**Improving the regulations of children’s privacy in the digital age**



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# **Overview**

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The advancement of technology has skyrocketed over the recent years. Technology has developed immensely to the point where almost anything can be done through the internet. Not only has technology become more advanced but it has also become much more simple and easy to use making it convenient for all kinds of people. In addition, technology, especially personal devices such as smartphones and computers, have made their way into many of our daily lives making the internet even more easily accessible. It is said that at the start of 2023, above 5 billion people across the globe have used the internet, which is more than half the total population of the world. These numbers show technology’s overwhelming popularity in this generation. However, even with all of the benefits and positive impacts that technology can have on individuals and society as a whole, there are problems that are directly tied with the use of technology that must not be overlooked.

Due to the rise in the use of technology, issues regarding digital privacy have alarmingly increased. There have been countless problems where individuals' right to privacy online has been violated by the government and or companies and this is still a major issue worldwide that exists to this day. There are many different ways companies can violate online privacy. Some companies may collect private information without the consent of an individual, other companies might share personal information with other companies without the consent of the user.

This problem concerns every internet user which is why nations around the world have enforced laws and regulations to protect personal information of individuals. However, children’s right to privacy on the internet is a more specifically focused issue that has not been receiving much recognition. Children of the digital age are born alongside technology and become internet users from an extremely young age. For younger people, the internet is used for multiple reasons such as educational purposes, communication with family and friends, and entertainment. Technology can widen opportunities and can act as a form of self expression which is why the internet plays an important role in the lives of children. In spite of this, the more children spend time online, the more personal information about themselves they are putting on the internet. By sharing private information such as interests, preferences, and relationships through actions taken online, the bigger the risk of their privacy being threatened. Companies that own platforms online can use this information to “profile and track children for targeted marketing and advertising, including for products that are harmful or inappropriate for them.” (1). This occurs when firms only take their own benefits into consideration. However, every individual has the right to privacy offline and online, this includes children as well therefore nations have to work towards creating a more safe and secure online environment so that children's digital privacy is protected.

Countries around the world can be separated into three groups: countries that have regulations regarding protecting children's personal information online, countries that have some restrictions, and countries that do not have any or have almost no restrictions. Countries such as France, Brazil, and Saudi Arabia have stricter laws on children’s digital privacy and aim to protect them. Other countries such as the United States of America, and the People's Republic of China, do enforce some legislation however there is still much that can be done to improve those regulations. Finally, countries like Japan, Canada, India, Australia, and Russia do not have or barely have any legal restrictions on protecting children's online privacy. Besides these countries, there are still many that do not have any children’s digital privacy protection regulations. However, even countries that have already enforced laws to help protect children on the internet still do not provide the best protection possible. There is not a single country that prohibits online government surveillance of children which can mean that they are still at somewhat of a risk. This shows that there are still areas that can and should be improved in order to protect the rights of children and their privacy online.

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# **Definitions of important terms**

**Digital age**

The digital age, sometimes referred to as the information age, relates to the idea of the period of digitalization. Indicated through the clear shift from a world of industrialization to economies built upon computers and information technology. The 21st century is in fact the digital age as there is the widespread and universal use of technology and information is available and is accessed through the internet. Many things are done with computers and digital technology has developed significantly to the point where technology can influence individual’s lives.

**Digital privacy**

Digital privacy is the protection of an individual's private and personal information that is created and or used on the internet. Every citizen has the right to decide what information they want to keep private. However digital privacy is almost an ideal concept and in most cases, individuals’ online privacy is not fully protected. Even with legislation that aims to help protect digital privacy, governments still have the power to surveil over internet users and collect and or use their personal information as no countries have prohibited government surveillance as of this point.

**Personal information**

Personal information, also referred to as personal data, is any kind of information relating to a specific individual. These types of information include names, email addresses, phone numbers, and more. In other words, information that can be used to identify someone.

**General Data Protection Regulation (GDPR)**

GDPR is a legislation that was passed by the EU on the 25th of May, 2018. It is a law that ensures the safety of personal data of internet users. The GDPR requires any company that operates websites directed towards children in the EU to follow certain rules. All nations of the EU are obligated to enforce the GDPR within their nation but are allowed to have their own interpretation of it to meet certain needs accordingly. These laws are taken extremely seriously as any organization who has violated the GDPR is subject to a high fine.

**GDPR-K: Children's Data and Parental Consent**

GDPR-K is one section of the GDPR that deals with children’s personal data privacy. This obligates all sites and apps targeted at children who are under a certain age (this number varies between 13-16 depending on the EU country) to make parental consent a requirement whenever personal data is to be collected.

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# Timeline of key events

**Google violated children's privacy laws - September, 2019**

In 2019, it was found that YouTube, which is owned by Google, went against COPPA by gathering private information from users younger than 13 without the approval of a legal parent or guardian. YouTube was gathering personal data from young internet users through identifiers called “cookies” to track their online activity. This was done for the purpose of targeted advertising which helped YouTube make millions of dollars on. As a consequence of violating children’s online privacy laws, Google and Youtube were required to pay a fine of “$136 million to the FTC and $34 million to New York for allegedly violating COPPA.” (2) According to the FTC, “[t]he $136 million penalty is by far the largest amount the FTC has ever obtained in a COPPA case since Congress enacted the law in 1998.” (2)

**Zoom gave data to third parties without users' knowledge - April, 2020**

Due to the COVID-19 pandemic, as learning shifted from happening on school campuses to doing everything online, a communication platform called Zoom became extremely popular worldwide. Zoom allows people to meet virtually and helps them stay connected which is why this platform was widely used for online learning. However in April of 2020, it was discovered that “a data-mining feature on Zoom allowed some participants to surreptitiously have access to LinkedIn profile data about other users.” (3) Once this feature was activated Zoom, without the permission of users, would secretly collect and display their LinkedIn details in video conferences. Although LinkedIn is a social networking site that is often used by adults to help them with the process of finding jobs and internships through the internet, many students use LinkedIn as well.

**Governments Harm Children’s Rights in Online Learning 2021-2022**

# The Human Rights Watch (HRW), a nongovernmental organization that protects human rights, conducted an analysis and found that “[g]overnments of 49 of the world’s most populous countries harmed children’s rights by endorsing online learning products during Covid-19 school closures without adequately protecting children’s privacy” (4) Due to the pandemic, governments all around the world started encouraging the implementation of education technology (EdTech) in schools to successfully shift to online learning. However, these governments were incapable of looking into whether or not these EdTech products were completely safe for students to use. According to the HRW, “Of the 164 EdTech products reviewed, 146 (89 percent) appeared to engage in data practices that risked or infringed on children’s rights.”(5) These platforms were covertly collecting private information from students around the world without the consent of a parent and were tracking their online activity. In many cases, this information was shared with uninvolved third parties, completely putting the lives of millions of students at risk.

**Fortnite 2022**

Epic Games, the creator of the extremely popular video game Fortnite, violated COPPA in December of 2022. Fornite was “collecting personal information from children under 13” (6) before informing parents and gaining their permission. Furthermore, Fortnite’s default settings were unsafe and were considered harmful to children and teenagers. Not only did Epic Games violate COPPA rules, but it was also revealed that Epic was tricking its users into making unintentional purchases within the video game using a design element called dark patterns. Epic Games put millions of children at risk and therefore had to pay “a $275 million monetary penalty for violating the COPPA Rule” and “$245 million to refund consumers for its dark patterns and billing practices.” (7)

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# **Position of key nations**

**The United States of America:**

In 1998, the Children's Online Privacy Protection Act (COPPA) was passed by the U.S Congress to protect online privacy for minors under the age of 13. COPPA is a federal law that requires all companies that operate websites that collect any form of data from children under the age of 13 to follow certain conditions. This is done to ensure that the personal information of these children are kept safe from being used in an unlawful manner. Some of these demands include for sites to make consent from parents that is verifiable a requirement when collecting or using any private information of users under the age of 13 and for websites to post the privacy policy whenever data collection takes place. The Federal Trade Commission, an agency of the United States federal government that manages COPPA, stated that COPPA applies to all websites and other online services that are targeted towards children that collect and use their personal data in the US.

**France:**

The CNIL or the Commission Nationale Informatique & Libertés (National Commission on Informatics and Liberty), is an independent administrative body that has the authority to enforce laws regarding data protection in France. The CNIL has implemented various regulations aiming to protect children’s online personal data. As a part of the EU, France is subject to the GDPR. The CNIL is responsible for enforcing this law. This law is called the France Data Protection Act (FDPA) which has been in force since 1978 and was amended in 2018 to further improve the regulation. What differentiates the FDPA from other regulations in other countries is that alongside a parent or a guardian, “if a child is 15 years or over, that child himself may consent to the processing of personal data in relation to the offer of information society services directly to him.” (8) as stated in article 45 of the FDPA. Allowing children to be in control of their own personal data helps them to be more aware of their own data privacy. France is currently the only country that gives children the authority to do so in some cases.

**Canada:**

Canada does have legislation regarding the protection of individuals’ data on the internet called the Personal Information Protection and Electronic Documents Act (PIPEDA). However this bill does not see adults and children as two separate categories, “privacy is addressed equally for all individuals.” (9)

**Australia:**

The Privacy Act 1988 is an enforced law in Australia that helps protect individuals' online data, but there are no regulations that specifically aim to protect children’s digital privacy. The regulations equally apply to everyone.

**Saudi Arabia:**

Saudi Arabia is not a country that is known for having the best data protection, however, the nation does have clearly stated laws on children’s online privacy. Children and Incompetents’ Privacy Protection Policy of Saudi Arabia has restrictions on targeted advertising which is considered more broad but it also focuses on protecting children’s online information from being spread to third parties in more detail.

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# **Suggested solutions**

Some countries are already working towards protecting children’s right to privacy on the internet completely as can be seen through the enforcement of laws and regulations including COPPA and the GDPR-K. However, this is only an extremely small number of countries taking initiative and even these countries still have areas that can still be improved. In addition, some nations such as Australia and Canada have data protection laws but do not have regulations that protect children's online privacy specifically. Considering the fact that we are living in the digital age and still have countries around the world that have not taken action on the matter of protecting children’s privacy on the internet may be considered quite concerning and unacceptable. Many countries, including developed countries that are highly technologically advanced including Japan and Canada still have not set any specific legislation.

Although regulations of children’s privacy in the digital age must be improved by all nations, it is rather difficult to create solutions that satisfy the citizens, companies and organizations, and the government. For the public, it would be desirable if individuals were given the right to have full freedom and control over their personal information on the internet without the involvement of other parties. On the other hand, governments feel that surveillance is necessary in order to maintain security within a nation. However, privacy is a human right. As the Human Rights Council claimed, “the same rights that people have offline must also be protected online, in particular freedom of expression”. (10) Therefore, countries must aim to protect children’s digital privacy as much as possible.

First and foremost, countries that do not have any or much regulations regarding the protection of children’s digital privacy may want to start off with imposing one. Even laws that do not require much from companies and organizations can still be quite effective. Setting regulations will definitely help to raise awareness on the matter which may then lead to companies being more careful with dealing with children's personal information online.

Another possible solution nations may want to shift their attention towards is further educating children on the matter of how to stay safe on the internet and the importance of digital privacy. The majority of the children around the world most likely do not have the proper understanding of why it is significant to stay safe and secure online and how to even do so. Helping to build the foundation of understanding online privacy within the children may really contribute to increasing the protection of children’s online privacy.

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