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**Technical note of the students of the Center for Law, Internet and Society Studies  
(NDIS),  
Research and Extension group of the Faculty of Law of the University of São Paulo**

Subject: Substitute nº3 to the Draft Bill 5.555/2013 proposed by Congresswoman Tia Eron in the Commission of Citizenship and Justice of the House of Representatives

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## Executive Summary

Aiming to contribute with the discussion held on the Commission of Constitution and Justice and Citizenship (CCJC) of the House of Representatives about the liability of conduct and the possibility of criminal typification of the act of disseminating intimate images, the present study provides comments on the Draft Bill nº 5.555/2013, and intends to raise fundamental topics so the Brazilian legislation is compromised with the effective protection of intimacy and dignity and with the access to justice by the victims. This executive summary aims to abridge the main arguments explored in this technical note:

1. There is a gap on the Brazilian legal framework when it comes to the settlement of this kind of case, which frequently ends up provisioned by legislation created to address diverse situations (crimes against the honor; protection of children and adolescents against child pornography) and that do not support the specificities and nuances of the unauthorized dissemination of intimate images.
2. The Draft Bill 5.555/13 may provide an adequate answer when including a criminal type in the chapter of crimes against sexual dignity.
3. The wording of the criminal type needs to be improved to grant a better juridical security in the same time it guarantees the protection of the victims.
4. The concept of consent should be replaced by express authorization of the person portrayed in the images (victim, in the case of unauthorized dissemination), in a way to build a relative presumption of not authorizing the posting by third parties.
5. The scope of enforcement of the rule should not be limited to explicit sexual contents, excluding the adjective “explicit” from the article.
6. There should be a provision on the article that authorizes the dissemination of such content without authorization of the victim only when the sole purpose is of alerting police and judicial authorities of the practice of this crime by a third party.
7. On these cases, the law should determine a maximum deadline of 24 hours from the time of the judicial notification for the removal of content.
8. The criminal type should not provide qualificatory hypotheses for absence of discernment or deficiency, as it would be threatening to the principles brought by the Brazilian Law of Inclusion.
9. The current writing of the Maria da Penha Law is adequate when protecting cases of unauthorized dissemination of intimate images, being unnecessary to alter it.

10. The penalty provisioned on the Substitute grants competence to the Special Criminal Court (JECrim) for the processing of these cases and enables the enforcement of institutes for the removal of penalty, which is an adequate response for this crime.
11. There is a need for regulation in the law itself on indemnity for material and moral damages.