

Sharenting in Malaysia: Balancing Parental Rights and Children's Privacy in the Digital Age

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Abstract: This study explores the phenomenon of "sharenting," the widespread practice of parents sharing information, photos, and videos of their children online, within the Malaysian context. As social media becomes deeply embedded in daily life, sharenting serves as a common means for parents to document and share their parenting journey. However, this practice raises significant concerns about striking a balance between parental rights and children's rights to privacy, consent, and protection from long-term digital exposure. While Malaysian parents often view sharenting as an expression of their rights, it may inadvertently infringe upon the child's autonomy and digital footprint, which is permanent and difficult to erase. This study examines the existing Malaysian legal framework governing parental and children's rights, with a focus on the principle of the best interest of the child as the guiding standard. Through a comprehensive review of literature, relevant legislation, and comparative perspective, the study argues that current laws are insufficiently addressing children's digital privacy and consent rights. It recommends legal reforms that explicitly recognise children's rights to privacy, consent, and the right to be forgotten, ensuring a more equitable balance between parental authority and the child's digital autonomy in the digital age.

Keywords: Digital Identities; Digital Privacy; Right to be Forgotten; Sharenting

1. Introduction

Verbal and visual sharing of information is normal for us, who are social creatures. No man is an island. This need has led to the evolution of communication technologies from postal to digital. Previously, the sharing was done through postal services; now it is through digital technology. Pictures previously could only be taken by specific persons at specific places, before being printed and kept in photo albums, to be shared by families when they meet, or a copy is sent as a memento. Nowadays, everyone can be a photographer, and the photo can be shared instantly, privately, or publicly online. Thus, for a couple, every milestone in their lives is recorded: the proposal, the engagement, the wedding, the conception of their baby, the gender reveal, the birth, and the child's life. These milestones are important to them and their family. The sharing is done on social media platforms such as YouTube, Instagram, TikTok, WhatsApp, and other similar platforms. As such, this kind of parenting has become sharenting.

In Malaysia, 28.68 million, or 83% of the population, are active social media users in early 2024. Popular social media include Facebook with 22.35 million users (64.8%), YouTube

with 22.35 million users (64.8%), Instagram with 15.70 million users (45.5%), and TikTok with 28.68 million users (85.4%).¹

Sharenting is defined by the Collins Dictionary as “the habitual use of social media to share news, images, and so forth of one’s children”—in essence, parents sharing their children’s information and images online.² In 1958, ultrasound was used to investigate abdominal masses, including pregnancy. Using ultrasound allows the parents and doctors to examine the foetus’s development and growth. Nevertheless, this information is only confined to the doctors and the parents. The ultrasound machine was further improved to enable printing and 3D images to be produced. The parents share these images with their families and friends to announce their pregnancy. With the introduction of social media, the sharing can be done simultaneously with loved ones with just a click of a finger. Thus, the child’s digital footprint is established even before his or her actual birth. This is followed by sharing the child’s milestones through pictures, short explanations with short videos, blogging, or creating a specific channel for the child with his or her Instagram account or YouTube channel. As a minor, the child will not have any say as to what can be posted. The parents, as their legal guardians, have every right to do so. Nevertheless, the best interest of the children must always be the prime consideration when exercising this right.

Social media platforms function as real-time communication tools that allow users to broadcast opinions, experiences, and multimedia content to a broad audience. These messages can reach friends, acquaintances, and even strangers, often being reshared across networks. While sharenting enables parents to highlight achievements or seek advice within supportive communities, it also inadvertently contributes to the persistent presence of their children’s data online.

Conversely, sharenting poses significant risks to children, particularly when it involves the disclosure of sensitive personal information, the posting of content that may lead to embarrassment, or the commodification of a child’s image for financial gain.³ Excessive parental sharing can disrupt a child’s ability to develop a clear sense of identity and personal autonomy.⁴ Moreover, such practices may expose children to serious consequences, including identity theft, cyberbullying or harassment by peers and adults, both online and in real-world settings, and even the possibility of future repercussions in

¹ Upstack Studio, Social Media App Usage & Demographic (Malaysia 2024 Statistic) at <https://upstackstudio.com/blog/social-media-app-malaysia-2024/>.

² Collins Dictionary. Sharenting. Glasgow: HarperCollins Publishers, 2015. Retrieved from <https://www.collinsdictionary.com/dictionary/english/sharenting>

³ Kamil Kopecky, Rene Szotkowski, Inmaculada Aznar-Díaz, José-Maria Romero-Rodríguez, “The phenomenon of sharenting and its risks in the online environment. Experiences from Czech Republic and Spain.” *Children and Youth Services Review* Vol 110, Issue C (2020). <https://doi.org/10.1016/j.childyouth.2020.104812>.

⁴ Benjamin Shmueli & Ayelet Blecher-Prigat, “Privacy for Children”, *Columbia Human Rights Law Review* 42 (2011): 759-795. <https://ssrn.com/abstract=1746540>.

areas such as university admissions or employment opportunities.⁵ Importantly, digital content, once shared, often persists online indefinitely. Even if removed by the original poster, the information may still be retrievable through digital forensics or third-party archives. As such, sharenting must be critically examined through the lens of a child's right to privacy and the principle of the "right to be forgotten." Children must not be treated as extensions of their parents' social or economic identities, but rather as individuals entitled to autonomy, dignity, and protection under the law.

Though parents typically do not intend to harm their children through online sharing, such actions can still be exploited. Innocent images may be manipulated or reused in harmful contexts, including child exploitation. Instances like online pranks or disciplinary videos highlight potential emotional risks. As Audra Beaty notes, social media posts have lasting consequences, potentially following children into adulthood.⁶ A study by Kaspersky further revealed that while some parents request consent before posting, a notable proportion ignore their child's preferences, raising serious privacy concerns.⁷

2. Literature Review

The emergence of sharenting has sparked significant scholarly discourse. This phenomenon raises essential issues surrounding parental rights, children's privacy, and the implications of digital exposure in an increasingly interconnected world. Globally, research has examined the intersection of parental rights, children's privacy, and the digital environment.⁸ Internationally, sharenting has been scrutinised for its implications on children's right to privacy and the development of digital identities without consent. Joel's⁹ theoretical construct of the child's right to an open future underscores this concern, positing that parents must navigate the delicate balance between sharing moments and preserving their child's future autonomy. Sharenting carries significant

⁵ Keltie Haley, "Sharenting and the (Potential) Right to Be Forgotten," *Indiana Law Journal* Vol. 95: Iss. 3, Article 9 (2020). <https://www.repository.law.indiana.edu/ilj/vol95/iss3/9>.

⁶ Audra Beaty, "How does online "sharenting" impact the safety and well-being of children." *Buckner International*, 8 January 2025 at <https://www.buckner.org/blog/how-does-online-sharenting-impact-the-safety-and-well-being-of-children/>.

⁷ "Sharenting: What parents should consider before posting their children's photos online" at <https://www.kaspersky.com/resource-center/threats/children-photos-and-online-safety>.

⁸ Cataldo, Ilaria, An An Lieu, Alessandro Carollo, Marc H. Bornstein, Giulio Gabrieli, Albert Lee, and Gianluca Esposito. "From the Cradle to the Web: The Growth of 'Sharenting'—A Scientometric Perspective." *Human Behavior and Emerging Technologies* (2022): 1–12. <https://doi.org/10.1155/2022/5607422>.

⁹ Joel, Feinberg, "The Child's Right to an Open Future." In *Whose Child?: Children's Rights, Parental Authority, and State Power*, edited by William Aiken and Hugh LaFollette, 124–153. Totowa, NJ: Littlefield, Adams & Co., 1980.

social and psychological implications. Beaty¹⁰ and Josh¹¹ identify several risks, including identity theft, cyberbullying, and emotional harm, particularly when parents share content that may be embarrassing or revealing for their children. This raises an ethical dilemma between the parental right to freedom of expression and the need to protect children's dignity and reputation.

In Malaysia, academic exploration of sharenting remains limited.¹² Anis Suhaiza and Noor Azlina argue that sharenting should be examined through the lens of personal information security, confidentiality, and privacy, underscoring the need for improved protection for children in the country. Scholars also discuss the challenges faced by Muslim parents in raising digital-native children, noting a cultural lag between the adoption of technology and the awareness of its associated risks.¹³ Additionally, the potential impact of sharenting on children's welfare emphasises the urgent necessity for robust legal and ethical guidelines to safeguard children's privacy. Mazlina et al., further touched on the risks and threats faced by children due to sharenting, including misuse of personal information, exposing them to cyberstalking, cyberbullying, and identity theft. This situation underscores the urgent need for parental education on digital ethics and privacy awareness. Moreover, there is a noticeable scarcity of empirical studies focusing on Malaysian parents' motivations, perceptions, and behaviours regarding sharenting, as only preliminary qualitative research has been conducted in this area.¹⁴

Currently in Malaysia, the existing discourse primarily addresses child privacy, data protection, and digital safety,¹⁵ it highlights the inadequacies of current statutory

¹⁰ Audra, Beaty. "How Does Online 'Sharenting' Impact the Safety and Well-Being of Children?" *Buckner International*, January 8, 2025. <https://www.buckner.org/blog/how-does-online-sharenting-impact-the-safety-and-well-being-of-children/>

¹¹ Josh, Butler. "Parents Who Share Photos of Children Online More Likely to Be Approached for Sexual Images of Them." *The Guardian*, May 2, 2024.

¹² Irma Kamarudin, Sarirah Che Rose, & Arina Kamarudin, (2024). Sharenting Trends In Malaysia: A Lesson from Foreign Countries. *International Journal of Law, Government and Communication*, 9 (36), 356-364. DOI: 10.35631/IJLGC.936026; Anis Suhaiza Md Salleh, Noor Azlina Mohd Noor, Sharenting: Its Implications from the Malaysian Legal Perspective. *Kanun: Jurnal Undang-undang Malaysia*, [S.I.], v. 31, n. 1, p. 121-156, jan. 2019. ISSN 2682-8057. Available at: <<http://jurnal.dbp.my/index.php/Kanun/article/view/3872>>; Mazlina Mohamad Mangsor, Mazlifah Mansoor, Noraiza Abdul Rahman & Ismah Ismail, Sharing of Children Online Information by Parents: The Legal and Parental Control in Malaysia, *International Journal Of Academic Research In Business And Social Sciences* Vol. 11, No. 5, 2021, 241-252. DOI:10.6007/IJARBS/v11-i5/9922.

¹³ Nabilla Dian Alvanda, Emi Zulaifah, Annisa Fitri Alfianita, and Mariyati. "The Challenges of Muslim Parents in Rearing Digital Native Children." *International Journal of Islamic Psychology* 7 (2024): 16–28.

¹⁴ Yeng Teng Tan, and Saroja Dhanapal, The trend of sharenting among Malaysian parents: a preliminary study of intention and motivation. *International Journal of Public Health Science (IJPHS)* Vol. 11, No. 4, December 2022, 1482-1492. DOI: 10.11591/ijphs.v11i4.21758.

¹⁵ Manique A. E.Cooray, Iman Syamil bin Ahmad Rujhan and Wan Nur Adibah Binti Adnan, "Industry approaches in handling online exploitation of children: A comparative study of the policy, guidelines and best practices in Malaysia, Singapore and Australia." *Cogent Social Sciences* 9 (2023): 1-25. <https://doi.org/10.1080/23311886.2023.2241713>; Zainal Amin Ayub and Zuryati Mohamed Yusoff. "Right of Online Informational Privacy of Children in Malaysia: A Statutory Perspective." *UUM Journal of Legal Studies* 9 (2018): 221–241.

protections. For instance, the Personal Data Protection Act 2010 (PDPA) falls short in safeguarding children's data when shared by parents, as it primarily governs commercial data processing. Furthermore, the Child Act 2001 provides general protections against neglect or abuse but fails to address the risks related to digital privacy or sharenting explicitly.

Siti Zaharah and Sridevi¹⁶ examined children's participation rights in custody disputes, advocating for recognising children's voices in decisions affecting them. This principle can be extended to the realm of digital privacy, positing that children, especially those with sufficient maturity, should have a say in whether their images or personal information are shared online. This perspective is echoed by Anis Suhaiza and Noor Azlina, who contend that the rights and viewpoints of children regarding digital privacy decisions have been largely overlooked.

Comparative legal studies reveal differing levels of statutory intervention regarding children's digital privacy. France stands out by incorporating privacy into the definition of parental authority, while Australia's privacy protections primarily manifest through family law proceedings and general online safety statutes. These comparative insights suggest viable pathways for legal reform in Malaysia to strengthen children's digital privacy by explicitly outlining parental responsibilities. Despite these international developments, Malaysia's legislative and policy frameworks remain inadequate in addressing sharenting. There is a notable absence of comprehensive regulations that delineate the boundaries for parents in sharing their children's data online, which exposes children to potential privacy violations and reputational harm. Furthermore, a prevailing attitude persists that neglects children's rights to be consulted on matters affecting their welfare, hindering the effective implementation of protective measures. This research suggests that the principle of the best interest of the child necessitates consideration of children's perspectives in decisions affecting their privacy. Consequently, children should be endowed with the right to be forgotten in cases where their privacy rights have been infringed upon. To achieve this objective, amendments to current legislation or a progressive judicial interpretation of the 'best interest of the child' principle by the courts are essential.

Legal scholars like Keltie¹⁷ highlight the right to be forgotten as essential in protecting children's data from long-term harm, especially in Europe following the landmark *Google Spain SL and another v. Agencia Española de Protección de Datos (AEPD), Mario Costeja*

¹⁶ Siti Zaharah Jamaluddin and Sridevi Thambapillay, "Children's Voices in Custody Cases: A Roar or Whimper?" In *Children in Malaysia: Selected Contemporary Legal Issues*, Siti Zaharah Jamaluddin (eds.) et al. (Kuala Lumpur: University of Malaya Press, (2018), 31 -51.

¹⁷ Keltie Haley "Sharenting and the (Potential) Right to Be Forgotten." *Indiana Law Journal* 95, no. 3 (2020): Article 9. <https://www.repository.law.indiana.edu/ilj/vol95/iss3/9>.

*González*¹⁸ decision. This aligns with France's legislative reforms, which now explicitly include the obligation to protect a child's privacy within parental authority.¹⁹ Similarly, Australia incorporates online child safety within its Enhancing Online Safety for Children Act 2015, providing a framework for intervention against digital harm.²⁰

Sharenting has become a normalized practice in Malaysian society, with parents sharing everything from ultrasound images to milestones in their children's lives. This widespread phenomenon raises a critical tension between parental autonomy and children's rights to privacy and digital self-determination. Unfortunately, Malaysia's current legal framework inadequately addresses this conflict, leaving children exposed to potential long-term consequences such as identity theft, cyberbullying, emotional distress, and adverse effects on their future educational and employment opportunities. This research seeks to explore these competing rights by identifying legal issues and gaps in existing legislation that fail to safeguard children's digital privacy, all while acknowledging and respecting legitimate parental interests in sharing family experiences.

3. Method

This work employs a content analysis methodology combined with qualitative and doctrinal research methods. As a library-based study, it encompasses both primary and secondary materials. The secondary sources predominantly comprise internet databases, while the primary sources include Malaysian laws, regulations, and court rulings. Additionally, this study adopts Joel's concept of a child's right to an open future.²¹ Joel emphasised that until children can make decisions based on their preferences, their potential options for the future must remain unrestricted. Consequently, if a parent's sharing of information leads to the loss of an opportunity or choice for the child, it constitutes a violation of the child's rights. This research investigates whether Malaysian legal regulations can effectively protect children's online privacy while also highlighting the potential negative impacts of information sharing on a child's physical and digital safety.

To illuminate the best approaches, experiences from other jurisdictions (notably Australia and France) are examined. Both countries offer distinct strategies for regulating

¹⁸ [2014] QB 1022.

¹⁹ Jeanne-Marie Quashie. "The Protection of Children's Privacy in France: A Reform of Image Rights Law." *Humanium*, September 17, 2024. <https://www.humanium.org/en/the-protection-of-childrens-privacy-in-france-a-reform-of-image-rights-law/>.

²⁰ Yujin Jang, and Bomin Co. "Online Safety for Children and Youth under the 4Cs Framework—A Focus on Digital Policies in Australia, Canada, and the UK." *Children* 10 (2023): 1–16. <https://doi.org/10.3390/children10081415>.

²¹ Joel, Feinberg. (1980). "The Child's Right to an Open Future". In *Whose Child?: Children's Right, Parental Authority, State Power*, Aiken, W. and LaFollette, H. (1980). Totowa NJ: Littlefield, Adam & Co, 124-153.

sharenting and protecting children's rights to privacy online, providing a broader perspective on potential legal solutions and alternative frameworks for Malaysia. Specifically, France has been identified as a relevant benchmark for Malaysia by the Malaysian Minister in charge of children. In contrast, Australia has garnered favourable responses from Malaysia regarding its recent changes to online safety laws, particularly those aimed at enhancing protections for children in digital spaces. The experiences of France and Australia serve as practical guides for Malaysia; by analysing how these jurisdictions balance parental rights with child privacy, Malaysia can derive valuable insights to formulate its own legal and policy reforms in the best interest of children.

4. The Legal Theory on the Rights of Parents and Children in Malaysia

In Malaysia, the legal recognition of parental and children's rights stems from constitutional guarantees and statutory provisions, including adherence to common law and Islamic principles where applicable. Article 5 of the Federal Constitution safeguards the right to life, while Article 8 ensures equal protection under the law. These provisions collectively offer a foundational legal framework for assessing the rights and responsibilities of parents concerning their children. The following subtopics elaborate on these rights.

4.1. The rights of non-Muslim parents

Given that children lack the capacity to safeguard their own rights and interests, the onus of protection rests with their parents. Parents are legally responsible for ensuring their children's education, health, and overall well-being. Furthermore, parents are expected to provide for their children financially until the completion of their first university degree, regardless of whether the child has reached the age of majority. However, the scope of the parental duty to uphold a child's well-being is less clearly defined. The concept of "well-being" is multifaceted and not easily measurable.

According to the Alliance for Child Protection in Humanitarian Action, child well-being encompasses a dynamic, subjective, and objective state of physical, cognitive, emotional, spiritual, and social health. This includes protection from abuse, neglect, exploitation, and violence; access to basic needs and developmental support; nurturing relationships with primary caregivers and community members; and opportunities to exercise autonomy in line with their evolving capacities. Malaysia's legal system appears to be aligned with this comprehensive understanding, as reflected in various statutes that criminalise abuse, neglect, abandonment, and exploitation by parents, guardians, or any individuals in caregiving roles. Consequently, unless sharenting behaviour can be categorised under such forms of mistreatment or endangerment, the act of sharing children's images or personal information online, even for profit, does not currently constitute a legal violation.

4.2. The rights of Muslim parents

Within Islamic teachings, children are viewed as a sacred trust bestowed upon parents, who are obligated to meet their physical, emotional, and spiritual needs. This includes providing for their sustenance, education, and moral development. These obligations are observed until the child reaches adulthood. In Malaysia, the responsibility to maintain and care for the child continues until he is 18 years old, or he completes his first university degree. Islamic parenting methods, such as those drawn from Prophetic traditions, emphasize fairness, role modelling, and prayer.²² Importantly, public sharing of a child's image or life details must align with these values, ensuring it supports not jeopardises the child's dignity and well-being. Oversharing may lead to *riya'* (showing off) or foster envy, which are discouraged in Islamic ethics and may even cause conflict among families or peers.²³

4.3. The principle of the best interest of the child

The United Nations Convention on the Rights of the Child (UNCRC) 1989 affirms that, "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."²⁴ Within the context of family law, Malaysian legislation similarly mandates that the *best interests of the child* must take precedence in all decisions involving a child's welfare. This is particularly evident in custody matters involving both Muslim and non-Muslim families.²⁵ When assessing whether a parental decision aligns with the child's best interests, the courts are expected to take a comprehensive view of the child's present and future needs.²⁶ Custody disputes often involve the act of balancing the preferences of the parents with the wishes of the child, more so if the child has attained sufficient maturity to express an independent opinion.

The age at which a child is deemed capable of forming such an opinion is typically determined at the discretion of the presiding judge. In cases involving non-Muslims, Malaysian courts generally recognise children aged 12 and above as being capable of expressing views that may influence the court's decision. Nevertheless, there were

²² Nabilla Dian Alvanda , Emi Zulaifah , Annisa Fitri Alfianita , Mariyati, "The Challenges of Muslim Parents in Rearing Digital Native Children." *International Journal of Islamic Psychology* Vol. VII (2024):16-28. P-ISSN: 2655-531X. E-ISSN: 2721-2262.

²³ Hanna Oktasya Ross; Megawatul Hasanah; Fitri Ayu Kusumaningrum, "SHARENTING PERSPEKTIF ISLAM." In *Tantangan Dan Peluang Islam Dalam Menghadapi Era New Normal dan Era Digitalisasi (Tinjauan Dari Beberapa Bidang Ilmu)* , Syarifan Nurjan, dkk , Penerbitan & Percetakan Calina Media,(2021) 35-45.

²⁴ Article 3 of the Convention.

²⁵ Section 88 of the Law Reform (Marriage and Divorce) Act 1976 and section 86 of the Islamic Family Law (Federal Territories) Act 1984.

²⁶ Siti Zaharah Jamaluddin and Mohammad Abu Taher, "Childhood Vaccination: Whose Right It is to Decide?" In *Mimi Kamariah Law Series: The Child Act 2001: Past, Present and Future*, Jal Zabdi Mohd Yusoff et al, University of Malaya Press, (2022),145-166.

instances where the court allowed younger children to express their views. For Muslims, the emphasis is on the term '*Mummayyiz*' and not the age. *Mummayyiz* specifically refers to a period when a child has achieved some degree of independence, can feed, clothe, and cleanse himself, and can differentiate between right and wrong. As such, age is not the determining factor, thus allowing 9 years old child to give his opinion concerning his future. In the context of sharenting, it is important to recognise that parental authority over a child is not absolute; it is inherently constrained by the principle of the child's best interests, which includes giving appropriate weight to the child's views.

In Malaysia, once a child reaches the age of 9 in the case of Muslims, and 12 for non-Muslims, their preferences should be considered when parents decide whether to share personal content on social media platforms. Parents are expected to consider the long-term consequences of online sharing, particularly given the enduring nature of digital posts. Content shared should not expose the child to humiliation, exploitation, discrimination, or vulnerabilities such as cyberbullying, online grooming, or targeted harassment. Responsible digital parenting requires a forward-looking approach that respects the child's dignity, privacy, and autonomy.

5. The Child's Right to Privacy and Online Safety

In Malaysia, everyone has the right to freedom of expression, subject to the law. As such, this freedom is not absolute. Thus, parents have the right to share information and photos of their children within the four walls of the law. Article 16(1) of UNCRC states that "no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor unlawful attacks on his or her honour and reputation."²⁷ Further, Article 16(2) mentions that "the child has the right to the protection of the law against such interference or attacks."²⁸ These provisions recognise the child's right to privacy in regard to physical space, private conversation, and personal data. The child has some level of autonomy concerning his life, including the information to be disclosed. Aside from this provision, section 15 of the Child Act 2001 restricted media and publications concerning child perpetrators or child victims, which can lead to their identification. The Personal Data Protection Act 2010, on the other hand, protects personal data in commercial transactions. The existing law provides the right to privacy against third parties.²⁹ The law does not prohibit parents from sharing their children's information online without the children's consent.³⁰ Thus, parents seem to have the

²⁷ See, Article 16(1) of the Convention of the Rights of the Child 1989.

²⁸ See, article 16(2) of the Convention of the Rights of the Child 1989.

²⁹ Zainal Amin Ayub and Zuryati Mohamed Yusof. "Right Of Online Informational Privacy of Children in Malaysia: A Statutory Perspective". *UUM Journal of Legal Studies* Vol. 9 (2018): 221-241.

³⁰ Mazlina Mohamad Mangsor, Mazlifah Mansoor, Noraiza Abdul Rahman & Ismah Ismail, "Sharing of Children Online Information by Parents: The Legal and Parental Control in Malaysia." *International Journal of Academic*

absolute right to share their children's information, regardless of how the children may feel about it.

While parents have the right to share information about their children, this right is not without limits. If the content complies with applicable laws, parents are generally free to post information online. Two key pieces of legislation governing online content in Malaysia are the Communications and Multimedia Act 1998 and the Online Safety Act 2024. The Communications and Multimedia Act 1998 prohibits the transmission of content that is indecent, obscene, false, menacing, or grossly offensive if done with the intent to annoy, abuse, threaten, or harass any person. The Online Safety Act 2024, on the other hand, specifically aims to restrict access to harmful online content. This includes material related to child sexual abuse, financial fraud, and content that is obscene or indecent.³¹ It also encompasses content that could cause harassment, distress, fear, or alarm through threatening, abusive, or insulting communications; content inciting violence or terrorism; content encouraging self-harm; and material promoting hostility, discrimination, or the use of dangerous drugs.³² Unless the shared content falls into these restricted categories, there is technically no legal barrier preventing parents from posting it.

In this context, parents act as the gatekeepers of their children's personal information, holding the responsibility to decide what is shared and when. However, with this discretion comes the duty to carefully evaluate the potential risks of online disclosure. All shared information is inherently not harmful, but it becomes so when it leads to outcomes such as humiliation, exploitation, discrimination, or exposure to threats like grooming, cyberbullying, or stalking. For example, revealing a child's location or announcing that the child is home alone may compromise their safety. Similarly, posting photos of certain private or embarrassing moments may subject the child to ridicule or social exclusion. Even if a parent's intent is innocent, the public's reception of the content may not be. Therefore, parents must consider the broader implications of their online behaviour, not merely the pursuit of 'likes' or online popularity. As primary protectors of their children's digital identities, parents must exercise caution, ensuring that their actions prioritise the child's dignity, privacy, and long-term well-being.

Since parents have the right to share their children's information online, do the children have the right to privacy? In Malaysia, there is no provision for the right to privacy; thus, it is not an actionable wrong.³³ The right to privacy is recognised in limited situations such

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³¹ See, the first schedule of the Online Safety Act 2024.

³² Ibid.

³³ *Ultra Dimension Sdn Bhd v Kook Wei Kuan* [2004] 5 CLJ 285 and *Dr Bernadine Malini Martin v MPH Magazine Sdn Bhd & Ors and another Appeal* [2010] 7 CLJ 525 (CA).

as communication between doctors and patients or lawyers and clients. Even though there seems to be no express provision on privacy in Malaysia, Article 16 of the UNCRC should be applicable since Malaysia has ratified it³⁴ and enacted the Child Act 2001 as part of the ratification. Child Act 2001 embodied the principles laid down in the UNCRC in its preamble, where it states that,

“ACKNOWLEDGING that a child, by reason of his physical, mental and emotional immaturity, is in need of special safeguards, care and assistance, after birth, to enable him to participate in and contribute positively towards the attainment of the ideals of a civil Malaysian society:...”³⁵

Aside from UNCRC, the United Nations Fund for Children (UNICEF) argues that children have the right to privacy and data protection. The existing law protects children’s privacy from third-party interference, like any other person in Malaysia. It is argued that there is no need to include an express provision to protect children’s privacy against their parents since the obligations to care for them are wide enough to cover the need to protect their privacy too. Section 31 of the Act 2001 lists the offences of ill-treatment, neglect, abandonment, or exposure of children by their parents or guardians. Even though the enforcement focus has always been on physical or sexual ill-treatment, neglect, or exposure, it should not be limited to just that. The provision must be interpreted considering the advancement of technologies and changes in parenting style or approach.

The parents may not have the intention to cause ill-treatment; however, their action in sharing their children's information online may fall within the act of neglect or exposure to physical or emotional injury, or cause abuse to take place. Neglect can be categorized into positive or negative actions. Active neglect involves intentional harm to a child’s physical or emotional well-being, while passive neglect refers to neglect arising from a lack of information, resources, or care. Exposure, however, requires that parents take actions that create opportunities for the child to be vulnerable to abuse. Even though one might argue that there is no explicit right to privacy in written laws, the broad legal duties of parents to care for their children inherently include the responsibility to protect their privacy.

6. The Child’s Right to be Forgotten

In a world surrounded by digital information with just a click of a finger, the need to be forgotten seems impossible. Once information is shared online, it cannot be deleted. The said information can easily be accessed by others, regardless of whether the said information is still relevant to the current circumstances. Thus, is there any right for the person to ask that the information be taken down for good? This issue was discussed in

³⁴ Malaysia ratified the Convention in July 1995.

³⁵ Preamble of the Child Act 2001.

the case of *Google Spain SL and another v. Agencia Española de Protección de Datos (AEPD), Mario Costeja González*.³⁶ The complainant, a Spanish national, filed a complaint against Google Spain, Google Inc., and the Spanish newspaper *La Vanguardia*, asserting that two pages mentioning his name and a real estate auction linked to attachment proceedings for recovering social security debts were no longer relevant. He argued that Google Spain or Google Inc. should be required to remove or hide his data, cease including the links in search results, and remove his data from links to *La Vanguardia's* website, as the events had occurred over fifteen years earlier and were no longer pertinent. The Court ruled that, over time, accurate data could become inadequate, irrelevant, or excessive, thereby infringing upon the data subject's right to privacy. Consequently, the Court concluded that an individual may request the removal of such information from public view by searching their name on a search engine. However, the Court clarified that this right was limited to search engines and did not extend to news websites, as these are protected under European data protection law.³⁷

In Malaysia, anyone can request information not to be accessible if it falls within the ambit of the Communication and Multimedia Act 1998 and the Online Safety Act 2024. Nevertheless, the information that can be taken down is limited to harmful, as identified by both statutes. In 2024, the Malaysian Communications and Multimedia Commission took down 63,652 fraudulent online content involving artificial intelligence (AI), such as deepfakes and impersonation of notable figures, videos, graphics, and text on social media. The Personal Data Protection Act 2010 only regulates the processing of personal data in commercial transactions. As such, whether information on their children shared by the parents falls within the ambit of these statutes depends very much on what was shared or whether it was for commercial transactions. If not, the information can still be accessed even after the child is an adult. There will be no avenue for the child who is an adult to request that the information be taken down since the information was shared when he or she was a minor. Once he or she is an adult, he or she may not want the whole world to see his or her childhood photos, to know of his experiences, the ups, and downs while he or she was growing up, especially during adolescence. Growing up is hard enough without the whole world revisiting one's journey, repeatedly, just because it was shared by one's parents once upon a time without one's consent. The current law only accords limited protection against third parties concerning harmful information, but not against one's parents.

³⁶ [2014] QB 1022.

³⁷ Ibid.

7. Sharenting from Selected Jurisdictions

Having explored the local legal framework, it is equally important to examine how the other jurisdictions address similar challenges to balance parental rights and child privacy online. For a comparative discussion, the position in France and Australia will be touched on. These countries are chosen mainly due to the differences in their approach to dealing with sharenting and the children's right to privacy. France was mentioned specifically by the Malaysian Minister in charge of children, while Malaysia had responded positively to the changes in Australia with regard to online safety for children. Perhaps Malaysia can use those experiences as a guide to deal with this issue in the best interest of the child.

7.1. France

France's constitutional architecture robustly supports privacy rights, drawing strength from both the Preamble to the 1946 Constitution and the Declaration of the Rights of Man and the Citizen (1789). These foundational documents underscore the constitutional principle of human dignity and the protection of private life. The *Conseil Constitutionnel* (Constitutional Council) has consistently affirmed these values, empowering the judiciary to interpret family law provisions in alignment with fundamental rights.³⁸ In February 2024, a significant amendment was made to the French Civil Code, specifically to Article 371-1, which incorporated the concept of 'private life' in the definition of parental authority. This article delineates parental authority as a set of rights and duties aimed at safeguarding the interests of the child. It stipulates that parental authority is retained until a child reaches the age of majority or becomes emancipated, emphasising the necessity to protect the child's safety, health, privacy, and moral integrity while also supporting their education and development. Notably, the article mandates that "parental authority is exercised without physical or psychological violence," highlighting the standard against which parental conduct can be measured.³⁹ As sharenting gains popularity and is often viewed as benign, it poses potential risks to a child's privacy. The new provision reinforces the prioritisation of a child's privacy and likeness in decisions regarding online shares. This pivotal amendment aligns with constitutional mandates, fortifying the judiciary's role in ensuring parental authority upholds a child's rights to privacy and dignity.

The amendment also introduces judicial oversight for situations where parents cannot agree on sharing content related to their child. Judges can intervene to prevent one parent from publishing or disseminating such content without the other parent's consent. Although parents retain the right to share images or videos of children under 13, the judiciary can impose restrictions if such publications threaten a child's dignity or moral

³⁸ Arthur Dyeve, *The French Constitutional Council: Argumentation and Practices*, Jakab, Dyeve and Itzcovich (eds.), *Comparative Constitutional Reasoning*, CUP, 2017, 1-23.

³⁹ Article 371-1 of the French Civil Code.

integrity.⁴⁰ In addition, the French Data Protection Authority (CNIL) is vested with the authority to initiate summary proceedings to uphold a child's rights, particularly when the requests for the removal of personal data are not met. This regulatory framework reflects a proactive approach to privacy protection, allowing swift administrative recourse for violations.

Overall, France's model adopts a "best interests of the child" framework, which is embedded in family law and resonates with Article 3 of the UN Convention on the Rights of the Child (CRC). This principle ensures that a child's safety, welfare, dignity, and moral integrity must always come first in all decisions pertaining to them, especially their online persona through sharenting. The judiciary employs a proportionality analysis to balance parental expression and autonomy against the child's right to privacy and development. This proactive approach, combined with CNIL oversight, creates a comprehensive framework.

7.2. Australia

Australia's legal landscape surrounding privacy rights, particularly in the context of family law and children's digital safety, illustrates a complex interplay between statutory measures and the absence of a constitutional right to privacy.⁴¹ Privacy protections are primarily derived from various statutes, such as the Privacy Act 1988 and the Family Law Act 1975, as well as sector-specific regulations, which collectively establish a framework for privacy that is largely reactive rather than proactive. The High Court of Australia has affirmed an implied freedom of political communication, which does not extend to privacy rights, particularly in the realm of children's digital presence.⁴² This gap underscores a limited capacity for judicial interpretation concerning privacy matters, particularly as they relate to sharenting.

Part XIVB of the Family Law Act 1975 plays a crucial role in setting boundaries for the dissemination of information related to family law proceedings. The statute prohibits publishing identifying information about parties involved in such proceedings, and under certain circumstances, sharenting could constitute a breach of this prohibition. This legal framework is particularly important in cases where parents have separated, allowing one

⁴⁰ Jeanne-Marie Quashie, "The protection of children's privacy in France: a reform of Image Rights Law, Humanium." 17 September 2024 at <https://www.humanium.org/en/the-protection-of-childrens-privacy-in-france-a-reform-of-image-rights-law/>.

⁴¹ Australian Human Rights Commission: Rights and Freedom at <https://humanrights.gov.au/our-work/rights-and-freedoms/freedom-information-opinion-and-expression#:~:text=The%20Australian%20Constitution%20does%20not,government%20created%20by%20the%20Constitution.> (Accessed on 17 July 2025).

⁴² Australian Government, Attorney-General's Department: Right to freedom of opinion and expression at <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/right-freedom-opinion-and-expression#:~:text=The%20High%20Court%20has%20inferred,corruption%20by%20named%20police%20officers.> (accessed on 17 July 2025).

parent to seek an injunction to prevent the other from sharing content related to their child. Courts may issue orders that restrict both parents from posting anything about their child on social media without mutual consent, reflecting an attempt to prioritise the child's privacy in sensitive contexts.

The definition of 'publication' within the Family Law Act 1975 encompasses all forms of dissemination, whether through printed materials or electronic media. Thus, while parents have the liberty to share content about their children in general, specific legal provisions aim to protect privacy and prevent potential harm within the context of family law. Moreover, the Enhancing Online Safety for Children's Safety Act 2015 establishes broader protective measures aimed at addressing children's safety in the digital environment.⁴³ This Act categorises online harm into specific areas: illegal content, image-based abuse, cyberbullying, and adult cyber abuse. It empowers individuals to report harmful content, reinforcing the notion that children's safety is a paramount concern, albeit primarily focused on mitigating harm rather than explicitly safeguarding privacy rights.⁴⁴

The lack of a constitutionally mandated right to privacy in Australia means that the governance of children's digital safety and privacy hinges on existing legal frameworks and judicial discretion. The separation of powers within the constitutional structure allows the judiciary to apply the principle of the best interests of the child in family law matters. However, this principle is implemented within an adversarial system that may not always comprehensively address privacy concerns.⁴⁵ When resolving conflicts, the courts weigh the rights of the parents against other factors, including the child's maturity and the potential harm from public exposure. The focus remains on harm mitigation rather than an explicit enforcement of privacy rights, often resulting in a fragmented and reactive approach. The establishment of the eSafety framework further emphasises this reality, concentrating on reducing risks associated with online bullying and abuse, but lacking a unified doctrinal approach to privacy rights in the family context. In summary, while Australia provides certain legal safeguards regarding privacy and child protection, the absence of a constitutional right to privacy limits the development of a coherent, proactive privacy framework. Instead, privacy rights are enforced primarily within the confines of family law proceedings, creating a reactive rights-balancing framework.

⁴³ Yujin Jang and Bomin Co, "Online Safety for Children and Youth under the 4Cs Framework—A Focus on Digital Policies in Australia, Canada, and the UK." *Children* Vol. 10 (2023): 1-16. <https://doi.org/10.3390/children10081415>.

⁴⁴ Manique A. E. Cooray, Iman Syamil bin Ahmad Rujhan and Wan Nur Adibah Binti Adnan, "Industry approaches in handling online exploitation of children: A comparative study of the policy, guidelines and best practices in Malaysia, Singapore and Australia." *Cogent Social Sciences* 9 (2023): 1-25. <https://doi.org/10.1080/23311886.2023.2241713>.

⁴⁵ Australian Institute of Family Studies: Australian Child Legislation Protection at <https://aifs.gov.au/resources/resource-sheets/australian-child-protection-legislation>. (Accessed on 17 July 2025).

The comparison between France's and Australia's legal frameworks for protecting children's digital privacy highlights significant differences in philosophy, structure, and implementation regarding sharenting. France's framework is rooted in a robust commitment to privacy as a constitutional value, which is reflected in the laws governing parental authority. This integrative approach obligates parents to regard their children's privacy as a fundamental aspect of their responsibilities. The French model emphasises proactive measures, and courts and administrative bodies are empowered to intervene before privacy violations occur, ensuring that children's digital rights are respected from the outset. The legal obligation integrates considerations of privacy directly into family law, which adapts to the digital milieu without the need for entirely new legislative measures.

Judicial oversight plays a pivotal role, particularly in situations of conflict between parents, ensuring that decisions are made with the child's best interests at heart. In contrast, Australia's framework adopts a more contextual and remedial strategy. With the absence of an explicit constitutional right to privacy, privacy rights are often enforced reactively, coming into play primarily through litigation or regulatory responses after an incident has occurred. The reliance on statutory interpretations within existing family law means that protections can appear more fragmented and context-specific, creating gaps in continuous privacy coverage for children. Here, parental freedom to share digital content is greater, which can sometimes undermine the child's right to privacy in the absence of immediate legal redress or oversight.

In considering reform, Malaysia may opt for a hybrid approach, combining the strengths of both France's and Australia's systems. By embedding privacy considerations into family law, similar to France, Malaysia can establish clear legal obligations on parents to safeguard their children's digital privacy. Concurrently, the development of robust regulatory mechanisms for online safety, akin to those in Australia, would ensure that protections extend beyond the family sphere to address broader digital risks. Malaysia could foster a comprehensive framework that proactively protects children's digital privacy. This model could ensure that parents are held accountable for their digital sharing practices while simultaneously offering recourse in instances of privacy breaches.

8. Analysis and Discussion

8.1. Sharenting and the evolving role of parents

Sharenting highlights the evolving nature of parental authority in the digital age. While parents have traditionally been the primary decision-makers in matters concerning their children, the digital environment introduces new complexities that challenge this authority. Sharing content online without a child's consent raises ethical and legal questions, especially when children are old enough to understand or object. The principle

of the best interest of the child, enshrined in both Malaysian law and international conventions such as the UNCRC, must now be applied not only in physical caregiving but in decisions concerning a child's digital presence. In Malaysia, while parents are entrusted with responsibilities regarding education, healthcare, and financial support, the duty to protect a child's privacy and dignity in digital space remains largely undefined. Legal obligations surrounding "well-being" are not expressly extended to cover digital spaces. This gap underscores the need for clearer legal guidance and parental awareness when navigating social media sharing involving children.

8.2. The Child's right to privacy and participation

Children are increasingly recognised as rights-holders with evolving capacities, particularly as they grow older and become more capable of forming independent views. Malaysian courts already take children's opinions into account in custody matters (typically from age 9 for Muslims and 12 for non-Muslims). The same consideration should apply to decisions involving sharenting. When parents choose to post content that may impact the child's current or future life, the child's preferences and perspectives should be taken into consideration. Moreover, once content is uploaded, it becomes part of the child's digital footprint, often permanently. This not only raises privacy concerns but also poses risks of cyberbullying, grooming, identity theft, and reputational damage. These risks conflict directly with the child's right to be safe, to be heard, and to have control over their identity.

8.3. Legal ambiguities and gaps in Malaysia

While Malaysian law protects children from neglect, abuse, and exploitation, there are currently no explicit provisions addressing digital exploitation or overexposure by parents. Laws such as the Communications and Multimedia Act 1998 and the Online Safety Act 2024 offer general protections against offensive or harmful content online. However, these are geared toward third-party perpetrators and do not clearly define or limit parental conduct online unless it falls within extreme categories (e.g., content that incites violence or is sexually inappropriate). The gap creates a legal vacuum in which sharenting, even when it is harmful, is not easily actionable under the current law. Without statutory recognition of children's digital rights or a duty imposed on parents to consult their children in digital decisions, Malaysian children remain vulnerable to long-term harm.

8.4. Comparative insights and lessons for Malaysia

As seen in France, integrating privacy into parental authority can offer a proactive solution. By embedding respect for a child's private life within the law, France has made it clear that children are not mere extensions of their parents but individuals with distinct

rights, even in the digital space. Similarly, Australia, though more situational, provides important judicial oversight in family law disputes, ensuring that digital sharing does not exacerbate emotional or reputational harm. Malaysia could draw from these examples by revising family and child laws to include digital privacy under the umbrella of child protection, clarifying legal duties surrounding the digital well-being of children, and empowering children to express their consent or dissent in matters that affect their online identity.

8.5. The role of parents as digital gatekeepers

Ultimately, parents must recognise their dual role, not just as legal guardians, but as digital gatekeepers. Their decisions carry both ethical weight and legal implications. As first responders in protecting children's rights online, parents must exercise discernment and responsibility, not simply focus on public approval, entertainment, or financial gain. What may seem like an innocent or humorous post can have unintended consequences for the child. Humiliation, social exclusion, and exposure to harm are real risks. It is therefore crucial for parents to approach sharenting with caution, and for society and lawmakers to provide the tools and education necessary for parents to make informed choices.

9. Recommendations

In view of the growing concerns surrounding sharenting and its potential impact on children's rights, especially their right to privacy, dignity, and participation, several legal, institutional, and social interventions are recommended to better protect children in Malaysia's digital environment.

9.1. Legal Reform

Malaysia needs to introduce specific provisions within existing child protection or family laws that address digital privacy and the child's right to be consulted before personal information is shared online. This can be done by incorporating digital privacy rights within the broader interpretation of child well-being and in the principle of the best interest of the child in the Child Act 2001. The right of the parents to share their children's information is not absolute but subject to the child's well-being and best interest. Hopefully, with this qualification in place, parents will be more mindful of what they can share online. Aside from this, protection of child privacy can also be achieved by expanding the definition of harm in child-related statutes to include emotional, reputational, and digital harm resulting from parental conduct on social media. This can be linked with the child's well-being and best interest principle. Since the right of the parents to share is no longer absolute but subject to the qualification, an avenue for the child to address this issue must also be provided in the legislation.

9.2. Judicial guidance and oversight

Malaysian courts should begin considering children's views in sharenting disputes, particularly when children are of sufficient age and maturity, in the same way the child's view is considered in custody cases. Since the child is not capable of instituting any legal action independently, an exception needs to be created to give him that capacity if he feels that his privacy, dignity, and security are being compromised. Judges should be empowered to issue protective orders in those circumstances. The child should also be given the right to request that the information posted by his parents be taken down or blocked from being accessed by others. This provision will protect his privacy and allow the information to be forgotten. He has the right to decide the digital footprint that he wants to leave behind in the future.

9.3. Awareness and education

Knowledge is empowering. Therefore, if these new provisions are introduced in the legislation, advocacy through public campaigns, dialogue, and discussion should be conducted to educate parents and guardians about the potential risks of sharenting and the legal consequences for their children. Schools and non-governmental organisations (NGOs) should provide digital literacy programs that include children's rights online and safe social media practices. The children should be informed about the available avenues to raise concerns about their privacy.

9.4. Institutional and technological support

Malaysia needs to strengthen the role of regulatory bodies such as the Malaysian Communications and Multimedia Commission and the Ministry of Women, Family and Community Development to monitor and address cases involving child digital exploitation. The government needs to collaborate with platforms and tech providers to create user-friendly reporting and content removal mechanisms, particularly when it involves minors and their parents.

10. Conclusion

Sharenting, while often perceived as a benign or even affectionate form of digital expression, presents complex legal and ethical challenges, particularly when the rights and welfare of children are overlooked. In the absence of clear legal protections, children in Malaysia remain vulnerable to digital exploitation, reputational harm, and loss of agency over their identity. The current legal framework does not adequately account for the evolving nature of parent-child relationships in the digital context, where issues of consent, privacy, and dignity intersect.

International developments, particularly in France and Australia, demonstrate that it is both possible and necessary to embed digital privacy within the broader context of parental responsibility and child protection. Malaysia stands to benefit from adopting similar approaches by integrating child digital rights into existing family and child welfare laws, specifically the Child Act 2001, strengthening institutional support, and enhancing parental awareness. Ultimately, protecting children's rights online is not about restricting parental freedom; it is about ensuring that such freedom is exercised responsibly and in the best interests of the child. Children must not be treated as social media content or digital property, but as individuals deserving of respect, autonomy, and legal protection in both the physical and digital worlds.

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