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## THE BATTLE AGAINST ONLINE GROOMING: ASSESSING MALAYSIA'S LEGAL LANDSCAPE AND ENFORCEMENT MEASURES

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### Abstract:

The advent of the digital era has presented unparalleled prospects for communication and dissemination of knowledge, yet it has also posed novel obstacles, particularly in safeguarding children from online hazards like grooming and exploitation. This study examines the efforts to combat online grooming in Malaysia, with a specific focus on evaluating the country's legal framework and enforcement actions. This study seeks to assess the efficacy of Malaysia's endeavours in addressing online grooming, child exploitation, and internet safety by conducting a thorough examination of the current legislation, regulations, and enforcement mechanisms in place. The main areas of scrutiny encompass the sufficiency of legal structures in tackling emerging online dangers, the collaboration between law enforcement agencies and internet service providers, the significance of international cooperation in investigations that cross national borders, and the difficulties encountered in enforcing cyber laws to protect minors. This study aims to evaluate Malaysia's legislative reaction to online grooming and its enforcement techniques in order to provide valuable insights and recommendations for improving the safety of minors in cyberspace and bolstering the country's legal defences against digital predators.

### Keywords:

Online Grooming, Child Exploitation, Protection of Children, Cyber Laws, Cybercrime

## Introduction

Online grooming refers to the occurrence of sexual interactions involving a minor and an adult, with the objective of gaining the minor's trust in order to indulge in sexual activities, either directly or indirectly, as well as the creation of child pornography. The internet has become a significant platform for these individuals, who aim to target vulnerable children without being detected by their parents or law enforcement. Online grooming has detrimental effects on the emotional and psychological well-being of the child victim, which can have long-lasting consequences, making it challenging to persuade them to come forward and report the abuse.

Globally, the net-savvy younger generation between the ages of 9 to 17 is now the target group of online predators. The internet has provided a comfortable platform for predators to prey on the young at the touch of a button. The interaction between the virtual world and online grooming victimization is extremely risky, particularly for minors without parental supervision over their online activity. In this instance, the primary predictor of children's engagement in online grooming is screen time, which includes time spent on social media, videogames, and other applications (Tintori et al., 2023).

The Asia-Pacific region is currently witnessing a notable increase in cybercrimes related to online sexual activities. Online grooming is a relatively new and developing issue from a legal perspective in Malaysia, where discussions are ongoing about making it a crime to commit sexual offenses using the Internet as a medium (Norhayati & Nurzali, 2023). Malaysia, a developing Islamic nation, consistently reports a high number of such incidents each year, highlighting the need for an effective enforcement mechanism and stringent regulatory measures. It is important to acknowledge that although the legal framework in Malaysia addresses this issue, certain gaps and weaknesses have been observed in its implementation.

The Communications and Multimedia Act 1998 [Act 588] encompasses a broad range of offenses concerning the misuse of telecommunication services and content applications. These offenses include using network facilities or services in an offensive, threatening, or bothersome manner, as well as providing indecent, obscene, false, threatening, or offensive content. Moreover, the Act also criminalizes accessing, using, or transmitting offensive materials with the intention of misleading the intended recipient or others into perceiving it in any form.

With the World Wide Web as a playground, groomers identify, communicate, befriend, and develop online relationships with children and youths before taking their illicit encounters offline. Such online offenses are within the legal jurisdiction of the Communication and Multimedia Act 1998. Many countries have been struggling with addressing the sexual exploitation of children in a digital context. Existing research highlights that online grooming involves a clear progression of steps, with the apparent aim of exploiting the target child.

## Literature Review

Given the potential consequences of online grooming, it is imperative to effectively address instances of online grooming in order to combat the exploitation of children online. This viewpoint is supported by research conducted by Hamilton-Giachritsis and colleagues (Hamilton-Giachritsis et al., 2020). Therefore, this article aims to emphasize the significance of adequately addressing child grooming as a means to prevent child sexual exploitation. The focus will specifically be on the situation in Malaysia.

However, the perspectives and findings presented in this article contribute to an assessment of the efficacy of existing prevention and enforcement measures on a global scale in limiting the pervasive issue of child sexual exploitation, as well as grooming, as evidenced by relevant literature. It is evident that legal provisions concerning this issue worldwide are inadequate. Frequently, lawmakers struggle to keep up with advancements in technology and the increasing interconnectedness of our society (Bennett et al.2022).

The legal landscape in Malaysia has been substantially reformed to address online child pornography, with the enactment of the Sexual Offences Against Children Act 2017 (Ushama, 2020). The Act offers a chance to improve child protection measures against sexual abuse and make sure that those who commit such crimes are held responsible. The Act allows for the prosecution of perpetrators as well as the defense and assistance of child victims. It also creates a legislative framework for dealing with sexual offenses against minors. However, it has shortcomings that need to be addressed (Abdul Jumaat, 2024).

However, there are inconsistencies in the legal framework, which may hinder successful prosecution and enforcement (Rosli, 2019). Non-legislative measures, such as industry collaboration and coordination, are also crucial in addressing online child exploitation (Choo, 2009). The severity of the threat posed by information communication technology (ICT) in facilitating child pornography has been recognized, and international conventions have been adopted to combat these crimes (Jalil, 2015).

### **Methodology**

The study employs a methodology that involves conducting doctrinal research by consulting a range of sources including journals, books, conference papers, newspapers, and other periodicals. It adopts a qualitative approach within the framework of doctrinal legal research, examining the legal provisions outlined in the The Penal Code (Act 574), Computer Crimes Act 1997 (CCA), Sexual Offences Against Children Act 2017 and the Communications and the Multimedia Act 1998 (CMA). Additionally, this study refers to secondary sources such as textbooks, journal articles, seminar papers, and reputable websites.

### **Result and Discussion**

#### ***Existing Laws and Regulations***

Various entities, including organizations, agencies, charities, lawyers, and policy-makers, have engaged in extensive debates concerning the complexities associated with grooming. These concerns have resulted in a wide range of protective measures incorporated into legislation that oversees the examination of online grooming (Salter et al., 2023). Instances of such legal frameworks can be observed in numerous regions across the globe, both developed and developing, where they govern pre-trial and courtroom protocols. These protocols involve implementing measures that restrict communication with identified victims, following specific guidelines, to mitigate the risk of undue influence.

The Penal Code (Act 574), as the principal criminal legislation in Malaysia, establishes offences against children that are non-consensual, underage, exploitative, or abusive. It was amended in 2006 to include new sections specific to child sexual offences. With respect to cybercrime, the Penal Code was amended in 2009 to introduce sections on hacking and unauthorized access, denial of access, and others. There was also an amendment in 2012 to

provide for penalties for sexual grooming and the possession of child pornographic materials. The 2017 amendments encompassed provisions that address the posting and distribution of child sexual materials online, thus ensuring compliance with the requirements under the Optional Protocol to the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC) and the Convention on the Rights of the Child (CRC).

Malaysia has strict laws to protect children from any form of abuse and exploitation (Cooray et al.2020) This includes online grooming. The Penal Code criminalizes acts of abuse, neglect or improper care of a child and other forms of child abuse and exploitation including use of children in pornographic performances (Section 14 and 14A) and human trafficking in children (Section 12A). The Penal Code even criminalizes causing a child to be groomed for the commission of an offence (Section 363A). Despite that, the law does not adequately take into account the unique modus operandi of child grooming conducted online, and the present legal landscape is insufficient to ensure that an online groomer does not fall through the legal patch.

Malaysia's laws and regulations, consistent with those of the Council of Europe's Convention on Cybercrime, are comprehensive enough to provide for the prosecution of child abusers. This makes it clear that the country is serious in the fight against child online grooming (Jalil, 2015). Nevertheless, there exist deficiencies in these laws pertaining to the protection of children. Moreover, the inefficient implementation of these laws by the appropriate governing bodies greatly adds to Malaysia's unfavourable position in terms of child grooming incidences.

### ***Challenges in Enforcing Laws***

Indeed, legal enforcement requires effective understanding, assimilation of knowledge, and commitment to overcome various challenges. However, law enforcement experts are still constantly developing approaches to dealing with cybercrime. Understanding the unique difficulties in the law and regulation plays an important role and will affect the development of law enforcement mechanisms in various social contexts. Both law enforcement personnel should now show that they are proactive under any circumstances. Based on the above definition, it must be emphasized that the masculinity shown by law enforcement against cybercrime in the form of online grooming cases, which involve victims, especially children, is very important (Ali et al., 2023). Since failure can have a significant negative impact, both on the systemic reputation of law enforcement agencies and the feelings of victims and families. Although efforts have been made by various countries, the phenomenon of online grooming continues and findings show that this method of sexual abuse is increasingly established (Simon et al., 2020).

Enforcement of laws to overcome the challenges was not immune to constraints to effectively tackle this crime. Due to the geographical spread of cybercrime, law enforcement personnel in countries also face borderless obstacles (Abraha, 2021). Determination of law enforcement personnel also affects the effectiveness of a legal system. The existence of members who show lack of determination in performing their duties and responsibilities weakens the system in a way that is slow and ineffective for law enforcement officers in dealing with cases (Tan et al., 2020).

### ***Enforcement Measures***

On top of the wide legality, enforcement is also facilitated by the wide powers that the same statute assigns to enforcement agencies. For an alleged communication to be prosecuted, it is

paramount that the communications are reduced into writing; thus, the Communications and Multimedia Act 1998 provides that a police officer may seize any computer or associated document, within one month from the date of the commission of the offense, if there are reasonable grounds for believing that the computer or associated document is liable to contain information to prove or disprove the commission of the offense. The police officer also delegates the right to inspect the instruments. More importantly, any communication can easily be admissible in court because it is presumed to have been made by the person identified in the communication.

Criminalization can only achieve so much without effective enforcement. The broad definition of online grooming in the Malaysian laws indeed covers a wide spectrum of activities that can amount to predatory behavior. It captures a person who contacts another person, not only with an ulterior intent to commit a sexual act, but also to intentionally make sexually implicit communication in order to commit that sexual act with the child, without the child exhibiting emotional, verbal, or other behavior evidencing the child's uninterest in engaging in that sexual act (Dorasamy et al., 2021). The latter provision is wider than the description contained in the treaty, as it imposes criminal liability on a person who contacts a child online with sexual enticement in mind, regardless if the contact remains non-sexual at that point. As such, the online grooming offenses in the Communications and Multimedia Act 1998 are even wider than those found in the UK laws (Lee & Wang, 2024).

The law enforcement agencies in Malaysia have a crucial role in tackling online grooming, which involves adults forming emotional connections with children for sexual exploitation (Rosli et al., 2021). They utilize advanced monitoring tools and cybercrime units to detect grooming activities on digital platforms. Collaborating with internet service providers and technology firms, they gather evidence and remove illegal content. Social-networking sites are currently working with law enforcement agencies to protect children through the removal of known offenders from their websites (Choo, 2009). Furthermore, public awareness campaigns educate parents and children about the risks online, while legal actions are taken under relevant laws like the Communications and Multimedia Act 1988 and the Child Act 2001. International cooperation strengthens the fight against cross-border grooming, and support services for victims provide counselling and legal assistance (Rahamathulla, 2021). This comprehensive approach demonstrates Malaysia's dedication to protecting children from online exploitation.

## Conclusion

Malaysia's legal structure effectively addresses the issue of online grooming, however there are still areas that may be improved upon and proactive actions that can be taken to strengthen child protection in the digital world.

An essential factor is the strengthening of global cooperation and collaboration. Enhancing collaborations with adjacent nations and international organizations committed to the well-being of children can improve the exchange of information, accelerate investigations, and guarantee the prompt punishment of transnational online grooming perpetrators.

Moreover, it is of utmost importance to allocate resources towards modern training programs and technology tools for law enforcement authorities. Specialized cybercrime units, able to handle various types of cybercrimes such as online grooming, can improve the ability to detect these crimes, effectively collect digital evidence, and promptly bring the offenders to justice.



It is crucial to develop required reporting methods that are enforced, along with comprehensive victim assistance services. Promoting the use of easily available and confidential reporting methods, together with providing trauma-informed treatment and rehabilitation programs for victims, helps foster a culture of responsibility and deterrence.

Moreover, public awareness campaigns and educational programs are crucial. Equipping parents, educators, and caregivers with the information and resources to identify indications of online grooming, understand digital safety procedures, and foster open conversations with children regarding online hazards are crucial measures for prevention.

Ultimately, Malaysia's legal framework exhibits dedication and advancement in tackling online grooming. However, it is crucial to continuously adapt, collaborate, and innovate in order to effectively manage this issue. Through the collaboration of government agencies, law enforcement, civil society, and technology providers, Malaysia can provide a secure digital environment that ensures the well-being and protection of children, allowing them to flourish without being subjected to exploitation or injury.

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