included in the sample if they were substantively about upskirting and were published in an academic journal or book in English language. They were excluded if upskirting was a passing reference to a range of examples of, for example image-based sexual abuse, and if they did not provide a significant focus on upskirting. This literature search was repeated in June 2021 to find sources and chapters in the previous 12 months. In addition, the bibliographies of the selected sources were reviewed to identify any further relevant scholarship about upskirting. In total, the two-stage search process generated 26 sources that comprise the sample: 24 journal articles and 2 book chapters.

Results.

Table 1 provides key descriptive features of scholarship about upskirting. Most work has been conducted in North America. The disciplinary approach of the article was determined by assessing the disciplinary focus of the publication, the author's department, and the content of the article. The majority of publications (*n*=16), particularly those that emerged earlier on, fall within the discipline of Law. We discuss below how this gives a distinctive frame to discussions of upskirting and positions it as primarily a problem for the law to resolve as well as a problem that challenges legal attempts at resolution.

Scholarship about upskirting was first published in 2000. Most of the sources were written more recently—between 2016 and 2020—so we might expect to see an increase in publications in the coming years.

Analytical Approach

To address the main research question - 'how does scholarship construct upskirting as a matter for academic inquiry and as a social problem requiring remedy?' - we developed four research sub-questions: how does scholarship construct: 1) the problem of upskirting 2) perpetrators of upskirting; 3) victims of upskirting and 4) remedies for upskirting? Our analytical approach involved each author reading and analysing each source in terms of these four sub-questions. We then shared and discussed our analysis of each source and, through a process of discursive analysis, came to a decision about how to code each source.

In terms of the construction of the problem of upskirting, sources were coded as constructing it primarily as a form of sexual gratification (voyeurism or pornography), as an issue of privacy, and/or as a form of gendered power and sexual violence. The codes were not mutually exclusive because sources rarely constructed upskirting in terms of just one of these categories, often drawing on more than one category. The discussion below is dedicated predominantly to how scholarship constructs upskirting itself, as relatively little consideration is given in existing scholarship to perpetrators, victims, or remedies. However, there was some, often implicit, consideration and we coded the scholarship as constructing perpetrators as with or without agency, victims as not visible or visible to some degree, and remedies as legal or 'other' kinds of interventions. In the following sections, we present this analysis, detailing how extant scholarship constructs the problem of upskirting, how perpetrators and victims are portrayed, and what kinds of remedies are advocated.

Findings: Constructions of upskirting

The literature in the sample constructs upskirting in three main ways; as a form of sexual gratification (voyeurism or pornography), as an issue of privacy, and/or as a form of gendered power and sexual violence. In addition, two other less dominant framings emerged: upskirting as a technological problem, and as a problem stemming from loneliness. Each of these constructions is discussed in detail in the following sections.

Upskirting and Sexual Gratification

Concepts of sexual gratification are invoked in scholarship about upskirting through framing the phenomenon as a form of voyeurism or of pornography. In the majority of articles, (16 of the sample of 26; 11 of the 16 were written from a the discipline of Law) upskirting is framed as a form of voyeurism, defined as "behavior in which arousal and sexual gratification are obtained through the observation of unsuspecting people engaging in sexual activities, disrobing, or naked" (McCann *et al*, 2018). Some are at pains to point out that "the issue of voyeurism—of which creepshots are certainly a subcategory within—is not new" (Colbeck, 2017 p3). Bell *et al* (2006) note that "[v]oyeurism is part of human history" (p301) and Colbeck (2017) and Calvert and Brown (2000) refer to the legend of Lady Godiva and "her infamous nude ride" (p3) which created the story of 'peeping Tom'. Fok (2007) also argues that upskirting is not new; he refers to its depiction in a French painting of 1767, 'The Happy Accident of the Swing', and the "iconic" image of Marilyn Monroe standing above a subway grating with her dress blown up by the updraft. These cultural depictions point to the historic normalisation of voyeurism, an abusive act, usually conducted by men against women.

Much less common is consideration of upskirting as a form of pornography, a frame adopted by just two sources in the sample. In their short piece Huang and Kong (2016) report an empirical test of computational technologies' effectiveness in identifying upskirting images. This article is distinct from other sources in the sample in that it confines its

consideration to technological solutions and does not engage with the wider social or legal significance of the phenomenon. Calvert and Brown (2000, p471) adopt a combination of these two frames to understand upskirting: "Two burgeoning phenomena—video voyeurism and internet pornography—have coalesced to create a legal nightmare for the new millennium".

Voyeurism is described as deviant sexual behaviour, with reference to the Diagnostic Manual of Mental Disorders, to construct it as scophophilia—"the pleasures of looking" (Freud, 2011, p35 quoted in Colbeck, 2017 p. 5; also see Calvert and Brown 2000, p. 474)—and as paraphilia, "a term meaning 'sexual perversion or deviation' (Gillespie, 2008 p372, quoting Oxford English Dictionary). Colbeck (2017) provides a psycho-analytical examination of upskirting, drawing on Freud's ideas about voyeurism as a form of narcissism associated with sadism and masochism and on Mulvey's concept of the male gaze. She argues that creepshots "work well to neutralize the threat to men posed by female castration and free sexuality… the male spectators … are empowered by subjecting their female objects to unwanted and unconsented sexual attention" (p16).

The framing of upskirting as voyeurism may narrowly conceive of it as a sexual act, thus overlooking its wider implications and consequences. Moreover, the legal sources that describe upskirting as voyeurism do so without recognising voyeurism as deeply gendered behaviour. For example, in Bell *et al*'s (2006) examples of voyeurism, the victim is typically a woman, but gender-neutral language is used; "a voyeur can perpetrate his/her act" (p302). Similarly, Calvert and Brown (2000, p. 471) state that the "prey […] are countless numbers of unsuspecting men, women, and children" though the case law they discuss predominantly features women victims and male perpetrators. McCann *et al* (2018) report studies showing that three times as many men as women engage in voyeurism, but they do not discuss voyeurism as gendered behaviour which reflects or reproduces gendered relations or the

gender regime. Fok (2017) praises a gender-neutral approach referring to the "hazards" of the kilt which was the prescribed uniform during "my school days in Scotland" (p43). By giving numerous examples of court cases that involve male perpetrators and female victims, these legal sources implicitly describe the gendered nature of upskirting and yet they rely on gender-neutral definitions of voyeurism and fail to discuss the elephant in the room—gender. Exceptions to this pattern are Gillespie (2008, 2019) and Hargreaves (2018) who both frame voyeurism, and upskirting, as gendered behaviour. Gillespie (2019) argues "the fact that it is a gendered form of violence must be considered a wrong in itself" (p1114) while Hargreaves notes upskirting's "significant harm: the acceptance or reinforcement of the notion that women in public exist as sexual objects for the interest of others" (p3).

In contrast to the tendency in legal sources to consider upskirting and voyeurism as gender-neutral, sources from other disciplines which depict upskirting as voyeurism highlight the gendered dimensions. For example, Burns' (2018) chapter, written from the discipline of Media and Communications, "considers the relationship between gender, looking and power" (p27) and argues that upskirting "express[es] a specific view of women as instruments available for the use of men (p30). Similarly, Colbeck (2017) argues that "what perpetuates the production and consumption of creepshots … [is] power and control over their female subjects" (p2). Approaching the topic from the discipline of Criminology, Thompson and Wood (2018) explain that the looking that is core to voyeurism is "connected to structurally patterned asymmetries of visibility and include who is looking at who/what, why they are looking, how the looking is done, and where and when this takes place" (p562). As a result, "gendered vision has been, and continues to be, used as a power device for the control and domination of women, taking place in the social field of visibilities that produce and reproduce these social relations" (p563). In Chan's short article (2018), prompted by consideration of a Calvin Klein advert which depicts a model in an upskirt pose, the looking

is “a strategy of patriarchal control” (p352). In her analysis of Singapore media representations, Vitis (2020 points to upskirting’s gendered impacts: it “hinders women’s participation in public life” (p1). It is clear that scholarship produced in disciplines other than Law tends to highlight the gendered nature of voyeurism and looking, while scholarship from the discipline of Law tends not to dwell upon, or even ignores, this central feature of upskirting. Instead, the key element of voyeurism that taxes legal scholars is the concept and legal requirement of privacy, which we discuss below.

Upskirting and Privacy

For legal scholarship, the concept of privacy is the most important feature of how upskirting is framed. Eleven sources discuss legal definitions and the function of privacy in different jurisdictions and its application to voyeurism/ upskirting. For example, established voyeurism laws in the US protect a person on private property or in “areas that are technically in places accessible to the public, yet afford an expectation of privacy when used” (Horstmann, 2007, p744) such as in changing rooms or public toilets. However, upskirting generally takes place in public spaces such as on transport and in shopping centres, as well as in semi-public places such as workplaces and schools. Some scholars have noted prosecutors’ failure to apply this element of the privacy laws to upskirting and their argument that we do not have an expectation of privacy in public places. For example, Bell *et al*’s (2006) analysis of US statutory legislation regarding upskirting and down-blousing finds that legal requirements of ‘invasion of privacy’ are a barrier to successful prosecution because “courts are reluctant to create a zone of privacy in public areas” (p313).

Some prosecutors and legal commentators critique these interpretations and argue that privacy should be extended to parts of the body. Marvin (2015) notes that “[a]t the core of personal privacy rights is the ability to control access to one’s body to prevent unwanted intrusions. The fundamental principle to control access to one’s own body … must remain

attached to the person, not the space they occupy" (p140), a point also made in Bell *et al* 2006). Zeronda (2021) notes that legal deterrence against upskirting "cannot be achieved when courts cling to conventional thinking that invasions of privacy cannot occur in the public sphere" (p1132). Indeed, Beasley (2006) and McCann *et al* (2018) frame this as one of the most important challenges for future jurisprudence on this problem.

Some legal scholarship has responded to this challenge by analysing recent statutes designed to address upskirting, or by offering new statutes. For example, Horstmann (2007) analyses what he terms "Circumstances" statutes that prohibit "upskirting under *circumstances* in which the victim would have a reasonable expectation of privacy" (p743 italics in original) but notes that these statues are insufficiently specific about the circumstances and so, problematically, would likely be interpreted on a case-by-case basis. To aid efforts to design more fitting laws, Hortsmann (2007) drafts a model statute, "drawing upon the best selection of the various state statutes currently in effect, [to] provide much-needed guidance to the many states still struggling with this problem" (p755).

However, some legal scholars are less convinced that extending the concept of privacy to public spaces will provide adequate legal protection for women. Discussing the legal definition of voyeurism in the Sexual Offences Act 2003 of England and Wales, Gillespie (2008) notes that it involves the observation of "a person doing a private act" (Sexual Offences Act, 2003 s./68(1) quoted in Gillespie, 2008 p 376). As he states, it would be difficult to argue that the acts in which victims of upskirting are typically engaged—walking, shopping, travelling, for example—are private acts. He argues that, rather than attempting to extend legal conceptions of privacy to cover upskirting, the behaviour should instead be conceptualised as an interference with one's dignity (Gillespie, 2019). He frames upskirting in terms of women's sexual autonomy and dignity and praises Canadian courts that have defined voyeurism as "violating 'the essential human dignity of the [victims]' … A

person has the right to determine who, if anyone, has the right to see the most intimate areas of their body" (Gillespie 2019, p 1113, quoting *R v Berry* 2014 BCSC 284 at [63] *per* Holmes). The concept of human dignity is also evoked by Zeronda (2010) who argues "upskirt photographs infringe on basic precepts of human dignity" (p1133).

Thompson (2019), writing from the discipline of Criminology, makes a further challenge to the focus on privacy by much of the legal scholarship. In her analysis of parliamentary speech acts during the criminalization of upskirting in the Australian state of Victoria, she notes that "a preoccupation with privacy is misplaced" and criticises "discussion only focussed on upskirting as an invasion of privacy, and not also as a sexual harm" (p8). She details how parliamentarian "speech acts" functioned to make the invasion of privacy represented in upskirting a gender-neutral concern with more references to invasion of both men and women's privacy than of women's privacy. Their discourse "degender[ed] the discussion and disconnect[ed] upskirting from a broader history of violence against women" (p9).

As we have shown, privacy is a primary concern for legal scholarship about upskirting; some scholars critique the traditional interpretation of privacy as connected to a place rather than one's body. Others, from legal and other disciplines, argue that the focus on privacy detracts from the key feature of upskirting—that it reflects gendered power and a form of sexual violence. Indeed, an extensive body of work across disciplines has critiqued the gendered nature of the distinction between public and private aspects of life and how this obscures and shapes many aspects of women's and men's lives (see, for example, Delphy and Leonard, 1992; Landes, 1998; Pateman, 1989). We turn next to the alternative framing of upskirting as a form of gendered power and sexual violence.

Feminist frames: Upskirting, gendered power and sexual violence

An alternative framing of upskirting, one that moves away from individualistic preoccupations with privacy and voyeurism, interprets it primarily as an entitlement to women's bodies, a form of gendered power and of sexual violence. Although not all of the scholars whose work has been coded as using a feminist frame explicitly identify their analysis as feminist, we assess that their framing draws (implicitly in some cases) on feminist approaches which go beyond the individual to identify broader social problems and structural inequalities based on gender. Twelve sources draw on and construct this framing. They are written from the disciplines of Law (4), Criminology (2) and an inter-disciplinary combination of Media Studies, Cultural Studies, and Sociology (7).

These framings eschew the narrow focus on voyeurism or privacy. For example, Colbeck (2017) notes that, while upskirting is indeed sexual behaviour in that photography focuses on the sexual, intimate body parts of women and is used for sexual gratification, "there is more to these creepshots than just sex" (p2). In contrast to the parliamentarians whose discourse she analyses, Thompson (2019) draws upon Powell and Henry's (2017) concept of 'technology-facilitated sexual violence' to argue that "upskirting is a form of men's objectification of women… a product of … gendered hierarchy" (p15), and of "misogyny and gendered harm" (p16). She argues that parliamentarians' linguistic strategy of "misdirection and avoidance" disconnects upskirting from the history of men's violence against women and from structural issues of gendered power. Similarly, in her analysis of media coverage of upskirting, Vitis (2020) critiques its failure to frame "camera sexual voyeurism as a form of violence, a violation of bodily autonomy and [to interrogate] the social and political dynamics which shape the commodification of such images" (p11).

Some authors invoke ideas of misogyny in their construction of upskirting which harms women as a group. Thompson and Wood (2018) frame what they refer to as "the creepshot" "as a major form of online misogyny" (p561) which promotes "a culture of

misogyny that sees the objectification of women as a pastime, a hobby" (p568). Following this consideration of upskirting as a form of misogyny, Hall *et al* (2021) argue it "entails both reinforcing and breaking gender norms, dehumanizing women, transgressing social boundaries with invasive action into women's space and world" (p14). Analysing the impacts of media coverage of 'camera sexual voyeurism" (CSV) Vitis (2021) argues that "the role of gender and misogyny were occluded and CSV was individualised and medicalised as the problem of behaviourally disturbed men" (p14).

Drawing on Freud's theory about castration anxiety and Mulvey's about 'the male gaze', Colbeck (2017) describes how the fetishistic voyeurism of upskirting generates both sexual satisfaction and feelings of power and control. Thompson and Wood (2018) identify the gendered power and control inherent in upskirting when they highlight that "it is typically the male who watches and the woman who is watched, resulting in a form of control and domination" (p561) that arises from "gendered regimes of visibility" (Thompson, 2019).

While a framing of upskirting as the exertion of gendered power and control is relatively uncommon in Law, some legal articles do explore this approach. An example is Tran's (2015) argument for the criminalising of upskirting and catcalling, in which "gender privilege" is the organising concept for understanding this behaviour. In noting the correlation between voyeuristic activities and sexual predation amongst serial rapists he argues that it represents "a systematic tolerance of sexual violence against women. It takes away from a woman's autonomy and ability to move through the world" (p206).

Important recent contributions to debate have been the concepts of 'image-based sexual abuse' (McGlynn and Rackley, 2017) and 'technology-facilitated sexual violence' (Powell and Henry, 2014). However, relatively few sources in the entire sample use these concepts or refer to this work. While the low take-up of these valuable concepts in scholarship about upskirting might be explained partially by their relative recency, it also

points to a failure of much scholarship dedicated to upskirting to locate it in the "the wider phenomenon of men's abuse of women" (Thompson, 2019 p5). Without directly naming these newer concepts, other sources in the sample name upskirting as a form of non-consensual photography, invoking a key concept in considerations of sexual violence.

However, given how central 'consent' is to discourse around sexual violence, it is somewhat surprising, yet revealing, to note how infrequently the concept of consent is examined in relation to upskirting. While many of the sources refer to consent in passing—for example, quoting a relevant legal statute, or defining upskirting as 'non-consensual'—there is very little focused consideration of consent as a defining concept for understanding or responding to upskirting. Neither is there widespread acknowledgement that it is the very *lack* of consent that is an essential feature of upskirting's appeal for those who consume these photographs. Exceptions include Burns (2018), Chan (2018), Colbeck (2017), and Hall *et al* (2021) who each argue that the sexual appeal of upskirting rests on its non-consensual nature. Burns (2018) notes that "it is not the sexual nature of creepshots that is key, but that they are candid, as this positions the photographer as being agentive, and the encounter as non-consensual. Therefore, the sexual appeal of such images is predicated upon the creepshot photographer's retention of control" (p27). Hall *et al* (2021 p2) also note that "[a] key element of the abusiveness of 'upskirting' is that the images are not only taken without the woman's or girl's consent but are also shared without their consent. This is thus a double abuse."

The only article from the discipline of Law to examine the concept of consent in any detail is Gillespie (2019) who dedicates a short section to it in his critique of the Voyeurism (Offences) Act 2019 which, he argues was a rushed and "flawed" (p1108) response to a campaign calling for the criminalisation of upskirting. Highlighting the importance of legal protection of women's sexual autonomy and human dignity, Gillespie (2019, p1120) argues

that “consent should be the focus of the offence. … it is the absence of consent that constitutes the wrong”. Most other legal considerations of upskirting fail to focus on consent because they discuss privacy, which has been a defining concept of (potential) legal responses, which has been criticised as “misplaced” (Thompson, 20019, p8).

A minority of sources extends the frame of gendered power and sexual violence to upskirting by considering it as a form of gendered surveillance. One of these sources is from Law, one from Media and Communication Studies and one from Cultural Studies. Chan (2018), in her brief commentary about the Calvin Klein advert, combines notions of surveillance, sexual violence and non-consent in her discussion of the problem (p353).

In her brief update of her 2016 PhD thesis about the hashtag #upksirt on Instagram, Sebastian (2019) frames upskirting as “gendered surveillance” which “is still able to exist and even thrive” (p43) on the social media site. Hargreaves (2018), writing from the perspective of Law, gives a fuller account of “creepshots” as a form of surveillance. Drawing on scholarship from surveillance studies, he notes that a purpose of surveillance, “a pervasive feature of modern industrial states”, is to gather data in order to change behaviour. He argues that, although the *purpose* of creepshots might not be behavioral change, they “contain the potential for behavioral management, control or influence” (p189). Drawing on panoptic theories, he suggests that women’s awareness that they may be photographed may lead to constrained behaviour, internalised surveillance, and conformity. In addition, surveillance creates “a new, digital male gaze” (p193) which objectifies women’s bodies, contributing to a culture of judgement about women’s appearance which, in turn, contributes to women’s self-surveillance. Thus, this form of gendered surveillance “sits comfortably alongside theories of surveillance which postulate modification as a natural response to unwanted exposure” (p191). Hargreave’s analysis points to the societal harms of upskirting, which are considered in more detail below when we analyse the construction of victims of upskirting.

As discussed above, the main framings of upskirting construct it as a form of sexual gratification, as a privacy issue, and/or as a form of gendered power and sexual violence. Two other framings were less dominant in the scholarship examined but are worth mentioning: upskirting as a technological problem, and as a problem stemming from loneliness. Many sources refer to upskirting as a result of technological developments. Typically, sources refer in their abstracts or introductory paragraphs to such developments and this sets the context for their examination of upskirting. For example, Bell *et al* (2006) refer to "the ever-decreasing size of video and photographic equipment". Chan's (2020) abstract starts thus: "With the rise of smartphones and social media, individual privacy has become a major concern". Huang and Kong (2016) open with "Smartphones bring great joy to many people. … However, smartphones, like other technologies, can be misused". While these sources do not adopt an entirely technological deterministic approach, their opening gambits problematically locate the problem of upskirting as a question of technology rather than, for example, a problem of men's violence and abuse to women. As Thompson and Wood, 2018 p571) note, "[t]echnologies are not responsible for the practice of upskirting or creeping … technology is not the reason such voyeuristic practices exist."

Finally, one source did not adopt any of the three main themes discussed above and instead identified upskirting not so much as social problem in its own right, but rather a result of wider social malaise. Tam *et al* (2021), writing from the discipline of Social Work, reject the idea that upskirting is primarily an invasion of "people's" (p1) privacy and sexual autonomy and instead claim to offer "new … insights" from their focus group study of 10 young offenders. While acknowledging that upskirting is "vile" (p4) and "a violation of a woman's rights", they argue that it "was an emotional reaction, rather than fulfilment of their sexual drives, to the overloading stress and strong sense of loneliness created from their rather routinized everyday life in contemporary society" (p12). This study is one of the few

empirical studies in the sample, and one of the few to engage with perpetrators of upskirting. However, unfortunately, the source fails to critically analyse offenders' explanations of their behaviour and instead accepts and reproduces their views, offering a problematic exculpatory account of upskirting.

As we have shown, analysis of scholarship about upskirting reveals that three main framings are adopted. The most common framing, particularly dominant in legal scholarship, is to understand upskirting as a form sexual gratification through the concept of voyeurism. This scholarship does not engage significantly with the gendered nature of voyeurism. The second main framing of upskirting, again adopted primarily by legal scholarship, is its consideration in terms of privacy. Most legal scholars discuss the difficulties of prosecuting upskirting within current legal definitions of privacy and explore possible adaptations of privacy statutes, while a minority reject the focus on privacy, arguing that instead upskirting should be considered as a form of gendered power. This third framing, found most commonly in scholarship from the Social Sciences, adopts feminist approaches which frame upskirting as a form of gendered power and sexual violence. The first two framings—sexual gratification and privacy—primarily consider upskirting in terms of the individual perpetrator or victim. In contrast, the third framing—gendered power and sexual violence— considers upskirting as a problem not only for individuals directly involved in the individual acts, but also for wider society. This feminist framing thus sees upskirting as emerging from existing gendered power inequalities, rather than from individual deviant desires and as presenting problems not only for the individual women subjected to non-consensual intrusive photography, but for all women and girls who (may) become the subject of gendered surveillance. In addition to the three main frames, upskirting was often framed as an unintended consequence of technological developments and, for one source, as a result of wider social malaise and loneliness. There is scope for interdisciplinary research about

upskirting, which borrows from the insights generated within different academic traditions, to generate more valuable knowledge and practice. In the next sections, we consider how existing scholarship frames perpetrators and victims of upskirting.

Constructions of perpetrators

Our analysis of the construction of perpetrators in the scholarship revealed three key themes: the agency of perpetrators; perpetrators' motivations, and upskirting as a homosocial act. These are addressed in turn below.

In most of the sources examined for this review (16 out of 26; ten from Law, six from Criminology, Media Studies, Social Work, and Sociology), perpetrators are depicted with some agency, although to varying degrees. This group includes most of the more recent scholarship about upskirting, reflecting the shift away from a predominantly legal approach. In some of this scholarship, the agency of perpetrators is minimally recognised. For example, in some sources (such as Kremenetsky, 2000 and Marvin, 2020) the recognition of the perpetrators' agency is limited to providing details of legal cases and outlining the actions of the perpetrators. In the only empirical study to engage with perpetrators, Tam *et al* (2021) provide an uncritical account which minimises the perpetrators' agency and blames victims; "there were external and environmental factors that triggered their behavior such as meeting young ladies who wore shorter or relatively sexy clothes, or short skirts on escalators or staircase [sic] or when they had close body contact with young ladies in overcrowded public transportation" (p8). Others describe upskirting as the deliberate conduct of perpetrators, (sometimes referred to in gender-neutral terms), without examining in detail their behaviour; for example, "[u]sing video technology, a voyeur can perpetrate his/her act in public and in full view of victims" (Bell *et al*, 2006 p302). In these cases, consideration of the agentic perpetrators may be brief but makes clear that the author sees them as responsible for upskirting.

Other sources, from across the range of disciplines, offer more detailed consideration of the agency of the perpetrator. For example, Marvin (2020) criticises legal interpretations that understand voyeurism "through the lens of the victim's conduct rather than the voyeur's" (p132), arguing that "when one person uses a camera to reveal part of another person's body not otherwise visible in plain view, the person causing the intrusion—the voyeur—has stripped from the now-exposed person—the victim—their right to control who has physical access to their body" (p139). Similarly, Tran (2015) describes the active, deliberate behaviour of the perpetrator; "[w]ithout the help of a miniaturized recording or image-capturing device, a perpetrator would only reach the same result by lifting a woman's gown or placing his face squarely between her legs" (p196). Gillespie (2019) places responsibility for the act with the perpetrator who "has decided that his decision to take a photograph is more important that the victim's right not to be photographed" (p1113) and describes several hypothetical scenarios in which a perpetrator acts deliberately and decisively. Chan (2020) confers agency on not only "the person taking the creepshot, but also… the 'creeper' community itself because the existence of these communities legitimises and encourages such behaviour of individual perpetrator s" (p88).

Some sources provide more detailed attention to the perpetrator. Hargreaves (2018) is the only article from the discipline of Law to do so. In this contribution, the "male gaze" (Mulvey, 1975) is a central defining concept, and it is examined through analysis of perpetrators' posts on a social media site dedicated to "creepshots". The perpetrators' defence of their actions—that people in public do not have a reasonable expectation of privacy—is critiqued, and their behavior in seeking to avoid detection on these sites is detailed. In Hargreaves (2018), there is no doubting that upskirting is the result of deliberate, agentic actions, but this depiction of perpetrators is rare in legal scholarship about upskirting.

By contrast, nine of the 26 sources considered for this systematic analysis failed to depict perpetrators as acting with agency This scholarship tended to be the earlier contributions to knowledge about upskirting. (In addition, one source, from Law, depicts perpetrators as both with and without agency.) In depicting perpetrators as without agency, the sources reflect wider discourse about gender-based violence in which perpetrators are often absent, thus rendering gender-based violence as "acts without agents" (Lamb, 1991, p250). These sources (six from Law, two from Media and Communications and one from Technology/Computing) typically describe the act of taking an upskirt photograph but give little other consideration to the perpetrator. For example, McCann *et al* (2018) describe technological advances and state, "perpetrators have used this equipment to photograph surreptitiously and without consent up the skirts or down the blouses of female victims, commonly called 'upskirting' and 'downblousing'" (p399). Beyond this, perpetrators rarely feature in this writing. When they do, they are referred to in gender-neutral terms such as "voyeurs" or, when referring to specific cases as "the defendant" (Whiteman, 2019-2000, p66). The act of upskirting is described in the passive voice, and frequently attributed to technological developments rather than human actions. Examples are Huang and Kong (2016): "The popularity of smartphones has caused an increase in upskirt filming" (no page no.), and McCann (2018, p400), "[i]mprovements in photographic and video technologies now provide voyeurs with opportunities to photograph intimate body parts in public locations without raising suspicions". In these accounts, technology seems to be the culpable party, rather than the person using the technology.

Perpetrators are more likely to be constructed as acting with agency when their motivations are considered. These depictions of perpetrators as central agentic players in the act of upskirting are also more likely to be found in scholarship from disciplines other than Law. For example, perpetrators' motivations are under examination in Burns' (2018) piece.

She contemplates their chosen moniker; "the claiming of the term 'creep' implies a knowing acceptance of, and even a wish to brag about, a maligned character" (p28). Rather than focusing on the impact on the woman or girl who is 'upskirted', she argues that the men who take these photos do so "to create a certain image of themselves—as cunning, as daring" (p28) and demonstrate "a furious sense of entitlement to sexualise whomsoever they wish" (p32). This idea of agentic perpetrators using upskirting to perform their masculine sexual entitlement to women's bodies is also present in other sources, some of which use hunting metaphors to describe the acts. Kremenetsky (2000) likens it to "a modern-day hunt for sport" (p286) while Zeronda (2010 p1131) describes it thus: "Street photographers, like snipers, pride themselves on stealth. Camouflaged in nondescript clothing, they wander the streets, undetected, armed, and on the hunt. When they find their mark, they act quickly."

While most of the scholarship examined in this systematic review considered (in some cases quite superficially) only the individual perpetrator who creates the upskirt image, some scholarship, mostly from disciplines outside Law (Burns, 2018; Hall *et al*, 2021; Hargreaves, 2018; Thompson and Wood, 2018), widen their focus to include the broader masculine cultures that are invoked and (re)produced by upskirting. Thompson and Wood (2018, p 566) refer to "online misogynistic communities where creeping is actively celebrated on these websites often creating an atmosphere of acceptance both implicitly through the viewing and sharing of such images, and explicitly through the proud use of the 'creeper' label". Hall *et al* (2021, p3) note that "[a]lthough upskirt images may be taken by solitary men, the consumption of the images is very often a social act". They analyse upskirting as a form of homosociality whereby masculine, misogynistic bonds are formed between online consumers of upskirt photographs, who invoke ideas of the "crafts*man*ship" involved in the photography, thereby "bolstering homosocial status" (p13 italics in original). These sources understand upskirting as not only the act of taking a non-consensual photograph, but also the

act of sharing the image online and engaging in a collective, masculine, homosocial performance of subordination of women.

Hargreaves (2018) takes analysis of homosociality one step further, by considering the offline impacts on men. He argues that the status achievements earned through objectifying women, by posting or commenting on images, may lead to similar offline attitudes and behaviours. Noting that there is not yet empirical research about the connection between online attitudes and "gender roles or treatment of women in the offline world … this existing literature suggests that a significant connection between the two cannot be discounted" (p12). Tran (2015) expresses a similar concern and presents research that suggests a corelation between voyeurism and other forms of sexual violence; "the harms of upskirting are not simply a one-off violation and are better understood as a snapshot in a potential progression of violence" (p197).

In scholarship about upskirting, perpetrators are too often rendered invisible. Thus we learn little about their motivations, orientations or other aspects of their identities that might enable an intersectional understanding of their behaviour. Perpetrators of upskirting tend to be invisible in legal scholarship, although there are differences within this body of work which makes analysis more or less likely to have consider perpetrators; some, particularly the earlier contributions (for example, Beasley, 2006; Horstmann, 2007) takes a narrower, doctrinal approach and others, such as Hargreaves (2018), integrate legal analysis with sociological and criminological approaches. In other work, perpetrators' motivations are considered in terms of sexual gratification, men's sexual entitlement to women's bodies, and the homosocial aspect of sharing upskirt images online, thus drawing on the gendered social context in which upskirting exists. Upskirting is depicted, then, as either the behaviour of individuals (most commonly in legal sources considering prosecuted cases, which tend to come from the more doctrinally-focused US scholarship) or of collectives of men for whom

upskirting is a means of achieving masculine status within a wider gendered social context of men's domination.

Constructions of victims

In the scholarship about upskirting, victims are visible to varying extents. In six of the sources (three from Law, one each from Social Work, Technology/Computing, and Media and Communications) there is no or only minimal reference to victims, rendering victims largely invisible (Fok, 2007; Huang and Kong, 2016; Sebastian, 2019; Whiteman, 2019-20; Tam, 2021; Kremenetsky, 2000). In the majority of sources, there is fuller consideration of victims, but the extent of this consideration varies significantly.

Typically, victims are depicted primarily or solely in descriptions of actual or hypothetical upskirting scenarios; frequently, they are described from the perspective of the perpetrator as the agentic actor, sometimes in ways that are implicitly victim-blaming. For example, Horstmann, (2020, p739) describes the typical scenario:

> armed with a cellular phone that comes equipped with a digital camera and internet access, an individual goes to a shopping mall or other public place and scouts for victims. Upon settling on an attractive, skirt-clad young woman, he walks up behind her, kneels down to presumably tie his shoelace, and quickly take a photo up the victim's skirt, without her even knowing about it.

This depiction portrays the victim as entirely passive and notable only in terms of her appearance; she is "an attractive, skirt-clad young woman" who is targeted as a victim; she is 'done to' rather than acting with any agency.

In other scholarship, the scenario is described from the perspective of the victim:

> A woman wearing a skirt walks through an amusement park. Out of the corner of her eye she sees a flash. Quickly turning, the woman catches a man

> employing a cell phone camera to take a picture of the woman's underwear for publication to a so-called "up-skirt" website. (Beasley, 2020, p69)

In this formulation the woman is an agentic actor, not only observed by others but also walking, noticing and reacting.

Some of the sources depict women victims as both passive and agentic. As noted earlier, the sources rarely use just one frame in their consideration of upskirting, and sometimes draw on contradictory frames. For example, as well as describing upskirting from the perspective of the victim (as above), Beasley (2006) also characterises women victims in more passive ways or utilises victim-blaming language in relation to their appearance, referring to "a provocatively dressed woman" … "a pretty girl on a public beach" (p87)', and "a woman's breasts or underwear" (p74). References to women's body parts are common in the scholarship, especially in discussions of legal statutes and cases where interpretation of the legal status of the act of upskirting is key. For example, Gillespie (2019, p1124) has a section entitled "Female breast", Horstmann (2020, p753-4) imagines "a situation in which the victim was wearing a short skirt, thong underwear and was standing on a second floor balcony by a staircase at the mall", and Marvin's consideration of specific court cases involves analysis of "the area beneath a skirt" (p126), while his consideration of the meaning of "partially nude" (p128) involves listing various body parts. Thompson and Wood (2019) note that this tendency to reduce women to their body parts is also a feature of upskirting online communities: "Women are divided into parts ("booty", "tits", "cunt") and identified as "#hotshoppers, #asiangirl, or #blonde" (p567). The focus on body parts in legal sources is not entirely salacious as legal deliberations often revolve around interpretation of or evidence about a body part. However, the attention to women's body parts in this literature, along with the tendency in some of the literature to deny victims agency, fails to frame victims as conscious, deliberating, active people.

Chan (2018) explores the tension between seeing victims as agentic and passive when she considers whether the model posing in an upskirting photo for a Calvin Klein advert is sexually empowered or exploited; "putting oneself under sexual surveillance may function as a provocative acknowledgement of power dynamics, while also providing sexual pleasure in knowingly making oneself subject to them" (p353). However, Chan is atypical in this consideration of self-exposure as a transgressive challenge to gendered sexual power dynamics.

Victims are also depicted in terms of the significant harms done to them by upskirting, harms that Zeronda (2010) sees as "devastating" (p1133). For example, the section in Tran (2015) dedicated to "The harms of upskirt photography" (p195) notes they include "an immediate invasion of privacy and long-lasting anxiety…, subsequent or escalating violations by the perpetrator" (p195) and "lingering emotional distress" (p196). Thompson (2019 p8) also notes the considerable impacts; "to photograph a women's [sic] intimate areas without their consent and upload these recordings to social media platforms and other websites violates and degrades women victims." Upskirting does harm to individual women and to women as a group, as recognised by some of the scholarship. For example, Chan (2020) notes that invasion of "individual privacy" is only part of the harm; "[t]he mere presence of creepshot communities leads to broader societal effects, in that these communities and their practices promote and even legitimise behaviour which objectifies women. They pose significant risks to the dignity and respect women are afforded in the community" (p867).

In this way, the scholarship could be seen as reflecting upskirting itself, whereby women, despite being central to the phenomenon, are not made visible as agentic, autonomous individuals or collectives. To date, the scholarship does not examine women and girls' experiences of or responses to upskirting, neither does it address activism against this

form of gender-based violence. This omission is at odds with the wealth of literature about violence against women which has centred victim/survivors' experiences and accounts in knowledge production about this phenomenon. Unlike literature about other forms of violence against women, the scholarship about upskirting is not built on women's perspectives. Moreover, the scholarship does not consider other aspects of victims' identities, nor the oppressive systems that impact on them, which would enable an intersectional analysis of their experiences and the phenomenon. There is scope for future research to address these gaps so that knowledge about upskirting is informed by those who experience it.

Constructions of remedies

Scholarship about upskirting tends to propose legal remedies; there are very few other suggested remedies from scholarship from other disciplines. All the sources from the disciplines of Law suggest legal remedies, unsurprisingly. Most of these focus on adapting existing definitions of and statues regarding what is considered 'private' and/or 'intimate'. A few sources (McCann *et al*, 2018; Gillespie, 2008 and 2019) argue for the extension of criminalisation beyond the act of taking a photo to its dissemination; to advance this argument, Gillespie (2019) drafts an offence of "[d]istribution of voyeuristic photographs" (p1128). One legal scholar, Hargreaves (2018, p3), is less confident about the power of the law to provide remedy for these "surveillance practices … [that] implicate different kinds of harms–broader, more diffuse–than do conventional privacy invasions" and argues for "a social solution" (p13) comprised of "[s]trengthened social norms regarding the (un)acceptability of surreptitious photography and unwanted image sharing" together with "educating children and youth." Crofts (2020) similarly argues that "[p]ublic education campaigns are also important in helping to develop new ethics in the use of new communication technologies" (p518).

Only one of the eleven sources from disciplines other than Law offers a substantive (though limited) non-legal remedy; Huang and Kong (2016) propose a technological remedy for detecting pornographic images on the internet. Most of the sources from disciplines other than Law offer no or very little discussion about possible remedies for upskirting and Hall *et al* (2021) note that "formal regulations do not provide an easy solution and regulation of anonymous public posting is mired in complexity" (p14). Where any such discussion is offered, it tends to refer to broad, albeit important, social change; Colbeck (2017, p16) calls for "a radical shifting in the way in which women are visually represented in media and the attitudes that surround these depictions." Hall *et al* (2021) point to the need for attention to how "masculinities are produced online and offline to create homosocial environments which use objectification of women as currency between men and how cultural and social structures, norms, and practices enable these environments to flourish" (p14). Vitis (2021) argues that "continued gendered exploration and news coverage of upskirting will be beneficial for primary prevention and the ongoing recognition of women's experiences of sexual violence" (p15).

While legal scholars tend to focus on the scope to adapt or create legal remedies, there is a marked absence of proposed remedies in scholarship from disciplines other than the Law. There is scope for future scholarship to develop these suggested remedies and explore how non-consensual upskirt photographs and their dissemination can be prevented.

Discussion and implications for future research

Research about upskirting is relatively recent, so scholarship is at a relatively early stage and is likely to develop in coming years. It is therefore useful, at this stage, to systematically review this scholarship in order to identify how upskirting has been framed, taking into account orientations to the construction of the problem, the perpetrators, the

victims, and the remedies. It is hoped that this review helps to identify the directions of, and gaps in, existing scholarship and to highlight the implications for, understanding of, and responses to upskirting, in order to inform future research and practice. This review has included only scholarship whose prime focus is upskirting; it has not included the much wider and burgeoning literature about image-based abuse. This wider literature reflects a stronger engagement with feminism than much of the scholarship—especially the early scholarship—dedicated to upskirting and so avoids some of the shortcomings identified in this review.

This systematic review found 26 sources (articles and book chapters) dedicated to upskirting. Most of these sources are written by legal scholars who conducted almost all the early work on upskirting. Other, later work has been produced from the disciplines of Criminology, Media and Communications Studies, Cultural Studies, Sociology, Social Work, Psychology and Computing.

The predominance of legal scholarship, particularly in terms of contributing most of the earlier scholarship has, inevitably, created a particular framing of upskirting. As we have shown, the legal scholarship tends to view upskirting in terms of sexual gratification, as gender-neutral and as the acts of aberrant individuals. The framing of upskirting in terms of sexual gratification tends to conceive of it as a sexual act, rather than a social act with meaning beyond sexuality or sexual dynamics. This is at odds with the approach taken predominantly in scholarship from other disciplines, which has emerged more recently and which locates upskirting as a highly gendered act taking place in the context of gendered relations of power, and of violence against women and girls—phenomena which (re)produce gendered ways of looking and being looked at. The legal approach tends to focus on individual victims who are aware of having been photographed and who have the will and resources to bring about a prosecution of the perpetrator. Historically, women marginalised

by racism, poverty, heteronormativity or other systems of oppression are less likely to enjoy such access to justice. Moreover, although this approach might provide 'justice' for individual women who can access judicial processes, it individualises the social harm of upskirting, rather than locating it as a structural, gendered harm which affects women and girls as a group. Scholarship about prosecution of defendants focuses almost entirely on the act of taking non-consensual photographs. However, it is the *dissemination* of these photographs, typically on dedicated websites where they can be viewed by millions of people (men) around the world for perpetuity, that constitutes one of the most severe harms of upskirting. Existing legal scholarship about upskirting has had little to say on this aspect.

The neglect in legal scholarship of dissemination of upskirt images has consequences. While prosecutions of individual photographers have been achieved, few, if any, victims can have the confidence that their images have been removed from public circulation online. Websites dedicated to upskirting continue to thrive, even though in some cases they are closed down and then re-emerge under a different guise (see for example, Hargreaves' (2018) account of sites on reddit.com). Legal interventions are more successful in addressing the behaviour of individuals than of collectives, which results in an individualising of social phenomena such as violence against women and girls. This bias is particularly significant regarding upskirting whereby the original perpetrator of the non-consensual photography provides a gateway for dissemination of the photograph/s to a potentially huge online audience, via platforms which have, by and large, demonstrated only very limited commitment to remove non-consensual photographs. Not only does a narrow legal approach fail to address this significant harm of upskirting, but its dominance, particularly in the earlier scholarship, also frames upskirting as an individual act perpetrated by one individual against another rather than as collective behaviour in which groups of men sexually objectify and demean women and reduce them to their body parts. As with so many other forms of legal

interventions, the systematic, widespread abuse of women by men is reduced to individual acts and individual perpetrators (Barlow and Walklate, 2021). In the wider literature about image-base abuse, which is largely informed by feminist perspectives, there is considerably more discussion about how to prevent and address the non-consensual dissemination of images (see, for example, Henry and Powell, 2018; McGlynn, et al, 2019; Rackley et al, 2021). These discussions will be vital in informing future scholarship about upskirting.

The focus on law and on criminal justice sanctions in scholarship on upskirting arguably mirrors tendencies in the wider framing of gender-based violence in many jurisdictions in the global North (Walklate and Fitz-Gibbon 2018). This is a result, in part, of the success of early feminist attempts to bring public and political attention to the problem of violence against women (Dobash and Dobash, 1992). Such attempts invoked the symbolic power of the law to assert that violence against women and girls was a societal harm and a criminal wrong and that the state was responsible for addressing it (Lewis *et al*, 2001). Even though there is now a wealth of evidence of the failings of the criminal justice system to deal with violence against women in diverse contexts (see, for example, Daly and Bouhours, 2020; Ghosh and Choudhuri, 2011; Snider, 2008), as well as a robust critique of the criminal justice system's *potential* to provide justice for victim/survivors (see, for example, Kim, 2020; Méndez, 2020; Richie, 2015), violence against women continues to be framed first and foremost as a criminal justice issue. Such framing draws on the power of the law in terms of the *institutions* (which can enforce significant sanctions which limit citizens' freedom), in terms of *academic disciplines* (Law is usually the oldest discipline in a university and is invested with significant authority), and in terms of *discourse* (legal commentators, personnel and decisions in everyday life as well as in popular culture capture considerable public attention). The framing of violence against women and girls as primarily a criminal justice issue has been criticised for invoking and re-embedding the authority of the law above all

other aspects of social life (Williams and Walklate, 2020). Our findings suggest that the burgeoning scholarship on upskirting risks rehearsing similar shortcomings in the theorising of other forms of gender-based violence, albeit that is increasingly being questioned.

Legal scholarship is however valuable for bringing to public attention empirical cases of upskirting. By contrast, there is a lack of empirical research about upskirting, especially research which gathers data about the experiences of either victims or perpetrators. Some work included in this systematic review does draw on empirical data (for example, Burns, 2018; Hall *et al*, 2021; Hargreaves, 2018; Tam, 2021) and while this provides useful analysis of discourses associated with upskirting, it does not generate or analyse data from victims about their experiences and orientations to upskirting. As a result, we do not know enough about how victims experience upskirting—both the capture of the non-consensual images and their dissemination. What impacts do the experiences have on their daily lives, their sense of safety and bodily integrity, their sense of personhood and citizenship in the wider online and offline worlds? How do perpetrators—both those who take illicit photos and those who consume them—make sense of their actions? What purposes do their actions serve, and what meanings do upskirting and upskirting online communities have in their lives? Gaps in empirical evidence to address these questions and to understand the phenomenon of upskirting lead to gaps in understanding and, in turn, gaps in appropriate remedies.

While scholarship produced in the disciplines of Criminology, Media and Communications Studies, Cultural Studies, Sociology, and Social Work is more likely to analyse the wider social meanings and implications of upskirting, it is less likely than scholarship from Law to propose remedies. Scholarship from these disciplines tends to focus on how we interpret and understand upskirting and, in the few cases where remedies are proposed, they are broad-based suggestions about societal change, rather than the more focused prescriptions offered by legal scholarship. There is scope for future scholarship to

build on the insights provided by extant research in order to develop and evaluate the impact of interventions that prevent and respond to upskirting and to inform public policy.

Empirical evidence about upskirting would also be enriched by a focus on its intersectional nature. With the exception of Tran (2015), none of the scholarship considers how other systems of oppression might intersect with patriarchy to produce upskirting as an intersectional phenomenon and experience. There is a need for scholarship on upskirting to engage with the dynamics of racial, gender, and heteronormative privilege and to unpack how their operation shapes the public sphere as one of freedom for some but danger for others. Future research could explore the phenomenon of upskirting at the intersection of different social relations of power. Is the ethnicity of victims or perpetrators significant? Are racialised and classed notions of beauty re-enacted in upskirting? As racialised women and those living in poverty enjoy limited access to public spaces, are they protected from this particular form of abuse, albeit they are exposed to other, distinct forms? Do men's homosocial interactions around upskirting cut across or reinforce ethnic divides?

This review has revealed the strengths and limitations of different disciplinary approaches to upskirting, albeit there are differences in approach *within* disciplines and over time. The review highlights the value of an interdisciplinary approach in future research about upskirting. Such interdisciplinary research could generate new knowledge about the nature and prevalence of upskirting, its impacts on individuals and groups, its social meanings, implications and consequences, the perspectives of perpetrators and victims, the ways in which it intersects with other systems of oppression to perpetuate privilege and inequality, as well as exploring interventions and proposing policies to prevent and respond to upskirting.

Conclusion

This systematic review of scholarship dedicated to upskirting has explored how upskirting is framed in extant research and with what consequences. It has shown that the scholarship is dominated by legal perspectives that tend to frame upskirting as a sexual act done by and to individuals. The law's scope is to address individual victims who know a photograph has been taken of them and who want and have the resources to support a prosecution. It is not within the scope of the law in most jurisdictions, as it is currently framed and practised, to focus on the harm done to women and girls as a group or to address the wider societal harms of upskirting. The dominance of the law in scholarship about upskirting thus tends to individualise the harm, rather than locating it in the wider context of gendered relations of power, looking and abuse. This reveals the significance of framing. How a topic – such as upskirting – is framed, has both discursive and material consequences.

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Table 1: Descriptive information about each source included in the sample

	Reference	*Country*	*Discipline*	*Methods used*
1	Calvert, C. and Brown, J (2000)	USA	law	Analysis of legal cases and legislation
2	D Kremenestky, (2020)	USA	law	Analysis of legal cases and legislation
3	Beasley (2006)	USA	law	Analysis of legal cases and legislation
4	Bell *et al* (2006)	USA	law	Content analysis of existing state and federal statues regarding laws about video voyeurism
5	Horstmann (2007)	USA	law	Analysis of legal cases and legislation
6	Fok (2017)	Hong Kong	law	Analysis of legal cases and legislation
7	Gillespie (2008)	UK	law	Analysis of legal cases and legislation
8	Zeronda (2010)	USA	law	Analysis of legal cases and legislation
9	Marvin (2015)	USA	law	Analysis of legal cases and legislation
10	Tran (2015)	USA	law	Analysis of legal cases and legislation
11	Huang and Kong (2016)	Singapore	technology/computing	Examination of pornographic image detectors on upskirt images
12	Colbeck (2017)	Canada	media studies/ psychology	Psychoanalytic examination of 'creepshot' phenomenon, drawing on some empirical evidence of creepshot websites.
13	Chan (2018)	Canada	cultural studies	Analysis of Calvin Klein advertisement using an upskirt image
14	Burns (2018)	USA	cultural studies	Analysis of posts on *The Candid Forum*

15	Hargreaves (2018)	Hong Kong	law	Analysis of legal cases and legislation. Examination of websites dedicated to 'creepshots' and to images of women found on virtual street maps.
16	McCann *et al* (2018)	USA	law	Analysis of state and federal statues regarding laws about video voyeurism
17	Thompson and Wood (2018)	Australia	criminology	'Media archaeology' – analysis of classification regimes on creepshot websites. No further details about methods
18	Gillespie (2019)	UK	law	Analysis of legislation - The Voyeurism (Offences) Act, 2019
19	Sebastian (2019)	USA	media & comms studies	Analysis of variations of the hashtag '#upskirt' on Instagram
20	Thompson (2019)	Australia	criminology	Feminist critical discourse analysis of parliamentary debates, legislation and official documentation about upskirting in Victoria, Australia
21	Whiteman (2019-20)	USA	law	Analysis of legal cases and legislation
22	Vitis, L. (2020)	Australia	criminology/media studies	Critical discourse analysis of one Singapore newspaper's coverage of 'camera sexual voyeurism'
23	Crofts, T. (2020)	Hong Kong	law	Analysis of legal cases and legislation
24	Chan, R. (2020)	Australia	law	Analysis of legal cases and legislation
25	Tam, H.L. *et al* (2021)	Hong Kong	social work	Focus groups with ten offenders of 'clandestine photo-taking', aged 10-25yrs in Hong Kong.
26	Hall, M. *et al*. (2021)	UK/Finland	sociology	Discourse analysis of posts on *The Candid Zone*

Table 2: Critical findings

- Legal analyses of upskirting predominate in scholarship and were the earliest academic examinations of upskirting
- The legal predominance of scholarship has adopted an individualistic framing of upskirting which constructs it as an individual sexual act, for purposes of sexual gratification, as predominantly gender-neutral, as the act of aberrant individuals, and focuses on the act of taking the photograph and the violation of privacy that it entails.
- Scholarship from other disciplines—particularly social sciences—is more likely to locate upskirting as a highly gendered act which takes place in the context of gendered relations of power, and of violence against women and girls, and to consider both the act of taking the photograph and its dissemination online to, potentially, millions of viewers.
- Legal scholarship is most likely to offer remedies. These focus on improving the legal prosecution of upskirting rather than on preventing it. Scholarship from other disciplines calls for broad social changes about how women are represented in the media and consider approaches beyond the criminal justice system to prevent upskirting.
- There is a lack of empirical research which captures the perspectives of perpetrators and victims of upskirting, which theorises the meaning of upskirting and how masculinities are produced online and offline by perpetrators, which explores the impact of upskirting on individual women and on the wider society, which adopts an intersectional approach, and which proposes non-legal remedies to prevent upskirting.