

Nigerian Children's Right to be Left Alone on the Metaverse: A Comparative Analysis

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Abstract

In General Comment 25 (2021), the liberties of children within the metaverse were fortified, protected and upheld. A sound legislative foundation is indispensable to this end. This article evaluates the scope of children's privacy rights and liberties to have their personal data protected under the Nigerian legal system. The analysis also extends to legislative frameworks in the EU, South Africa and USA, where provisions for child privacy protection and safeguards against online abuses are more comprehensive. The doctrinal approach of juridical research is adopted in this article, facilitating robust analysis of the diverse municipal, regional and transnational regulatory regimes as applicable to Nigeria, and by extension, South Africa. It is demonstrated that, whereas both nations have achieved significant milestones by legislation of children's liberties anywhere, including the metaverse, their legal frameworks have not sufficiently safeguarded these freedoms, particularly with respect to privacy on digital ecosystem. The case was made that inadequate, imprecise regulation may undermine effective nurturing of children when their privacy is undermined, particularly within the digital space, by way of chilling effect. Consequently, reform of the relevant legal provisions is imperative for Nigeria, with a clear suggestion for children to be consulted and their opinions respected throughout the legal reformation process, since they hold a statutory entitlement to engagement on issues affecting them.

1. Introduction

In the contemporary digital era, a vast array of everyday activities generate data, often without individuals' immediate knowledge. Beyond information actively shared by users, additional data is captured through sensors powered by

sophisticated algorithms.¹ These dynamics create complex interactions between individual online presence and statutory liberties which inure in favor of such individuals, particularly with regard to the safeguard of the sanctity of their private information and human dignity. Although the emergence of smart technologies has birthed new species of human rights, the technologies also lend themselves as instruments for the frequent misuse or infringement of the rights, more broadly. Primary human rights concerns in the circumstances include issues related to digital personality, the deployment of smart surveillance tools,² information safeguard, and privacy, including digital violence and stalking.³

Internet-enabled mobile communications technologies constitute a critical dimension of children's existence in the evolving generation.⁴ Internet connectivity emerges as a form of human right in the emerging era of digital switch, particularly in Europe and the USA.⁵ Worldwide, 79% of people aged 15 to 24 access the internet.⁶ Across high-income countries and nations of the Global South, children's daily schedules are increasingly more dependent on mobile and online networks, rendering the distinction between online and offline existence rather blurred and largely obsolete.

This fusion of digital and physical human activities gives rise to a range of technology-enabled harms and opportunities, as well as emerging field of law known as digital constitutionalism.⁷ The evolving area of law is so called for its intentional approach towards addressing the interplay between governance and the internet ecosystem in which duties and rights are distributed across algorithmic, private and public domains of the human endeavors. Whereas, some of these products of digital constitutionalism have evolved specifically in the extant electronic era, most are designed in response to children's intrinsic desires, capabilities, and vulnerabilities.⁸

Children stand to gain from a range of opportunities in the digital landscape, including the utilization of recreational and new media handles as venues for

¹ Cansu Caglar, "Children's Right To Privacy And Data Protection: Does the Article on Conditions Applicable to Child's Consent Under the GDPR Tackle the Challenges of the Digital Era or Create Further Confusion?," *European Journal of Law and Technology* 12, no. 2 (2021), <https://www.ejlt.org/index.php/ejlt/article/view/828>.

² Daragh Murray et al., "The Chilling Effects of Surveillance and Human Rights: Insights from Qualitative Research in Uganda and Zimbabwe," *Journal of Human Rights Practice* 16, no. 1 (2024): 397-412, <https://doi.org/10.1093/jhuman/huad020>.

³ Akinremi Funmilola, "Online Sexual Abuse of Children in Nigeria," *Open J. Legal Stud.* 7 (2024): 37.

⁴ Ingrida Milkaite and Eva Lievens, "Children's Rights to Privacy and Data Protection Around the World: Challenges in the Digital Realm," *European Journal of Law and Technology* 10, no. 1 (2019), <https://www.ejlt.org/index.php/ejlt/article/view/674>.

⁵ Bukola Faturoti, "Internet Access as a Human Right and the Justiciability Question in the Post-COVID-19 World," *European Journal of Law and Technology* 15, no. 1 (2024), <https://uhra.herts.ac.uk/id/eprint/11218/>.

⁶ Grace Ayodele Arowolo, "Safeguarding the Rights to Privacy and Digital Protection of Children in Africa: Nigeria and South Africa in Focus," *African Journal on Privacy & Data Protection* 2, no. 1 (2025): 126-52, <https://doi.org/10.29053/ajpdp.v2i1.0007>.

⁷ Giovanni De Gregorio et al., "Digital Constitutionalism: A Reframing of Rights and Powers," in *The Oxford Handbook of Digital Constitutionalism*, 1st ed., ed. Giovanni De Gregorio et al. (Oxford University Press, 2025), <https://doi.org/10.1093/oxfordhb/9780198877820.013.1>.

⁸ Shariffah Nuridah Aishah Syed Nong et al., "From Misbehaviour to Courtroom: Analyzing Malaysia's Legal Approach to Children Beyond Parental Control," *Jambe Law Journal* 8, no. 2 (2025): 443-74.

learning such as peer-mediated education; the development of social competencies and technical proficiencies vital for engagement in modern society; and diverse media literacy initiatives and online interactions that can enhance social development and educational outcomes, equipping individuals for forthcoming personal and professional challenges. The primary risks confronting children relate to harms facilitated by digital platforms, including sexual solicitation and grooming, cyberstalking, motion-picture-based abuse, as well as harassment in its diverse forms within the metaverse.⁹

Accordingly, the digital switch generates prospects and impediments in the advancement of children's entitlements generally.¹⁰ Online threats victimize the child, representing infringements to such victim's privacy freedoms and the entitlement to legal shield from maltreatment and exploitation.¹¹ Children's entitlement to their privacy is constitutionally guaranteed in Nigeria.¹² Minors demonstrate disproportionate vulnerability to privacy intrusions as a result of their limited capacity to anticipate the broader repercussions of exposing details of private information on the internet.

Moreover, children have demanded safeguards against commercial exploitation, making a case for bureaucratic enforcement of regulations that protect private data and, for the purpose of curtailing corporate profiling of minors in digital spaces.¹³ The recommendation was motivated by the vulnerability of children on the metaverse, the significant opportunities they could be excluded from, the speed of technological evolution, and the permanence of digital integration in daily life. In response, the Committee on CRC enacted the General Comment 25 (Comment) in 2021, delineating the manner in which State Parties are obligated to give effect to the CRC,¹⁴ with specific focus on the digital environment.¹⁵ As the first international instrument to carry legal force, covering the broad spectrum of human rights

⁹ Nokwenzeka Boyana and Mathabo Khau, "Understanding the Mandatory Reporting of Child Sexual Abuse in Selected Special Schools, Eastern Cape, South Africa," *Cogent Social Sciences* 11, no. 1 (2025): 2465829, <https://doi.org/10.1080/23311886.2025.2465829>.

¹⁰ Ingrida Milkaite and Eva Lievens, "The Internet of Toys: Playing Games with Children's Data?," in *The Internet of Toys*, ed. Giovanna Mascheroni and Donell Holloway, Studies in Childhood and Youth (Springer International Publishing, 2019), https://doi.org/10.1007/978-3-030-10898-4_14.

¹¹ Nwanneka Flora Ehirim and Ugochukwu Godspower Ehirim, "Rethinking Legal Safeguards Against Online Child Sexual Abuse in Nigeria: Addressing Fragmentation and Enforcement Gaps," *Nusantara Multidisciplinary Review* 1, no. 1 (2026): 68-83.

¹² Ternenge Cosmas AKIGHIR, "Legal Framework on the Preservation of Constitutional Human Rights by the Courts in Nigeria," *African Journal Of Law And Human Rights* 10, no. 1 (2026), <https://journals.ezenwaohaetorc.org/index.php/AJLHR/article/view/3744>.

¹³ Amanda Third and Lilly Moody, "Our Rights in the Digital World: A Report on the Children's Consultations to Inform UNCRC General Comment 25," *London and Sydney: 5Rights Foundation and Western Sydney University*, 2021.

¹⁴ U. G. Assembly, "Convention on the Rights of the Child: Adopted and Opened for Signature, Ratification and Accession by General Assembly Resolution 44/25 of 20 November 1989," *New York*, 1989.

¹⁵ Yohannes Eneyew Ayalew et al., "General Comment No. 25 on Children's Rights in Relation to the Digital Environment: Implications for Children's Right to Privacy and Data Protection in Africa," *Human Rights Law Review* 24, no. 3 (2024): ngae018.

attaching specifically to children and young persons.¹⁶ The CRC enshrines child-friendly provisions, including the child's entitlement to privacy.¹⁷

The Comment addresses critical elements of the CRC, including its overarching principles, to wit: non-discrimination and equal treatment; child's utmost desire as cardinal consideration; the liberty to survive, live, and develop; and recognition of the minor's worldview. The Comment also elaborates on additional CRC liberties, such as privacy (Article 16), free speech (Article 13), including liberty against exploitation in commerce under Article 32. Among the measures outlined in the Comments is a requirement mandating State Parties to "recalibrate, update and enact municipal statutory instruments which accord with global rights thresholds.¹⁸ However, there remains a regulatory gap in Nigeria with respect to children's privacy in immersive digital ecosystems such as the metaverse.

This paper examines the Nigerian legal framework with respect to the extent to which it has enforced the recommendations made in the Comment. Findings indicate that the regulatory frameworks in both countries do not sufficiently protect the privacy freedoms of children or shield them from digital exploitation and abuse. The paper would address questions as to what rights of the child are sustainable on digital platforms and how infringements on such rights may impact the all-round development of the child in Nigeria. Accordingly, the paper advocates for legal reform, drawing on best practices from Europe (EU) and the United States of America (US) legal regimes to formulate proposed changes, alongside additional highlighted suggestions.

2. Method

This article employs a doctrinal research methodology to investigate the challenge of enforcement of children's privacy on immersive digital environments such as the metaverse. The method admits of rigorous library and laptop evaluation of data, excluding empirical analysis. Data is collected from primary and secondary sources, which are subjected to systematic analysis and synthesis. Primary sources include conventions, treaties, case law, and national legislation; secondary sources comprise instruments and scholarly opinions addressing child privacy within a global legal framework. A hybrid of content analysis and comparative discourse is engaged for robust analysis of the subject-matter.

3. Analysis or Discussion

3.1. The jurisprudence of privacy and data sanctity

Privacy constitutes a core right, critical to the dignity of humankind and self-determination, forming the basis for several other rights.¹⁹ The freedom to be left

¹⁶ UNICEF, "A Summary of the Rights Under the Convention on the Rights of the Child | UNICEF Montenegro," December 2, 2016, <https://www.unicef.org/montenegro/en/reports/summary-rights-under-convention-rights-child>.

¹⁷ Unicef, *Convention on the Rights of the Child*, 1989, <https://ecommons.cornell.edu/bitstream/1813/98856/1/crc.pdf>.

¹⁸ Tamar Ezer, "Localizing Human Rights in Cities," *S. Cal. Rev. L. & Soc. Just.* 31 (2022): 67.

¹⁹ Eugenia Georgiades and James Birt, "Unravelling the Metaverse Matrix: Navigating Privacy Protection Within Modelling and Simulation Platforms," *Wash. JL Tech. & Arts* 20 (2024): 102.

alone is integral to the essence of the dignity of an individual as every individual has boundaries beyond which he/she may not accommodate a third party without protest.

The modern concept of privacy was popularized by Westin who conceived privacy as a lifeline of human dignity demonstrated by a person's freedom to determine how, when, and the extent to which such a person's personal information may be exposed to others.²⁰ Consequently, every individual may elect to exist without interference, autonomous from the rest of his ilk. This liberty to be autonomous inures also to the child as a being capable of rational thinking. The decisional privacy of every individual underpins individual autonomy, justifying the consultation with children in all matters concerning their welfare. Dimopoulos argues in favor of child autonomy and against the denial of this important freedom under the guise of parental or adult guidance of the child.²¹

The notion of privacy facilitates the setting of limits and the management of protective thresholds to shield people from unjustified intrusions into their daily lives. Protection of data is generally characterized as legal regime for safeguarding personal information and ensuring its responsible handling. A comprehensive data protection framework can strengthen individual empowerment, suppress harms occasioned by data handling, and prevent data exploitation thereby fulfilling a key function in enhancing effective administrative architectures at national and global strata.²²

The CRC proscribes unauthorized invasion of a child's privacy.²³ Such intrusion may pertain to the child's home, family life, or message exchanges, as well as attacks on the child's reputation, self-esteem and honor. While Article 16 does not clearly articulate a right to "information protection" with particularity, the Comment is designed to expand and guide the interpretation of this provision within the CRC framework.²⁴ The Comment summarizes the very essence of children's freedom to live a private life in the digital ecosystem. Consequently, privacy is essential for a child's safety, agency, dignity, and for the realization of other statutory entitlements. Children's privacy could come under threat by the children's willful engagement with the digital ecosystem, or by the external acts of others, such as when parents or guardians post children's pictures or personal information online, or by such activities of certain family relatives, caregivers, friends, trainers, or the public. To this end, privacy-associated risks could equally emerge from data access, retention and processing by the bureaucracies, businesses, and other institutions, including

²⁰ Alan F. Westin, "Privacy and Freedom," *Washington and Lee Law Review* 25, no. 1 (1968): 166.

²¹ Georgina Dimopoulos, "A Theory of Children's Decisional Privacy," *Legal Studies* 41, no. 3 (2021): 430–53, <https://doi.org/10.1017/lst.2021.16>.

²² Patrick Chukwunonso Aloamaka Aloamaka, "A Critical Analysis of the Nigeria Data Protection Act 2023: Elevating Standards to Global Norms," *UCC Law Journal* 4, no. 2 (2025): 242–63, <https://doi.org/10.47963/ucclj.v4i2.1724>.

²³ Katharina Kaesling, "Children's Digital Rights: Realizing the Potential of the CRC," in *Global Reflections on Children's Rights and the Law* (Routledge, 2021), <https://www.taylorfrancis.com/chapters/edit/10.4324/9781003131144-22/children-digital-rights-katharina-kaesling>.

²⁴ Joseph A. Cannataci et al., *Privacy, Free Expression and Transparency: Redefining Their New Boundaries in the Digital Age* (Unesco Publishing, 2016).

criminal elements who engage in hacking, identity theft and other unlawful online ventures.

3.2. Risks and Opportunities in children's Digital engagements

The internet technology is commonly viewed as a groundbreaking innovation of the modern age, capable of transforming the hitherto vulnerable population of the world.²⁵ Children below age sixteen are categorized among the vulnerable as they are incapable of enjoying certain rights and freedoms by reason of their young age. Digitalization particularly facilitates children's growth, learning, and attainment of full potential.²⁶

It enhances the capacity of physically challenged children to communicate and relate with others and exercise choice independently, provides educational access to populations in marginalized or remote locations, and during humanitarian emergencies, it assists displaced children in identifying safer travel routes for the purpose of reconnecting to their families. Greater digital connectivity enhances unprecedented platforms for civic engagement and social cohesion, with inherent potential to disrupt cycles of exclusion and poverty, among children.²⁷ The internet is a veritable vehicle for advancing the child's entitlement to formal education.

Similarly, it helps to facilitate children's right to free expression, guarantees access to abundance of essential information for all-round development, including contents on reproductive health and sexual orientation,²⁸ affording opportunities to develop proficiency in coding, content creation, and information sharing, as well as access to other resources available online. Children may also engage in online recreational activities like gaming, music streaming, and movie viewing, thereby exercising their freedom to recreation and leisure.²⁹

Yet, it is imperative to emphasize the technological and economic divide, which has cut some children off from the benefits of internet technology due to diverse barriers. UNICEF reports that marked inequalities in internet infrastructure punctuate regional and global configurations.³⁰ In 2023, data revealed that 98% of young persons between the ages of 15–24 have internet access in Europe, while 81%

²⁵ Ilkka Tuomi, *Networks of Innovation: Change and Meaning in the Age of the Internet*, vol. 249 (OUP Oxford, 2002), <https://books.google.com/books?hl=id&lr=&id=SCeQDwAAQBAJ&oi=fnd&pg=PR7&dq=The+internet+technology+is+commonly+viewed+as+a+groundbreaking+innovation+of+the+modern+age,+capable+of+transforming+the+hitherto+vulnerable+population+of+the+world.+&ots=wssPt6PEan&sig=u7tQoSONZ9HhnnjWjKsz6PhkwKk>.

²⁶ P. I. Ogara and VICTOR SUNDAY Ezema, "Childhood Education in an Era of Digitalization," *Sapientia Foundation Journal of Education, Sciences and Gender Studies (SFJESGS)* 5, no. 3 (2024): 47–55.

²⁷ Anita Harris and Amelia Johns, "Youth, Social Cohesion and Digital Life: From Risk and Resilience to a Global Digital Citizenship Approach," *Journal of Sociology* 57, no. 2 (2021): 394–411, <https://doi.org/10.1177/1440783320919173>.

²⁸ Ugochukwu Godspower Ehirim, "Public Morality and Constitutionalism in Restricting LGBTQ+ Rights: A Legal Analysis of Nigeria, Ghana, and Uganda," *International Journal of Constitutional and Administrative Law* 1, no. 1 (2025): 42–68.

²⁹ Leysan R. Kayumova et al., "Using Interactive Platform 'Round' to Organize Online Leisure Activities for Children During the Pandemic," *Eurasia Journal of Mathematics, Science and Technology Education* 17, no. 10 (2021): em2016.

³⁰ UNICEF, "How Many Children and Young People Have Internet Access at Home?," December 2, 2020, <https://www.unicef.org/reports/how-many-children-and-young-people-have-internet-access-home-2020>.

of children within the same age bracket in Asia-Pacific region enjoy internet connectivity at home.³¹ The figure is quite disturbing for Africa. Only 53% of persons between the ages of 15–24 can access the internet.³² Children on the African continent are challenged with multi-dimensional, overlapping issues, especially financial limitations, poor tech-literacy, and disparities based on ethnicity and sex. Nigeria has a fair share of these experiences.³³ For example, adolescent girls contend with limited modern trading skills and poor access to internet with rated usage of 21% compared to 38% for their male counterparts, though combined rates remain low overall.³⁴

Whereas internet connectivity has introduced extensive privileges for children, such opportunities bear inherent tools for infringing the same freedoms within the metaverse. A key risk facing children during online engagements is the violation of their entitlement to privacy, including the safeguard from abuse and exploitation, through technologies that track, broadcast, or monitor children's real time locations, images, or behaviors.³⁵ Image-based stalking, cyberbullying, and exposure to harmful guidance and inappropriate content can produce adverse results, including disengagement from everyday reality, resulting in depression, anxiety, emotional distress, suicidal ideation, physical or sexual assault, non-suicidal self-injury, and indelible damage to reputation.

3.3. General Comment 25 (Comment) and States' Obligations under CRC

The Comment was particularly adopted by taking the critical impact of digital ecosystem on children into cognizance. This is so important as children increase their dependence on smart, internet-enabled devices.³⁶ The Comment expands on States' specified positive duties to protect children's rights online, including revising or introducing legislation, putting in place holistic strategies and policies, supporting independent investigations and oversight functions by rights activists and organizations at the municipal levels, and enforcing measures to shield children from risks like cyberbullying, online abuse, and technology-enabled child sextortion and abuse.³⁷

Under Article 16, the CRC enshrines children's privacy rights, as outlined earlier. The Committee on CRC highlights frameworks for State Parties to enforce the Convention, particularly in respect of digital environments and presents framework

³¹ International Telecommunication Union (ITU), "ITU Facts and Figures 2023," Tableau Public, accessed April 26, 2026, <https://public.tableau.com/app/profile/ituint/viz/ITUFactsandFigures2023/InternetUse05>.

³² Christoph Stork et al., "Internet Going Mobile: Internet Access and Use in 11 African Countries," *Info* 15, no. 5 (2013): 34–51.

³³ Chikezie E. Uzuegbunam, *Children and Young People's Digital Lifeworlds: Domestication, Mediation, and Agency*, Global Transformations in Media and Communication Research - A Palgrave and IAMCR Series (Springer International Publishing, 2024), <https://doi.org/10.1007/978-3-031-51303-9>.

³⁴ UN News, "New Report Shows 90 per Cent of Adolescent Girls in Low-Income Economies Are Offline," April 26, 2023, <https://news.un.org/en/story/2023/04/1136072>.

³⁵ Xavier Tracol, "The Use of Facial Recognition Technologies by Law Enforcement Authorities in the US and the EU: Towards a Convergence on Regulation?," *Technology and Regulation* 2025 (2025): 289–315.

³⁶ UN Committee on the Rights of the Child (UNCRC), General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment, CRC/C/GC/25 (2 March 2021), para 3.

³⁷ *Ibid.*, paras 22–49.

on legislative, policy, and practical approaches to guarantee firm adherence to their responsibilities as stipulated by the Convention, as well as Optional Protocols in that regard. The guidance presented in the circumstances addresses the harms, benefits and difficulties which abound in the course of advancing, respecting, fulfilling, and protecting all digital freedoms of children.³⁸

The largest section of the Comment is dedicated to conceptualizing children's privacy entitlements. Paragraph 67 of the Comment identified various quarters from where threats to children's freedom to be left alone could emanate. These include, information gathering and its analysis by public institutions, close relatives, or parties unknown to the children. Paragraph 68 identifies a range of electronic activities which place heavy reliance on data processing to include profiling, compulsory identity authentication, large-scale surveillance, and behavioral targeting.

The Committee contends that these activities could occasion arbitrary or unlawful breaches of children's privacy liberties. Pertaining to the duties to recognize and enforce privacy demands, Paragraph 70 of the Comment mandates States to develop and enforce information protection laws with dedicated safeguards for children while securing other freedoms, including the entitlement to leisure and unhindered self-expression.

Furthermore, the Comment calls for legal restrictions on certain digital enterprises, such as neuro marketing, consumer-targeted advertising, and commercial profiling which could be the basis of algorithmic pricing.³⁹ It recognizes that States have a responsibility to establish appropriate support and guide to parents and caregivers in accomplishing their obligation to raise proper children for the society. This entails initiating educational and enlightenment programs on how to safeguard the privacy of the child,⁴⁰ engaging critical stakeholders such as the children themselves, parents, caregivers, child-rights activists and policy makers. The Comment further emphasizes the imperativeness of respecting children's inherent skills and autonomy. It urged States to aid parents in holding the balance between their children's freedoms and their duties as custodians of societal values.⁴¹

In this balancing process, prime attention must be ascribed to child's utmost intentions, recognizing the child's positive proclivities. States are encouraged to enlighten parents, caregivers, and diverse custodians of societal values on the relevance of privacy to children and the manner in which specific conducts by parents may infringe these rights. When caregivers or parents supervise or spy on children's online activities, they must do so in a manner proportionate to the limits of their oversight functions, fully understanding that children have developing capabilities.

3.4. The Regional Framework: Africa in Perspective

a. African Charter on the Rights and Welfare of the Child (ACRWC)

In alliance with Article 16 of the CRC, Article 10 of the ACRWC recognizes and safeguards children's entitlements to exist without unauthorized intrusion,

³⁸ Ibid., para 7.

³⁹ Ibid., para 42.

⁴⁰ UNCRC, General Comment No. 25, para 21.

⁴¹ Ibid., para 86.

including the freedom of their correspondence, home, family life, dignity and reputation from intrusion. A point of divergence with the CRC lies in Article 10(3), which prescribes parental authority by way of reasonable oversight on the children's endeavors. Subsequently, African Children's Committee clarified the provision while making its General Comment with reference to ACRWC's Article 31. The Committee explained that the measure aims to balance the control wielded by adults over younger persons with the younger persons' duty to accord respect and regard for the authority of adults which is a prized African virtue.

The Committee emphasized that children's freedom to express themselves, participate in social or recreational activities for developmental purposes must remain inviolate and not to be compromised under the guise of reverence for elders. Accordingly, it is imperative to recognize that children's privacy liberties cannot be undermined or breached by virtue of the parental supervision clause under Article 10(3). Unfortunately, the ACRWC includes no provisions relating on data sanctity.

b. Convention on Cyber Security and Personal Data Protection (CCSPDP)

The African Union (AU) CCSPDP, commonly described as Africa's foremost instrument in addressing data sanctity. Article 8(1) makes it a mandate on State Parties to institutionalize regulatory infrastructure that uphold core entitlements and liberties, with a focus on data safeguard, and to introduce penalties for privacy breaches. Article 8(2) further stipulates that all data processing activities must defer to fundamental rights and liberties. Though the Convention fell short of explicitly addressing children's data handling, Article 29(3) introduces provisions to shield minors from all exploitative manifestations and online harassment, and suggests the criminalization of child pornography. Presently, Nigeria has not subscribed to the Malabo Convention, whereas South Africa's endorsement is yet without ratification.

c. African Union Child Online Safety and Empowerment Policy 2024

Designed to address cross-border issues and uphold children's rights, the policy undertakes to identify gaps and areas requiring harmonization. Its goals are to harmonize statutory and regulatory infrastructure for the child's digital safety across national, regional, and continental levels; balance recognition of digital opportunities with targeted responses to threats against children's identity, privacy, and agency; and develop an agreeable, multi-dimensional measures to mitigate online harms, especially child sextortion and other forms of cyber violence.

Among the policy's critical recommendations are the need for: reinforcing bureaucratic commitments to children's internet security; fortifying the criminal justice machinery for proactive law enforcement and judicial action against online offences such as child exploitation and sexual abuse; and advancing accessible digital education for schools, parents, guardians, and community partners.

3.5. General Comment 25: Compliance Recommendations for Nigeria

This analysis examines the standard of recognition accorded children's privacy demands in the electronic realm in Nigeria as informed by paragraph 70 of the Comment. This provision imposes obligations on states to engage comprehensive

legislation that would adequately safeguard children's entitlements to autonomy, including legal preservation of their private data.

Internationally, the foundation of privacy right is traceable to the Universal Declaration of Human Rights (UDHR).⁴² Article 12, UDHR proscribes unauthorized interference with any person's privacy,⁴³ and Article 17, ICCPR⁴⁴ prohibits arbitrary intrusion on the privacy of citizens. Although the CRC (as previously discussed) addresses children-specific concerns, these broader international legal frameworks do not demonstrate explicit intendments to safeguard children's information entitlements.

a. Children's Privacy under Nigeria's Legal Infrastructure

As a signatory to the ICCPR and a state bound by the Universal Declaration's privacy provisions, Nigeria is subject to international obligations in this area. Further laws and regulations affecting information preservation with particular reference to privacy in the Nigeria encompass the CRC, the African Charter on the Rights and Welfare of the Child (ACRWC), the foregoing Comment, and relevant statutes, particularly the CFRN. These statutes are discussed below.

b. The Nigerian Constitution 1999 (CFRN)

The CFRN establishes and safeguards citizens' privacy (including children) with respect to their telephone conversations, homes, telegraphic communications and correspondence.⁴⁵ In *Nwali v ESIEC*,⁴⁶ the Enugu Division of Nigeria's Appellate Court construed relevant constitutional provisions as extensively encapsulating every aspect of individual life, including the digital realm. The court traced the roots of information safeguard in the country to the constitutional privacy guarantees.⁴⁷

Nigeria is also signatory to the CRC⁴⁸ and the ACRWC,⁴⁹ which were integrated into the municipal law by the instrumentality of the Child's Rights Act 2003 (CRA). Section 8, CRA prescribes every child's liberty to privacy, including sanctity of the home, family life, and communications. As set out in the ACRWC, section 8(3) CRA subjugates children's entitlement of privacy freedoms to parental supervision. However, no specific reference is made in these statutes including the CFRN to protecting and respecting children's autonomy within the metaverse.

⁴² Ugochukwu Godspower Ehirim et al., "Strengthening Human Rights Protection in Nigeria: Safeguards Under the Police Act 2020," *Khazanah Hukum* 6, no. 3 (2024): 269–93, <https://doi.org/10.15575/kh.v6i3.39569>.

⁴³ UN General Assembly. Resolution 217 A (III). Universal Declaration of Human Rights. 10 December 1948 (UDHR).

⁴⁴ ICCPR, 1966. General Assembly Resolution 2200 A (XXI) 1966.

⁴⁵ Section 37, the Constitution of the Federal Republic of Nigeria 1999 (CFRN).

⁴⁶ *Nwali v Ebonyi State Independent Electoral Commission (ESIEC)* [2014] LPELR–23682(CA).

⁴⁷ Olumide Babalola, "Nigeria's Data Protection Legal and Institutional Model: An Overview," *International Data Privacy Law* 12, no. 1 (2022): 44–52, <https://doi.org/10.1093/idpl/ipab023>.

⁴⁸ Adopted by General Assembly Resolution 44/25, 1989. Nigeria ratified CRC on 19 April 1991. See, Thummim Iyoha-Osagie and Orji Ikechukwu George, "The Right to Online Data Protection of Children: Examining the Adequacy of the Legal Frameworks to Combat Child Online Data Breaches in Nigeria," *ABUAD Private and Business Law Journal* 3, no. 1 (2019): 82–109.

⁴⁹ African Charter on the Rights and Welfare of the Child. OAU Doc CAB/LEG/24.9/49 (1990) (ACRWC). The Instrument entered into force on 29 November 1999.

c. The Data Protection Act 2023 (NDPA)

A key intendment of the NDPA by its Section 1 text, is to safeguard data subjects' entitlements and liberties as set out in Nigeria's amended 1999 Constitution. Section 65 defines a child as any person under 18.⁵⁰ By the text of sections 31(1) and (2), processing a children's private information requires authorization from their legal guardian or parent. Data custodians are obligated to verify both authorization from appropriate authority and age of the child, using appropriate technological measures.

Section 31(5), NDPA clothes the Nigeria Data Protection Commission (NDPC) with authority to create regulations for minors in need of electronic services or information. For this age group (13–17), formal guidelines are pending;⁵¹ section 64 notes that existing regulations remain in force unless inconsistent with the NDPA or revoked. This reflects the General Comment's position that mature 13+ year-olds may consent to online activities independently or with guardian input, depending on their capacity to understand consequences. The NDPA replaces NDPR as Nigeria's flagship law on information protection and takes precedence over conflicting regulations.

d. Cybercrimes Act 2015 (CA)

Although the CA was amended by the 2024 Amendment Act, its provisions concerning child pornography have been retained in full. The legislation provides safeguards for children against abusive contents, including child pornography and associated offences. Section 23, CA proscribes the purchase, manufacture, dissemination, possession, and circulation of child pornographic materials through any information storage medium or computer software, classifying these acts as criminal offences. If convicted, offenders face a mandatory punishment of 10-year imprisonment, N20,000,000 fine, or both. Conversely, the offence of accessing and retaining child pornography for personal or third-party use, or owning such material on a data storage system or computer device, attracts a maximum penalty of 5-year imprisonment, maximum of N10,000,000 fine, or both.

By Section 23(2) CA, legal prohibitions extend to grooming, soliciting, or in-person meetings with a child via computer networks or systems, where the intent is to engage in sexual relations. The Act also imposes penalties for producing, transmitting, distributing, or owning child pornography. This confirms that actions such as sexual conversations with minors, luring them into child pornography, or other forms of digital exploitation constitute violations of children's rights, for which perpetrators may be held accountable.⁵² Notably, however, Section 23 of the original 2015 Cybercrimes Act failed to advance explicit provisions relating to children's freedom to be autonomous in the metaverse.

⁵⁰ This is in accordance with the definition of a child in sec. 277 of the Child's Right Act. See, Sarah J. Diaz, "An Elusive Mandate: Enforcing the Prohibition on the Use of Child Soldiers," *Child. Legal Rts. J.* 39 (2019): 263.

⁵¹ Arowolo, "Safeguarding the Rights to Privacy and Digital Protection of Children in Africa."

⁵² Abdul Rahman et al., "Legal Framework for Protecting Children from Commercial Sexual Exploitation," *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi*, April 22, 2025, 87–110, <https://doi.org/10.24090/volkgeist.v8i1.13156>.

Overall, Nigeria's statutory architecture regulating children's digital privacy rights remains underdeveloped. While general data protection laws apply to all citizens, children are rarely the focus, and the limited provisions addressing them are not as comprehensive as those implemented in other jurisdictions. Other legislative instruments though not primarily designed for data protection include provisions that shape data governance in specific contexts such as healthcare.⁵³ Regretfully, no one of the foregoing enactments contain particular provisions that protects children's privacy entitlements on the internet ecosystem.

3.6. Children's Privacy Freedoms: Lessons from South Africa. Southern African Development Community (SADC) Model Law on Data Protection and Information and Communications Technology 2013 (Model Law)

The instrument protects the child's private existence through its stipulations that processing of children's personal information must adhere to its provision in Article 37. Whereas the article designates parents or legal guardians as representatives for exercising a child's rights, exceptions under national legislation allow children to consent individually where their age and ability permit. This approach reflects globally recognized principles of respecting children's evolving capabilities, and is compliant with the ACRWC as well as paragraphs 70 and 71 the Comment.

a. Children's Digital Autonomy in South Africa: Statutes and Regulations

In common with Nigeria, South Africa subscribes to the binding effect of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR). Additionally, the country is signatory to the CRC,⁵⁴ and the ACRWC.⁵⁵ The primary national laws relevant to this context are as follows:

b. The Constitution

The freedom to live a private life is enshrined as an inalienable right under Bill of Rights in South Africa's Constitution.⁵⁶ Section 14 guarantees this right to all individuals, prohibiting: (a) unlawful searches of the body or home of the person; (b) unlawful searches of property; (c) unlawful confiscation of a person's possessions; and (d) unlawful interception of private mails or other communications. Additionally, Section 28 protects children's rights, establishes paramount 'best interest' concept which inure in favor of such children, in all issues involving them. Section 14 expressly relates to children, and its reference to "communications" is sufficiently broad to encompass children's entitlement to their privacy in the metaverse.

⁵³ National Health Act No. 8 of 2014. See Ugochukwu Godspower Ehirim, "Artificial Intelligence and Healthcare Delivery in Nigeria: Legal and Ethical Dimensions of Patients' Rights to Safety," *Indonesian Journal of Sharia and Socio-Legal Studies* 1, no. 1 (2025): 47-71, <https://doi.org/10.24260/ijssls.1.1.10>.

⁵⁴ CRC, Cap N156, Laws of the Federation of Nigeria 2010, sec 6 (c).

⁵⁵ South Africa ratified the Convention in 1995.

⁵⁶ The Constitution of the Republic of South Africa, 1996.

c. Children's Act No. 38 of 2005 [South Africa] (ChA)

The ChA⁵⁷ serves to complement the freedoms of children enacted in the Constitution of South Africa. Section 1 of the ChA gives an elaborate definition of abuse, incorporating sextortion, bullying, and any conduct that subjects or exposes a child to potential detriment. Additionally, sexual exploitation for commercial benefits (sextortion) is defined as the procurement of children to involve in sexual acts for monetary or sundry reward, covering activities such as pornography and prostitution. While the Act does not explicitly define these abuses as occurring in digital environments, they are identifiable as resonating with harmful practices executed on the digital space.

The Children's Act, no. 38 of 2005 [SA] is presently undergoing amendment to ensure improved alignment with the privacy freedoms and information protection rights of South African children. This legislative update is a particular mandate of the Comment focused on the safeguard of children's autonomy in electronic realm, and stakeholders anticipate the finalization of these amendments.

d. Protection of Personal Information Act (POPIA)

The POPIA exudes objectives designed to advance and safeguard a person's information irrespective of the processor's public or private status, as well as to align with the statute enacted to promote free flow of information. The POPIA in section 34, proscribes the act of processing children's private information by any unauthorized individual, save for the exceptions outlined in Section 35. These exceptions encompass scenarios where information processing is carried out upon a valid consent by a person recognized as competent to give such consent, a prerequisite for the exercise, application, or preservation of a statutory entitlement or obligation; as mandatorily prescribed by public international law; or is required for statistical/scientific study, or historical records.

From the foregoing legal text, it is evident that POPIA proscribes the profiling of private information of an individual without the data-subject's consent, and establishes stringent additional protections specifically for children in Section 35. At the same time, Section 35 imposes limitations on the circumstances which could warrant the profiling data belonging to children, leading to the reasonable assumption that processing is not permissible where it does not fall within one of the listed exceptions. It has been noted that substantial uncertainty persists regarding the practical application of POPIA's regulations for processing children's information.⁵⁸

e. Films and Publications Amendment Act 2019 (FPAA)

The FPAA has multiple objectives focused on amending the parent Act of 1996: revising existing definitions and inserting new ones; providing for the establishment, composition, and member-selection process into the Enforcement Committee; expanding the scope of enforcement obtainable under the original statute while also extending the Film and Publication Board's adherence and oversight responsibilities to encompass online distributors; enhancing regulatory

⁵⁷ South Africa ratified and domesticated the Charter in 2000

⁵⁸ South African Government, "Protection of Personal Information Act 4 of 2013," accessed April 27, 2026, <https://www.gov.za/documents/protection-personal-information-act>.

frameworks for the categorization of films, games, and publications; and instituting a system for the clearance of autonomous commercial digital sellers by the Board.⁵⁹

Notably, Section 18(G)(1) The Films and Publications Amendment Act No. 11 of 2019 criminalizes the making, designing, or dissemination by any individual of photographs or films projecting sexual violence or cruelty against children, with coverage extending to all media platforms.⁶⁰ Further, Sections 24(A)(4)(a) and 24(3)(j) designate as an offence any act that permits children access to X18-rated games, publications, or films, which includes content featuring explicit sexual conduct. Registered game or film distributors may distribute X18-rated material online if they obtain an exemption from the Film and Publication Board, subject to mandatory conditions such as implementing measures to block child access. Additionally, Section 24B explicitly criminalizes child pornography.⁶¹

f. The Sexual Offences and Related Matters (Amendment Act) 2007: Criminal Law

This legislation established extensive provisions designed for the protection of minors from sexual crimes, encompassing grooming, sextortion, and the publication of pornographic pictures of children. The offences defined are comparable to those established generally for mature persons. However, the framework is tailored to particularly account for children's vulnerability. Specifically, Section 10 proscribes and criminalizes the exposure or display of pornographic images of children to adult individuals, whereas Section 19 addresses the same conduct when directed at children. The Act proscribes sexual manipulation of children for pecuniary or sundry benefit, and the indoctrination of children.⁶² Additionally, Section 20 criminalizes any act of profiting by or manipulating a child's innocence to the end of creating child pornographic contents. While the Act is criticized for overlapping with the Films and Publications Act's sexual offences,⁶³ this is deemed acceptable given their differing aims and objectives.

g. Cybercrimes Act 2020

The Cybercrimes Act defines the unlawful interception of information in Section 3 of the statute as a criminal offence, whereas Section 14 addresses the illegal dissemination of data communications.⁶⁴ Additionally, Section 15 criminalizes the intentional creation and transmission of unlawful data messages that threaten to destroy or unleash violence on individuals. A key provision is Section 24, which confers jurisdiction on South African courts with respect to any conduct constituting an offence in accordance with the Act if it impacts a person in South Africa regardless of whether the cyber offence is initiated within or outside the country's borders.

⁵⁹ Moninuola Ifayomi et al., "Child Sexual Abuse in Nigeria: A Systematic Review," *Trauma, Violence, & Abuse* 25, no. 5 (2024): 3597–614, <https://doi.org/10.1177/15248380241254077>.

⁶⁰ The Films and Publications Amendment Act No. 11 of 2019.

⁶¹ Indah Sri Utari et al., "Exploring Child Grooming Sexual Abuse through Differential Association Theory: A Criminological and Legal Examination with Constitutional Implications," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, June 5, 2024, 69–88, <https://doi.org/10.24090/volksgeist.v7i1.9564>.

⁶² Criminal Law (Sexual Offences and Related Matters) Amendment Act No. 32 of 2007, ss. 17 and 18.

⁶³ Criminal Law (Sexual Offences and Related Matters) Amendment Act No. 32 of 2007.

⁶⁴ Cyber Crimes Act No. 19 of 2020.

Several court cases have applied the Act and related legislation to protect children's rights. In *SM v ABB*,⁶⁵ the matter arose from divorce proceedings. The father accessed and disseminated contents of his kid's WhatsApp communications, as well as those of the child's mother. The mother initiated legal proceedings seeking an order to restrain further access by the father to her own and the child's digital communications as well as the dissemination of such contents, including WhatsApp messages and emails.

The court determined the father's unauthorized access and disclosure as a violation of both the mother's and child's constitutional freedom of privacy, finding that the data distributed to a medical doctor and school authorities were specifically intended to influence their perceptions against the mother and, potentially the child. This ruling underscores that parental authority does not entitle unrestricted access to a child's digital communications, and reflects South Africa's proactive approach to safeguarding online privacy rights for minors. Pornography is one aspect of the discourse which merges physical realities with digital applications.

In *S v Stevens*,⁶⁶ the accused faced charges involving two five-year-old female victims. He was alleged to have removed the girls' underwear while they were asleep to take photographs, and to have touched their private parts on certain occasions. Investigations revealed approximately 71 photographs of the children had been taken. The accused was found guilty of two counts of indecent assault and other charges of procuring and owning child pornography, contrary to law.⁶⁷ The presiding magistrate sentenced the defendant to eight-year jail term.

The legal significance of the decision lies in the fact that possessing pornographic materials for personal sexual gratification, without more suffices to justify an offence whether or not such materials were distributed or shared with a third party. It was not a defense that the girls whose photographs were taken did not object to the act. Their privacy is protected under the law particularly as they were incapable of giving consent by reason of being minors.

In *S v Kleinhans*,⁶⁸ a 70-year-old-man was indicted with multiple sexual violations against underage girls, including photographing a 13-14-year-old complainant partially clothed or naked. Charges included producing, possessing and deploying pornographic contents against children contrary to law, grooming, and sexual violence. The man was initially given a 15-year imprisonment sentence before appeal. The decision demonstrates the seriousness which the society attaches to children's privacy and their liberty from abuse. It is noted that the foregoing decisions appear to protect the girl-child from abuse, however, the law affords equal protection to children irrespective of gender denomination.

South Africa has created statutes and policy-blueprints to safeguard children's privacy during online presence. It is signatory to the foremost international instrument on cyber offences.⁶⁹ As an observer, it participates in discussions but is

⁶⁵ Case 20/1732 (11 September 2020, Gauteng Local division)

⁶⁶ *S v Stevens* [2005] 1 All SA 1 (SCA).

⁶⁷ See, The Films and Publications Act No. 65 of 1996 [South Africa], sections 27(1)(a)(i) and (ii).

⁶⁸ *S v Kleinhans* [2014] 2 SACR 575 (WCC).

⁶⁹ Olumide Babalola, "The GDPR-Styled Nigeria Data Protection Act 2023 and the Reverberations of a Legal Transplant," *SSRN Electronic Journal*, ahead of print, 2024, <https://doi.org/10.2139/ssrn.4786872>.

not legally bound and cannot vote or propose solutions. The country was the singular country from Africa during the treaty's negotiations, and has incorporated its provisions into laws like the ECT Act, Cybercrimes Act, and POPIA.

South Africa became signatory to the Council of Europe Convention on in 2022. Despite this commitment to international standards, the fact that digital protection safeguards are not enshrined in the various legislations currently in force in South Africa highlights a critical gap, demonstrating that both nations have considerable ground to cover in strengthening their regulatory frameworks. To address this, it is recommended that law reform be undertaken through targeted amendments to existing legal structures, with the aim of mitigating new and evolving risks to children in digital spaces.

3.7. General Comment 25 (Comment) and States' Obligations under CRC

3.7.1 European Union (EU)

The EU is credited with one of the broadest and formidable data privacy regulations in the world, which has set the pace for global data protection statutes. Its rules explicitly require special safeguards for children's private information processing, though the General Data Protection Regulation (GDPR) has covered both online and offline protections, for example, both automated and non-automated data processing must comply to the rules.⁷⁰ Like South Africa and Nigeria, the EU has explicit online safeguards for children; notably, Nigeria's NDPA provides more detailed online protections than the GDPR. European laws protecting children's freedoms primarily derive from the CRC.⁷¹

a. European Union primary laws

The legal framework within community Europe protects both the freedom of a child to information protection and privacy.⁷² Everyone has the right to be left alone within a lawful space. The EU sets out a universal right, stating the right of everyone to have his/her personal information protected from unauthorized third parties. Complementarily, Article 7, Charter of Fundamental Rights of the European Union 2000 (CFREU) codifies the liberty to be left alone and be shielded from intrusions into his/her home affairs, private communications and family life.⁷³

Article 8, CFREU further acknowledges the entitlement of every individual to have their personal data protected, with requirements that processing be conducted lawfully, fairly, and for predefined purposes either with the authorization of the data subject or pursuant to an alternative legal basis. It is particularly significant that Article 24, CFREU is dedicated to children's liberties, explicitly affirming their

⁷⁰ Chris Jay Hoofnagle et al., "The European Union General Data Protection Regulation: What It Is and What It Means," *Information & Communications Technology Law* 28, no. 1 (2019): 65-98, <https://doi.org/10.1080/13600834.2019.1573501>.

⁷¹ Leo Enahoro Otoide, "Nature and Management of Human Trafficking: The Nigerian Edo People's Experience", in: *Crime, Law and Society in Nigeria*, (Brill 2019), https://doi.org/10.1163/9789004396289_007.

⁷² Graham Greenleaf, "Global Data Privacy Laws: EU Leads US and the Rest of the World in Enforcement by Penalties," *SSRN Electronic Journal*, ahead of print, 2023, <https://doi.org/10.2139/ssrn.4409491>.

⁷³ European Union Agency for Fundamental Rights and Council of Europe, *Handbook on European law relating to the rights of the child* (FRA, 2022): 26.

entitlement to protection as essential for their well-being. It also guarantees to children the freedom to voice their desires and opinions on issues which are of concern to them, having regard to their level of development and age.

b. General Data Protection Regulation (GDPR)

The EU has included targeted principles, regulating the handling of children's information in the GDPR. Article 1 of the regulation defines the GDPR's scope as: protecting individual persons' data and enabling unhindered dissemination of personal data. Several provisions resonate with children's rights. Recital 38 notes that minors require special protection due to limited awareness of data processing implications, especially for profiling or marketing.⁷⁴

Article 6(1)(a) mandates consent for lawful processing. Under Article 8(1), processing is permitted for children aged 16 and above with their consent; for those under 16, consent must come from a parent or guardian.⁷⁵ Exceptions apply for direct counselling or preventive services,⁷⁶ and State Parties may enact a minimum age, not lower than 13. The GDPR mandates by its article 12, that any information addressed specifically to children must be precise, intelligible transparent, and easily accessible in form. Article 17 prescribes the entitlement to be forgotten or left alone otherwise regarded as the entitlement to erasure in favor of data subjects, applicable when the need for retention of personal data in custody of a third party has ceased, or initial authorization is revoked, or the data subject opposes or protests the processing.

Under Article 7(3), withdrawal of consent must be as positive as availing it. However, this right could be overridden as it is not absolute, particularly in circumstances requiring the upholding of right of expression and information.⁷⁷ The limitations to this freedom primarily arise from the requirement to strike a balance between erasure and free speech/ public interest.⁷⁸

Comparatively, Nigeria's NDPA enacts the entitlement to erasure in Section 34(1)(d), while South Africa's POPIA authorizes data-subjects to insist on amendment or deletion of their personal data. These provisions benefit children who may have given consent unknowingly or wish to have their information removed. As noted earlier, the GDPR neglected to address offline child protection, whereas both Nigeria and South Africa have explicit online safeguards with Nigeria's NDPA offering detailed online protections than the text of the GDPR.

3.7.2 The United States of America (US)

The US uses a sectoral method for regulation of information privacy. No specific instrument for the administration of individual's private information covering the field for all purposes. Statutes relate only to particular industries, including

⁷⁴ Charter of Fundamental Rights of the European Union (CFREU)(2000/C364/01).

⁷⁵ *Ibid.*

⁷⁶ Regulation (EU)2016/679 of the European Parliament and of the Council. 27 April 2016. On the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing, Directive 95/46/EC (2016) L119/1.

⁷⁷ GDPR, Recital 38.

⁷⁸ GDPR, Art 8(1).

healthcare, learning at various levels, communication, and financial institutions, or to online data collection from children.⁷⁹

a. Children's Online Privacy Protection Act of 1998 (COPPA)

USA is yet to ratify the CRC. It has enacted the COPPA in 1998, building significant expertise in its application.⁸⁰ COPPA regulates data access and utilization by mobile apps and websites, with respect to children under 13. Section 1301(1) of COPPA interprets a child as a human under 13, and section 1303 bans unfair or deceptive practices for online data gathering. Data operators are mandated to obtain positive parental authorization to collect, disclose, or use a child's data—except when contact info is used only to respond once to the child's request (and not retained) or to obtain parental consent

b. Children and Teens' Online Privacy Protection Act

In 2024, the government enacted two landmark bills, namely: the Kids Online Safety Act (KOSA)⁸¹ and, Children and Teens' Online Privacy Protection Act (COPPA 2.0).⁸² Both legislations are designed to strengthen protections for privacy of minors in digital environments. The core objective is the amendment of the COPPA to enhance safeguards on the approach deployed in accessed, utilizing, and sharing personal information relating to minor online platforms. Under COPPA 2.0, digital start-ups are prohibited from obtaining private information from subjects below age 17, except with appropriate authorization.

The act also restricts targeted messages advertising goods and services to minors, and incorporates the adoption of "eraser button" feature that allows children or their parents to delete personal information stored on digital platforms. When fully operational, these provisions will facilitate enhanced safeguard for children's privacy liberties on digital ecosystem. The COPPA 2.0 is complemented by the internet protection statute, in addressing concerns over minors' exposure to inappropriate online content. The legislation applies to schools and libraries that enjoy subsidized internet facility or internal connectivity initiated by the federal E-rate program, an initiative designed to lower costs for eligible educational and public institutions.

To qualify for E-rate discounts, covered entities must certify implementation of an online security policy that involves tech-based protections to prevent accessibility to: (a) child pornography (b), obscene materials, and (c) other harmful content to minors. Additionally, schools must incorporate measures to monitor minor users' online activities, educate students on responsible digital behavior (including interactions on social networks and in chatrooms), and address

⁷⁹ Information Commissioner's Office (ICO), "How Does the Right to Erasure Apply to Children?," ICO, September 10, 2025, <https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/childrens-information/children-and-the-uk-gdpr/how-does-the-right-to-erasure-apply-to-children/>.

⁸⁰ Shawn Marie Boyne, "Data Protection in the United States," *The American Journal of Comparative Law* 66, no. suppl_1 (2018): 299–343, <https://doi.org/10.1093/ajcl/avy016>.

⁸¹ The Children's Online Privacy Protection Act (COPPA) is a US federal law that was adopted in 1998 and became applicable in 2000.

⁸² N. Terry, "Existential Challenges for Healthcare Data Protection in the United States," *Ethics, Medicine and Public Health* 3, no. 1 (2017): 19–27, <https://doi.org/10.1016/j.jemep.2017.02.007>.

cyberbullying prevention. Libraries are required to establish internet safety policies covering issues such as unauthorized access to systems (“hacking”) and other unlawful online conducts by minors.⁸³

Notably, while CIPA focuses on content access restrictions, it complements broader frameworks like the U. S. A’s sectoral approach to digital privacy regulation aligning with statutory measures such as KOSA and COPPA 2.0 to enhance safeguards and ensure security of minors within the metaverse.⁸⁴

c. The United States Code (USC)

The USC is a consolidation of extant federal laws, categorized into 54 subject-based titles, with dedicated provisions for children’s online protection. Prohibited online activities under the USC include:

i. Sexual exploitation of children (production of child pornography).

The USC establishes robust statutory prohibitions for child pornography, and offenses related to it. Title 18, Section 2251, USC criminalizes the enticement, induction, or compulsion of minors to participate in sexually explicit conduct for the creation of visual depictions. Additionally, federal law extends liability to individuals who attempt or conspire to commit such acts, ensuring comprehensive coverage of preparatory and collaborative offenses.

Section 2256 provides a broad definition of child pornography, encompassing any viewable representation of amorously disposition in which a minor, which in the circumstances implicates a person under 18, is involved. This includes not only traditional formats like videos and photographs but also digitally-generated or computer pictures that are visibly incapable of distinction from real children, as well as altered or adapted content that appears to depict a recognizable minor. Importantly, the statute extends prohibitions to unprocessed materials (e.g., raw videotape, undeveloped motion picture) and digitally recorded information capable of being converted into unlawful visual depictions, addressing gaps in early regulatory frameworks.

Federal enforcement prioritizes severe penalties for violations. In *James Snyder v US*,⁸⁵ convictions on multiple counts (production, receipt, distribution, and possession) resulted in 14 years imprisonment sentence coupled with 6-year supervised freedom reflecting the gravity of offenses involving active exploitation and dissemination. In *US v. Donald Blakley*,⁸⁶ a 15-count conviction was handed down to defendant for conspiring with others to access and disseminate such content led to a sentence of approximately seven years and three months, underscoring accountability for collaborative efforts to circulate harmful material. These cases align with

⁸³ U.S. Senate Committee on Commerce, Science, & Transportation, *Kids Online Privacy Protections – Finally – Set to Pass Senate*, n.d., accessed April 27, 2026, <https://www.commerce.senate.gov/press/dem/release/kids-online-privacy-protections-finally-set-to-pass-senate/>.

⁸⁴ Federal Communications Commission, *Children’s Internet Protection Act (CIPA)*, n.d.

⁸⁵ *Snyder v United States*, 603 US 1 [2024]

⁸⁶ *Ibid.*

broadier federal priorities to deter child exploitation through stringent sentencing guidelines.

ii. Cyberstalking/bullying

The United States Code (USC) includes provisions in Title 47, Section 223(a)(1)(B)132 that ban using telecom devices to send or create obscene content like child pornography to anyone under 18. This covers all forms of digital communication, from messages and images to computer-generated materials. Separate parts of the law prohibit harassing someone through repeated online contact, with punishment ranging up to 2-year imprisonment or fines. Devices include phones, internet services, and social media platforms.

iii. Sexual Abuse of Children by Obscene Visual Representations

Under section 1466a, title 18⁸⁷ of the United States' Code, any person is prohibited from knowingly producing, obtaining, retaining or disseminating for the purpose of transferring or distributing visual depictions such as paintings, cartoons or drawings⁸⁸, that depict minors seemingly engaging in sexually complicit conduct and are regarded as obscene. Attempts or conspiracies to commit child pornography-related offences are also subject to federal prosecution.⁸⁹ Additionally, title 18, section 1470 forbids conveying or seeking to convey obscene material to persons below the age 16 via the USA Postal Service or any channel of foreign or interstate commerce. Further prohibitions include intentionally utilizing interactive computer services to present obscene content accessible to minors under 18,⁹⁰ and knowingly providing internet-based commercial communications that include obscenity to any minor.

iv. Enticement and Coercion

Title 18, section 2422(b)⁹¹ establishes prohibitions on enticing, inducing, or coercing minors under 18 into prostitution or sexual activity. violations occur when an individual uses facilities, mail, or interstate/foreign commerce channels, or acts within USA territorial or maritime jurisdictions, to target young people. attempts carry equivalent liability. penalties include fines and imprisonment ranging from a minimum of 10 years to life.⁹²

v. South African and Nigerian Legal Regimes: The Gaps

Comparative discourse on child online protection legal infrastructure in South Africa, the EU, US, and Nigeria identifies significant regulatory gaps in

⁸⁷ [2005] 239F 229.

⁸⁸ 222 USC, sec 2252B (d) title18.

⁸⁹ Ira Aini Dania, "Kekerasan Seksual Pada Anak," *Ibnu Sina: Jurnal Kedokteran Dan Kesehatan-Fakultas Kedokteran Universitas Islam Sumatera Utara* 19, no. 1 (2020): 46–52.

⁹⁰ "18 U.S. Code § 1466A - Obscene Visual Representations of the Sexual Abuse of Children," LII / Legal Information Institute, accessed April 27, 2026, <https://www.law.cornell.edu/uscode/text/18/1466A>.

⁹¹ USC, sec 1446A(2)(B) title 18.

⁹² "Transfer of Obscene Materials to Minors," accessed April 27, 2026, <https://www.mad.uscourts.gov/resources/pattern2003/html/patt8fua.htm>.

the latter two countries. A review of Nigeria's regulatory framework shows that while the National Data Protection Act (NDPA) 2023 addresses children's information processing, its provisions are not fully adapted to digital contexts.

Unlike the comprehensive safeguards under such laws such as prohibitions on harmful content distribution, targeted communications, and unauthorized data handling the NDPA focuses primarily on parental consent requirements without equivalent coverage of online safety risks like cyberbullying or algorithm-driven harm. Section 31 of the NDPA is a key advancement: it mandates information handlers to obtain parental authorization and verify children's ages through the use of government-approved identification documents prior to commencing their data processing.

By contrast, South Africa's POPIA, under section 35, demands consent from a competent authority before children's information may be processed. The law omitted to explicitly mandate age verification. Both countries have existing laws addressing specific harms: Nigeria's Cybercrimes Act proscribes contents related to child pornography, while South Africa's Sexual Offences Legislation, Films and Publications Act, and Protection of Harassment Act shield children from exploitation, harmful communications/messages, and cyber harassment.

However, neither framework is fully aligned with standards set by the Comment. To address these gaps, law reform is needed to incorporate provisions similar to those in the US statutes including restrictions on targeted advertising to minors, mechanisms for data deletion, and mandates for platform accountability in preventing harm to young users.

4. Conclusion

This article has shown that children's engagement with digital platforms, including the metaverse, offers opportunities for education, expression, recreation, and social development, but also exposes them to privacy violations, profiling, grooming, cyberstalking, harmful content, and online exploitation. Although Nigeria and South Africa have adopted constitutional, child-rights, cybercrime, and data protection measures, their current frameworks remain fragmented and insufficiently child-specific under General Comment No. 25.

The novelty of this article lies in its child-centred comparative approach, which treats children's digital privacy not merely as a matter of general data protection, but as a distinct rights-based entitlement linked to autonomy, dignity, evolving capacities, best interests, and participation. It finds that both jurisdictions require clearer rules on age-appropriate design, targeted advertising, harmful profiling, data erasure, platform accountability, and digital safety in educational settings.

Accordingly, Nigeria and South Africa should reform their child protection, cybercrime, and data protection laws, strengthen enforcement capacity, promote regional cooperation, and develop inclusive digital literacy programmes for children, parents, teachers, and relevant stakeholders. Protecting children's privacy in the digital age requires an integrated legal framework that balances protection, access, autonomy, and meaningful participation.

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